

(2011) 11 NCDRC CK 0022

In the National Consumer Disputes Redressal Commission

Classic Ceramic Industries

APPELLANT

Vs

Principal Secretary Industries Department And Chairman Up
State Indl Dev Corpn Ltd

RESPONDENT

Date of Decision : 18-11-2011

Acts Referred:

Citation : 2012 1 CPJ 355

Hon'ble Judges : V.R.Kingaonkar , Vinay Kumar J.

Final Decision : Appeal partly allowed.

Judgement

1. THIS appeal arises out of the judgment delivered by the U.P. State Consumer Disputes Redressal Commission, Lucknow (in short "the State Commission"), in Complaint Case No. 91 of 1999. By the said judgment, the State Commission partly allowed the complaint. The State Commission directed payment of Rs. 1,00,000 to the complainant (appellant) by way of compensation within a period of two months from the date of the receipt of the copy of the order.

2. THE dispute raised in the present appeal is restricted to the quantum of compensation payable to the complainant (appellant) since it is held by the State Commission that the respondents committed negligence which resulted into water logging and consequent damage sustained by the complainant. It is not necessary to deal with the question of deficiency in the service rendered by the respondents/OPs.

3. ACCORDING to the appellant, he sustained loss due to inundation of water inside the factory and boundary walls of the factor were damaged along with renovation of pulveriser, motor renovation, furnace chimney and building, etc. The appellant strongly relied on report submitted by a Chemical Engineer, namely, Mr. P.K. Agarwal.

4. WE may take note of the fact that the respondents (OP) did not file any cross appeal. Needless to say that there is no challenge to the finding about deficiency of the service expected to be provided to the appellant as a consumer. Not only

that, nobody appeared for the respondents during hearing of the appeals. According to the appellant, the industrial plot was allotted to him for construction of industrial unit as per lease deed executed in his favour. The respondent had agreed to provide appropriate drainage scheme and other services. The appellant commenced business of production of plaster of paris in the month of June, 1994. His case before the State Commission was that due to failure of the respondent to provide proper drainage system, there was water logging in the industrial area during rainy season in the year 1995. The roads outside the industrial unit were submerged in the water. His workshop and the godown were also damaged due to water logging. The machinery was damaged and hence, he filed the complaint.

5. WHAT appears from the record is that the appellant along with other similar affected factory owners requested the District authorities to carry out inspection. There was a meeting of the officials of the District Administration and the Udyog Bandhu on 26.2.1997. The Executive Engineer, Agra Canal, Mathura and some officers of the P.W.D. carried out inspection and prepared estimate of the loss. It was decided that certain percentage of the loss will be reimbursed to the affected owners of the industrial units.

6. THE State Commission held that the loss of the raw material was caused due to the water logging and compensation of Rs. 1,00,000 would be sufficient to meet the ends of justice. There is no discussion about any material which was taken into account to quantify the amount of loss sustained by the appellant. The State Commission held that the industrial area was not developed properly and due to water logging, the complainant suffered loss because there was no provision of proper drainage system. Though, the appellant had sought huge compensation of Rs. 16,52,314.28 under various heads, yet, the appellant did not give any reliable evidence in support of his contentions in respect of the loss. We have perused averments in paragraph 20 of the complaint. The balance sheet produced by the appellant pertaining to the year ending March, 1996 indicated that the actual loss was Rs. 2,85,622. The loss to the appellant due to damage caused to compound wall could not be of more than Rs. 30,000. There is no material on record to show that the machinery was lost due to the water inundation. The appellant might have suffered loss of business to the extent of Rs. 15,000 during the relevant period. The appellant appears to have claimed exorbitant amount of compensation. We are of the opinion that considering the accounts of the appellant and the probable loss suffered by him on account of deficiency in the service committed by the respondents, he is entitled to recover compensation of Rs. 3,50,000 which includes the loss of Rs. 2,85,622 as shown in the account books, the probable loss of business, the compensation for repairs of the compound walls and other minor renovations.

7. FOR the aforesaid reasons, we partly allow the appeal and modify the order of the State Commission by directing the respondents to pay compensation of Rs. 3,50,000 to the appellant instead of Rs. 1,00,000. The remaining order of the

State Commission is, however, maintained as it is. The appeal is accordingly partly allowed with further cost of Rs. 5,000. Appeal partly allowed.