
(1996) 10 NCDRC CK 0087

In the National Consumer Disputes Redressal Commission

CHITTAR PAL SINGH

APPELLANT

Vs

ATAM PRAKASH

RESPONDENT

Date of Decision : 01-10-1996

Acts Referred:

Citation : 1996 2 CPC 682 : 1996 3 CPJ 289

Hon'ble Judges : J.B.Garg , Sada Nand , P.Ojha J.

Final Decision : Complaint allowed with costs

Judgement

1. CHITTAR Pal Singh alongwith his mother, wife and two children came to see Gemini Circus on 24.4.93 at 7.00 pm in Sector 17, Chandigarh and parked his Premier Padmani Motor Car No. CHE-1650 with respondents No. 1 & 2 who were contractors for the parking, paid a sum of Rs. 5/- as charges for the car parking and token No. 2764 was delivered to him. After the completion of the circus show when he came out, the motor car was found missing. It has been alleged that it was a breach of contract by respondent No. 1 & 2 and the Estate Officer respondent No. 3. He has claimed a sum of Rs. 75,000/- as damages because the motor car was air conditioned and also possessed stereo system. Besides this a sum of Rs. 1,00,000 /- has been claimed as compensation on account of tension and sufferings.

2. THE respondent No. 1 filed a reply wherein it was averred that the complainant was not owner of the motor car in question. Besides this the fact of parking at the stand in question was also denied. THE payment of Rs. 5/- as consideration for parking and issuance of token No. 2764 was also denied. It has also been averred that the respondent was only charging Rs. 2/- and not Rs. 5/- for parking of a motor car. The respondent No. 3 filed a reply wherein it has been averred that this contractor was authorised to charge Rs. 2/- per motor car for its parking. The terms of contract between the respondent No. 1 on one hand and No. 3 are contained in annexure P-4.

Besides the affidavit of the complainant there is also an affidavit of Smt. Mohinder Kaur, mother of the complainant and Smt. Tarlochan Kaur, wife of the

complainant. The complainant also lodged an FIR No. 156 on the following day of the occurrence at Police Station, Sector 17, Chandigarh and its copy is Annexure P-2. The documents of registration indicate that the motor car in question was transferred in favour of the complainant on 22.3.93 i.e. about one month prior to the occurrence. The statement of Shrimati Harjit Kaur, Sub Inspector (Police), Union Territory, Chandigarh, was recorded here and it showed that the motor car was actually parked by the complainant in the car parking area managed by the contractors. After considering all this evidence which has practically gone un rebutted, we hold that the complainant did come to see the Gemini Circus show alongwith his wife and other members of the family on 24.4.93 in the afternoon and when he came out after completion of the circus show the motor car was found stolen from the parking area which was let out to respondent No. 1 by the Estate Office, respondent No. 3 for the purpose of parking. On behalf of the respondents reliance has been placed on *Rohini Group of Theatres v. V. Gopalakrishnan*, II (1996) CPJ 1 (NC), where bicycle was parked in the space allotted by the theatre by putting necessary charges and token was also issued but the bicycle was found missing, the National Commission held that it was not a case of bailment of goods. In the case now in hand, there is no evidence that parking of the motor car near circus was for the purpose of regulating the traffic. The respondent No. 1 was the specific contractor who was authorised to charge a particular remuneration and ensure that the vehicle parked is returned to the depositor. It is always to be returned to the person who entrusted the vehicle that is why a token bearing a particular number was issued. It is not that any person could come and collect the vehicle from the contractor without presenting the token where considerable land was made available for a consideration of Rs. 800/- per day by the Estate Office in the premises adjoining the Circus. The object was that the contractor was to safeguard the valuable motor entrusted to him specifically for this purpose. The respondent contractor who collected a sum of Rs. 5/- from the complainant was to provide the service of safeguarding the vehicle. The amount paid to the contractor was for this service alone and not for any other purpose. It was not a parking fee imposed by the Administration to regulate the traffic. Thus there was deficiency on the part of the respondent No. 1, the contractor that he acted negligently and the depositor of the vehicle ran from pillar to post after the show of the Circus was over. It is altogether a different issue that a case of theft has been registered. It is well established that there was deficiency on the part of respondent No. 1 and it is ordered that a compensation of Rs. 15,000/- shall be paid to the complainant by respondent No. 1 together with costs of the proceedings Rs. 2,000/-. In case amount is not paid within one month, the respondent No. 1 shall be liable to pay interest @ 18% p.a. from the date of decision till realisation.

3. ANNOUNCED. The order be communicated to the parties free of charges. Complaint allowed with costs.