
(1995) 02 NCDRC CK 0009

In the National Consumer Disputes Redressal Commission

APSRTC

APPELLANT

Vs

Peer Mohammed

RESPONDENT

Date of Decision : 01-02-1995

Acts Referred:

Citation : 1995 2 CPJ 385 : 1995 3 CPR 142

Hon'ble Judges : A.Venkatarami Reddy , J.Ananda Lakshmi , Lakshmaiah , K.Ranga Raos J.

Final Decision : Appeal dismissed

Judgement

1. -IN O.P. No. 63/93, the District Forum, Adilabad directed the opposite party No. 1 to pay Rs. 9000/- to the complainant or his department towards costs of Submersible Motor and costs of Rs. 500/-.

2. QUESTIONING the said order, this appeal is preferred by the opposite parties in the O.P. 63/ 93. The respondent herein filed a complaint. His case was on 3.11.1992 he alongwith another constable was deputed to take 7.5 H.P. submersible pumpset and motor for repair to Hyderabad from Bellampalli. They boarded the bus on 3.11.1992 at 11 p.m. and entrusted the motor and pumpset to the opposite parties 2 and 3 i.e., driver and conductor of the said bus and paid the necessary charges for carrying the luggage. It is their case that when they checked up the dicky at Karimnagar, they found that motor was missing. On being questioned, the opposite parties 2 and 3 stated that it is not their duty to safeguard their luggage entrusted to them. Subsequently a complaint was given to the police about the missing of the motor. Alleging that due to the opposite parties 2 and 3 not taking proper care and due to their negligence, the complainants were deprived of the submersible motor and therefore they claimed Rs. 14000/- towards the price of the 7.5HP motor and Rs. 10,000/- by way of compensation for mental agony.

The first opposite party filed a counter admitting the carrying of the luggage and payment of money for carrying the luggage. But it is the case of the first opposite party that they were not responsible for the missing baggage as

according to the operation manual luggage of the passengers will only be carried if accommodation permits at the risk of the passengers. In the instant case, the passengers were informed about the non-availability of the lock of the dicky. But they themselves took the risk and kept the luggage in the dicky. Hence they are not responsible for the loss sustained by the complainant.

3. THE opposite parties 2 and 3 did not file any counter. On behalf of the complainant Xerox copies of the Police Passport, Estimate/quotation receipt of submersible pump, complaint given to the police and original warrant of travel and luggage were filed. On behalf of the opposite parties no documents were filed and no oral evidence was adduced by both the parties.

4. THE District Forum found that though in the counter filed by the first opposite party, it was stated that under operation manual the passengers alone will be responsible for the loss of the luggage no such manual was filed and no provision of the manual was brought to its notice to that effect. Since the opposite parties 2 and 3 did not file any counter, the District Forum believed the version of the complainant that it was the duty of the driver and conductor not to allow the complainant and another constable to keep the motor and pumpset in the dicky when there was no lock. It also believed the case of the complainant that the luggage was kept in the dicky with the knowledge and consent of the driver and conductor. It therefore held that as the opposite parties failed to take due care of the luggage entrusted to them there is deficiency of service and directed payment of Rs. 9,000/- and costs. During the pendency of the appeal, the appellants i.e., the opposite parties paid to the complainant the entire amount due and payable according to the order in the O.P. No. 63/93. It is not in dispute that the pumpset and the motor were carried by the bus for which the complainant paid the luggage charges. It is the case of the complainant that the opposite parties 2 and 3 after accepting the charges for the luggage asked the complainant to put the pumpset and motor in the dicky. The complainant was not informed that the opposite parties will not be responsible for any loss. It is the case of the complainant that at the instance of the opposite parties 2 and 3 alone, the motor and pumpset were kept in the dicky. The opposite parties 2 and 3 did not file any counter denying the version of the complainant. In the absence of any such denial, we are inclined to accept the version of the complainant. Moreover since the entire amount was already paid to the complainant, we are satisfied that no interference is called for with the order of the District forum having regard to the special circumstances of this case.

5. IN the result, the appeal is dismissed. There shall be no order as to costs. Appeal dismissed.