
(2007) 02 NCDRC CK 0033

In the National Consumer Disputes Redressal Commission

AMRITSAR TRANSPORT CO PVT LTD

APPELLANT

Vs

United India Insurance Co Ltd

RESPONDENT

Date of Decision : 15-02-2007

Acts Referred:

Citation : 2007 2 CPR 122 : 2007 3 CPJ 101

Hon'ble Judges : K.S.Gupta , Rajyalakshmi Rao J.

Advocate : S.N.Pandey

Judgement

1. -IN this revision, challenge is to the order dated 3. 10. 2006 of State Commission, Delhi dismissing Appeal Nos. 519, 520 and 521 of 2000 against the order dated 20. 1. 2000 of a District Forum in Complaint Case Nos. 1495, 1495a and 1459 of 1998. In Complaint Case No. 1495/1998 award of Rs. 47,100, in Complaint Case No. 1495a/1998 award of Rs. 15, 532 and in Complaint Case No. 1459/98 award of Rs. 10,092. 50 with interest @ 12% p. a. from 4/9. 9. 1998 was passed in favour of respondent No. 1 and against the petitioner.

2. ALL the three complaints were jointly filed by respondent Nos. 1 and 2. In Complaint Case No. 1495/1998, respondent No. 2/complainant No. 2 had sent six cases of pesticides (liquid) from U. P. Border to Mohali (Punjab) vide G. R. No. 304335 dated 5. 8. 1997 through the petitioner/opposite party. In Complaint Case No. 1495a/1998, respondent No. 2 had sent 850 cases of pesticides (liquid) from Mohali (Punjab) to Secunderabad (Andhra Pradesh) vide G. R. No. 462991 dated 30. 9. 1996. In Complaint Case No. 1459/1998, respondent No. 2 had sent 892 cases of pesticides (liquid) from Mohali to Secunderabad vide G. R. No. 466842 dated 2. 9. 1996. It was alleged that while taking delivery, the cases were found leaking and, therefore, open delivery thereof was taken. Short delivery certificates were issued. Respondent No. 2 lodged the claim (s) for value of the short delivered quantities with the Insurance Company. Amount of Rs. 47,100 towards value of short delivery was paid in Complaint Case No. 1495/1997. Amount of Rs. 15,532 was paid in Complaint Case No. 1495a/1998 while amount of Rs. 10,092. 50 paid in Case No. 1459/1998 towards value of

short delivery by respondent No. 1 to respondent No. 2. Respondent No. 2 executed letters of subrogation in favour of respondent No. 1-Insurance Company in all the three cases. Said complaints jointly filed by both the respondents on contest by the petitioner were allowed by the District Forum in the manner noticed above. Appeals against District Forum's order filed by the petitioner were dismissed by the State Commission. Short submission advanced by Mr. S. N. Pandey for petitioner was that the complaints were not maintainable under the Consumer Protection Act, 1986 (for short the "act") and orders passed by Fora below on that count are, not legally sustainable. Reliance was placed on the decision in C. A. No. 13387/96, Oberai Forwarding Agency v. New India Assurance Co. Ltd. and Anr. , I (2000) CPJ 7 (SC)=ii (2000) SLT 86, decided on 1. 2. 2000 by the Supreme Court. This decision would show that a complaint under the Act would be maintainable if right is subrogated but not assigned in favour of Insurance Company. In present case in the complaints it was alleged that letters of subrogation and discharge vouchers were executed/signed on 13. 9. 1997 by respondent No. 2 in favour of respondent No. 1 after having received the value of short delivered quantities and that allegation was supported by the affidavit (s) filed by way of evidence. Award was made by the District Forum treating the case being that of subrogation of rights by respondent No. 2 in favour of respondent No. 1. Oberai Forwarding Agency's case (supra) is thus, not of any help to the petitioner. Orders passed by Fora below notice the decision rendered by this Commission in Transport Corporation of India Ltd. v. Dovangera Cotton Mills Ltd. , II (1998) CPJ 16 (NC), wherein it was held that a complaint filed against the transport company jointly by the consignor and Insurance Company would be a valid complaint. There is, thus, no illegality or jurisdictional error in the orders passed by Fora below warranting interference in revisional jurisdiction under Section 21 (b) of the Act. Accordingly, revision petition is dismissed. Revision Petition dismissed.