

(2015) 08 NCDRC CK 0063

In the National Consumer Disputes Redressal Commission

Case No : 2027 of 2015

ELECTRICAL EXECUTIVE ENGINEER

APPELLANT

Vs

VINOD KUMAR PANDEY

RESPONDENT

Date of Decision : 20-08-2015

Acts Referred:

Consumer Protection Act, 1986, Section 21, Section 19, Section 15, Section 17 - Jurisdiction of the National Commission - Appeals - Appeal - Jurisdiction

Citation : (2015) 08 NCDRC CK 0063

Hon'ble Judges : J.M. Malik, S.M. Kantikar

Advocate : Mohit Kumar Shah, Shilpi Shah

Judgement

1. The filing of this revision petition was delayed by 58 days. The petitioner / OP was proceeded against ex-parte before the District Forum. Warning bells should have rung and the present revision petition should have been filed, in time, but, unfortunately, the filing of this revision petition was again delayed, by 58 days. The case is barred by time and is sans merit.

2. Pushpak Kumar Pandey, the deceased son of Sh. Vinod Kumar Pandey, the complainant, was going back to his residence after attending tuition/class. Some water logged on the road and a live electric wire was lying in the water. The deceased Pushpak Kumar Pandey was crossing the water, when he got electrocuted and died on the spot. FIR was lodged. Post-Mortem report revealed that the complainant had died due to electrocution.

3. The District Forum awarded a sum of Rs.5,00,000/- in favour of the complainant. The said order was confirmed by the State Commission.

4. It may be mentioned here that the OP/petitioner did not contest the case by filing the written statement. The OP availed various dates for filing the written statement, but did not make avail of it. Ultimately, the evidence of OP was closed.

5. Firstly, the petitioner should have been vigilant and should have filed the revision petition, within time. The application for condonation of delay has been moved by it. The delay was explained in para Nos. 3, 4 & 5 of the said application, which are reproduced here, as under :- " 3. That it is submitted that the impugned order was passed on 11.03.2015 by the Ld. State Commission, Bihar, Patna, in FA No.543/2009, however, the conducting counsel of the instant case before the State Commission, by his letter dated 30.05.2015, informed the Board about the dismissal of the said appeal, forwarded a certified copy of impugned order dated 11.03.2015 and opined for filing a revision petition before this Hon"ble Commission against the impugned order dated 11.03.2015.

4. That, thereafter, the concerned legal person prepared a note on 03.06.2015 and placed the same in the file and the same was routed through various officials. It was then thought proper to obtain the views of the Law Wing, which also opined for preferring a revision petition before this Hon"ble Commission, by a detailed note dated 12.06.2015 and the file was then endorsed to the GM (HR) (A), who, in turn by his note, dated 15.06.2015, endorsed the file to the Managing Director, who approved the filing of the revision petition, on 16.06.2015. The Legal Supervisor was thereafter authorized to travel to Delhi with the relevant documents for the purposes of filing the present revision petition, on 20.06.2015.

5. That accordingly the said person had come to Delhi in the first week of July, 2015, where-after, the documents were gone through by the counsel at Delhi, however, it transpired that the order of the learned District Forum was missing, hence, the said Legal Supervisor was asked to obtain and send a copy of the same for the purposes of filing the petition. Nonetheless, the revision petition was drafted and the affidavit was sworn by the said Legal Supervisor. The Legal Supervisor had then obtained a copy of the order of the learned District Forum and sent the same to the counsel at Delhi, who, after receipt of the same, had got the Annexures compiled and filed the present revision petition at the earliest".

6. It is clear that the petitioner/OP was not serious or vigilant in pursuing this case. The "day-to-day" explanation is not forthcoming. Such like serious matter was pursued in a

"happy-go-lucky" manner. When the OP did not pursue the case before the District Forum and State Commission, vigilantly, it should have worked against the clock. The delay has not been explained, satisfactorily.

7. The Hon"ble Supreme Court in a recent case titled Sanjay Sidgonda Patil vs. Branch Manager, National Insurance Co. Ltd. & Anr., Special Leave to Appeal (Civil) No. 37183 of 2013, decided on 17.12.2013 , confirmed the order of the National Commission and refused to condone the delay of 13 days".

8. Likewise, delay of 78 days" was not condoned by the Apex Court in the case of M/s Ambadi Enterprise Ltd. vs. Smt. Rajalakshmi Subramanian in SLP No. 19896 of 2013 decided on 12.7.2013.

9. Again delay of 77 days" was not condoned in case of Chief Off. Nagpur Housing & Area Dev. Boa & Anr. vs. Gopinath Kawadu Bhagat, SLP No. 33792 of 2013 decided on 19.11.2013.

10. Now, we advert to the merits of the case. The case stands fully proved. The deceased Pushpak Kumar Pandey was a brilliant student. He died due to negligence committed by the OP. The OP did not maintain the electric line/wire, properly, which caused the death of the son of the complainant, on the public road.

11. The revision petition is lame of strength and, therefore, the same is hereby dismissed.