
(2002) 04 NCDRC CK 0065

In the National Consumer Disputes Redressal Commission

GENERAL MANAGER, CALCUTTA TELEPHONES

APPELLANT

Vs

KAMLA SHANKAR UPADHAYA

RESPONDENT

Date of Decision : 01-04-2002

Acts Referred:

Citation : 2002 3 CPJ 53 : 2002 3 CPR 185 : 2003 0 CTJ 142 : 2003 1 CPC 30

Hon'ble Judges : D.P.Wadhwa , J.K.Mehra , B.K.Taimni J.

Advocate : S.S.Sabharwal , Vikas Bansal , R.U.Upadhya

Final Decision : Disposed Of

Judgement

1. THIS appeal arises out of the order passed by the State Commission directing the appellant before us to pay Rs. 1 lakh as damages to the complainant.

2. BRIEFLY the facts of the case are that the complainant, who is a grains-trader had a telephone connection both at his place of business and residence, which remained out of the order occasionally, effecting adversely his business. His regular complaints to the Department also did not yield the desired results. As a last resort he moved the State Commission praying for award of Rs. 2,25,000/- as damages. The State Commission vide its very short order directed the appellant to pay Rs. 1 lakh as damages against which this appeal has been filed. It was argued by the learned Counsel for the appellant, Mr. S.S. Sabharwal that order is entirely arbitrary. Whenever there was a complaint about the telephone, it was attended to with dispatch. Award of damages of Rs. 1 lakh was entirely arbitrary. There is no proof or any evidence in support of the claim of damages, nor has this been discussed in the order, hence the order needs to be set aside. We see from record that the matter was adjourned earlier also, in October, 2001 on the request of the appellant. The request for adjournment is declined, hence proceeded ex-parte against the respondent

On perusal of the material on record, we find that there is no doubt that the telephone of the complainant went out of order several times in 1991. There was also the question of disputed telephone bills. In the order passed by the State

Commission, we see no reference to the version of the appellant even when, as per record before us, the appellants had filed a written version. We also do not see from the order as to which parties were present at the time of arguments. The order prima facie is too one-sided. We also see that no ground for award of Rs. 1 lakh has been discussed in the order. It appears to be purely on ad hoc approach. We also see on record that the complainant did have frequent complaints about the telephone but each time, it was restored albeit after some delay. Even in these circumstances, we are unable to sustain the order of the State Commission awarding Rs. 1 lakh as damages without discussing the grounds for such an award, hence set aside. No details of the loss claimed are available in the complaint filed by the complainant, we are in no position to support the claim of any damages to the complainant. At the same time we also see that the appellants have been deficient in rendering services to the complainant which is writ large as per record filed before us by the appellant. The appellants are directed to pay costs of Rs. 15,000/- for forcing the complainant to take the help of the Courts/litigation to highlight his grievance about deficiency in service on the part of the appellant. First Appeal is disposed of. Appeal disposed of.