

(1998) 05 NCDRC CK 0026

In the National Consumer Disputes Redressal Commission

GAJENDRA KUMAR RATHORE

APPELLANT

Vs

SIPANI AUTOMOBILES LTD.

RESPONDENT

Date of Decision : 20-05-1998

Acts Referred:

Citation : 1998 3 CPJ 20 : 1999 1 CPR 108

Hon'ble Judges : N.K.Jain , Saroj Rajwade , N.K.Vaidyas J.

Final Decision : Appeal allowed

Judgement

1. THIS appeal is directed against the order dated 31.3.1995 passed by the District Forum, Raipur in Case No. 185/1994, dismissing the appellant's complaint against the respondent.

2. THE respondent, M/s. Sipani Automobiles Ltd., is a Company dealing in manufacturing of Montana Diesel Car. THE appellant/complainant booked a car and deposited Rs. 10,000/-with the respondent/Company on 8.6.1989. However, respondent/Company failed to deliver the car and as such the booking was cancelled by the complainant who demanded his deposit money back with interest. It is not disputed that the respondent/Company by its letter dated 28.9.1991 informed the complainant that the money will be refunded to him within 90 days. However, no such amount was paid. THE complainant therefore filed complaint before the District Forum alleging deficiency in service. THE complaint was filed on 16.10.1994. THE District Forum has dismissed the complaint holding that the same is barred by limitation as provided by Section 24-A of the Consumer Protection Act, 1986 (For short the Act of 1986). We have heard Mr. G.S. Bhatnagar, learned Counsel for the appellant. None has however appeared for the respondents and the appeal has, therefore, been heard against them, ex-parte.

Section 24-A was inserted in the Act of 1986 by amendment Act No. 50 of 1993 and has come into force w.e.f. 18.6.1993. It provides two years period of limitation for filing complaint under the Act of 1986. Prior to this insertion, no period of limitation was prescribed under the Act of 1986. As such the complaints

were dealt with in accordance with the provisions of the Indian Limitation Act, 1963 (For short the Act of 1963). But for Section 24-A of the Act of 1986, the period of limitation for the present complaint under the Act of 1963 would have been three years. Section 24-A has, therefore, cut short the period of limitation provided under the Act of 1963. No provision is, however, made under the Act of 1986 to deal with such a situation. Resort can, therefore, be had to Section 30 of the Act of 1963. The relevant part thereof reads thus : "30. Provisions for suits, etc., for which the prescribed period is shorter than the period prescribed the Indian Limitation Act, 1908.- Notwithstanding anything contained in this Act- (a) any suit for which the period of limitation is shorter than the period of limitation prescribed by the Indian Limitation Act, 1908, may be instituted within a period of [seven years] next after the commencement of this Act or within the period prescribed for such suit by the Indian Limitation Act, 1908, whichever period expires earlier: Provided..... (b)".

3. SECTION 30 underlines the principle that whenever a later statute curtails the period of limitation, the parties must have a reasonable time to enforce existing cause of action notwithstanding the statute. SECTION 24-A is not retrospective in operation. Obviously, it would embrace the cases in which causes of action have arisen on or after coming into force of the Amendment Act, 1993. The cases in which the cause of action have accrued prior to 18.6.1993, may also be dealt with u/Sec. 24-A but subject to the provisions of SECTION 30 of the Act of 1963. In the instant case, the cause of action arose on 28.12.1991 when the 90 days" time limit of the letter dated 28.9.1991 expired. The complaint under the Act of 1986 for recovery of the deposited amount could therefore be made within three years from 28.12.1991. The complaint having been made on 16.10.1994, is therefore found well within limitation. The District Forum clearly fell into error in dismissing the complaint as time-barred. Section 24-A of the Act of 1986 had no application in the instant case which was covered by the provisions of the Indian Limitation Act, 1963.

4. WE, therefore, allow this appeal, set- aside the order impugned and direct that the case shall now go before the District Forum, Raipur for decision afresh on merits. Appeal allowed.