

(2000) 02 NCDRC CK 0086

In the National Consumer Disputes Redressal Commission

BRANCH MANAGER, UNIT TRUST OF INDIA

APPELLANT

Vs

KAILASH NATH JOHRI

RESPONDENT

Date of Decision : 04-02-2000

Acts Referred:

Citation : 2000 2 CPC 371 : 2000 2 CPJ 89 : 2001 1 CLT 307

Hon'ble Judges : K.C.Bhargava , D.D.Bahuguna J.

Final Decision : Appeal dismissed

Judgement

1. THIS appeal has been filed against the judgment and order dated 31.5.1999 passed by District Consumer Forum II Lucknow in Complaint Case No. 135/1999.

2. THE facts of the case stated in brief are that the complainant purchased 2500 units under seven years monthly income plan. THE amount was to be paid to him on 6.5.1997 but the amount was not received despite correspondence with the Unit Trust of India. He was told in April, 1998 that the cheque for Rs. 27,000/- was sent to the complainant which has been encashed at Chandigarh in the name of the complainant. THE complainant had claimed a sum of Rs. 27,000/- alongwith Rs. 17,000/- as compensation. The opposite party has alleged that on 31.5.1997 a cheque by registered post for Rs. 27,000/- was sent to the complainant at the address given by him, but this registered cover was not returned unserved. This cheque has been received either by the complainant or by some other person who has got the same encashed at Chandigarh. The opposite party has not done any mistake and there is no deficiency in service.

The learned District Forum, after perusal of the records, came to the conclusion that the opposite party Unit Trust of India is liable to pay the amount. Thus it decreed the claim for Rs. 27,000/- alongwith interest at the rate of 18% per annum with effect from 1.7.1997. A sum of Rs. 1,000/- as compensation and Rs. 500/- as cost was also awarded. Penal interest at the rate of 24% per annum was also awarded in case of non-payment of the amount within 3 months.

3. AGGRIEVED against the order of the learned District Forum the Unit Trust of

India has come in appeal and has challenged the correctness of the order. We have heard the learned Counsel for the parties.

4. LEARNED Counsel for the appellant has argued that the appellant is prepared to pay the amount. LEARNED Counsel for the opposite party has argue that Unit Trust of India has sent a letter to the complainant of its willingness to pay the amount. Keeping in view these facts, it is clear that the money which was sent by registered post is to be paid by the Unit Trust of India to the complainant. It has been argued by the learned Counsel for the appellant that appellant is not liable to pay interest on the amount. Learned Counsel for the complainant has argued that there is no fault of the complainant. Hence the interest should be paid by the Unit Trust of India. It has been ordered by the learned District Forum that the amount should be paid to the complainant. It was the duty of the Unit Trust of India to have paid the amount to the complainant. We find that the complainant belongs to the city of Lucknow. The Unit Trust of India could have got the cheque delivered at Lucknow when the complainant resides there where the office of Unit Trust of India is situated, but Unit Trust of India choose to send the cheque by registered post. The post office is the agent of the sender and not of the addressee. Unless a letter is received or proved to have been delivered to a person it cannot be said that the sender is absolved of its liability merely by posting a letter under registered cover. Therefore, the complainant is entitled to get interest also as awarded by the learned District Forum at the rate of 18% per annum. This plea is rejected. Thus in view of the above facts, the judgment and order of the learned District Forum are to be confirmed except that the interest at the rate of 2% per month. However, the interest at the rate of 18% per annum shall be payable as ordered by the learned District Forum. The penal interest cannot be allowed in the circumstances of the case and the interest already allowed at rate of 18% per annum shall be payable by the appellant 6.5.1997 till the date of payment. Order The appeal is dismissed and the judgment and order of the learned District Forum are confirmed except that the interest payable would be at the rate of 18% per annum instead of 21% p.a. Let the compliance of this order be made within two months from the date of this order. Let copy of this order be made available to the parties as per rules. Appeal dismissed.