

(2001) 06 NCDRC CK 0013

In the National Consumer Disputes Redressal Commission

CHHEDI LAL PIYAREY LAL

APPELLANT

Vs

DAYA BUX SINGH

RESPONDENT

Date of Decision : 11-06-2001

Acts Referred:

Citation : 2001 3 CPJ 261

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

Final Decision : Appeal allowed

Judgement

1. THIS is an appeal against the judgment and order dated 25.7.1992 passed by District Consumer Forum, Sitapur in Complaint Case No. 181 of 1991.

2. THE facts of the case stated in brief are that the complainant suffered from diarrhoea on 27.6.1991. He purchased two packets of Narolex powder from opposite party No. 1, M/s. Chhedi Lal Piyarey Lal, Chemists and Druggists. THE receipt for purchase of the medicine was not given to the complainant. THE complainant used these packets twice. He became ill and was taken to the hospital. On enquiry being made he showed the packets, the medicine of which has been consumed by him, to the doctor. THE doctor told him that the date of medicine has expired. THE complainant complained verbally to opposite party No. 1 and in writing to opposite party Nos. 2, 3 and 4. When no action was taken the complainant filed the present complaint claiming a sum of Rs. 2,000/- as compensation and Rs. 1,000/- as cost. No relief was claimed from opposite party Nos. 2, 3 and 4. The opposite party No. 1 in its written statement alleged that the Narolex powder is a mild laxative and as the complainant was already having dehydration, therefore, this medicine should have been taken by him in the night just before the bed time. The complainant has not disclosed as to how he has used this medicine. It is also alleged that there is no expiry date on the wrapper of the medicine. It is further alleged that the medicine was not sold by the opposite party.

The parties lead evidence in support of their respective contentions and after perusing the evidence on record the learned District Forum directed the opposite

party No. 1 to pay a sum of Rs. 750/- as claim amount along with 13% per annum interest.

3. AGGRIEVED against the order of the learned District Forum, the opposite party No. 1 has come in appeal and has challenged the correctness of the order passed by the District Forum. We have heard the learned Counsel for the appellant as well as the respondent who was present in person.

4. LEARNED Counsel for the appellant has argued that the appellant did not sell the medicine to the complainant. No receipt for the alleged purchase of the medicine has been submitted. According to learned Counsel the claim has been allowed on the basis of presumptions only. A perusal of the file will go to show that the complainant has not filed any receipt for purchase of medicine from the appellant. Unless the complainant is able to prove that he purchased the medicine from the appellant, he cannot succeed in his claim. The proof of receipt was specially required in the face of specific denial by the appellant about the purchase of the medicine. The learned District Forum should have insisted that the receipt of the purchase be produced. Even according to the allegations of the complainant no receipt was issued to him by the appellant at the time of purchase of the medicine. It is not possible to believe that on account of paucity of time on the part of the appellant no receipt would have been issued. Keeping in view these facts the learned District Forum was not correct in coming to the conclusion that the complainant purchased the medicine from the shop of the appellant as no receipt was issued. Thus we find that the appeal is liable to be allowed. ORDER The appeal is allowed. The judgment and order of the learned District Forum are set aside and complaint is dismissed. No order as to the costs. Let copy as per rules be made available to the parties. Appeal allowed.