
(2001) 11 NCDRC CK 0018

In the National Consumer Disputes Redressal Commission

Indian Acrylics Limited

APPELLANT

Vs

F.E. HARDCASTLE And CO. PVT. LTD.

RESPONDENT

Date of Decision : 29-11-2001

Acts Referred:

Citation : 2007 4 CPJ 387

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

Advocate : Nidhesh Gupta , Naveen Singh , Kavita Saini

Final Decision : Complaint Returned

Judgement

1. IN this complaint we issued notice to the opposite parties. The complaint was filed on 12.4.2001 seeking a compensation of US \$ 387602.25 with interest @ 18% per annum from the date of demand till payment. There are four opposite parties. Opposite party Nos. 2 and 4 are based in the United States. Despite pertains to the loss of imported goods namely Acrylonitrile. Goods were supplied by the 4th opposite party. Opposite party No. 2 is the insurer of the goods. As noted above, both are based outside the territory of India. Third opposite party is stated to be the Surveyor appointed by the second opposite party-insurer. First opposite party is claimed to be the agent of the second respondent insurer.

2. IT is stated that a purchase order was placed on the opposite party No. 4 for purchase of 1500 Mts. (+/-5%) of Acrylonitrile @ US \$ 725 per Mt CIF Kandla port totalling US \$ 1087500 (+/5%) and the consignment was put on the board vessel "Bor Mercur" and was insured with the second opposite party and marine insurance certificate was issued. IT is then alleged that the tank carrying Acrylonitrile was inspected again at Texas City (USA) and no leakage was detected. Vessel then arrived at Cape Town (South Africa) where it was found that the tank containing Acrylonitrile was contaminated. Testing was done. When the tank arrived at Kandla Port it was again confirmed that before despatching Acrylonitrile contaminated due to leakage of some other article in other tanker in the vessel. It is not necessary for us to detail the further facts except to say that complicated questions of law and facts arise in the present complaint. The

question of liability of opposite party Nos. 2 and 4 who were foreign based will have to be gone into. There are as many as 125 documents filed to support the case of the complainant. The case requires recording of voluminous evidence. It will take considerable time to deal with this which in summary jurisdiction National Commission may not be able to do. We may also note the observation of this Commission earlier in the case of *Bombay Dyeing & Manufacturing Co. Ltd. v. Union Bank of India*, I (2001) CPJ 1 (NC), Original Petition No. 66/2000: "No Court fee is payable in a Consumer Court so that people of modest means can seek expeditious justice in the Consumer Court. The entire purpose behind setting up of the Consumer Court was to provide quick, easy and affordable justice to common people who could not otherwise enforce their rights before a Court of Law. A large number of complaints have been filed in Consumer Courts at all levels all over India and the arrears of the cases pending disposal are mounting every day. One of the reasons of such mounting arrears is that large commercial organisations like the complainant is invoking the jurisdiction of the Consumer Courts to settle their commercial disputes. There is no reason why the big companies should abandon the remedy provided by the Civil Court and seek justice from the Consumer Court by passing the Civil Courts altogether. This will have the effect of clogging the wheels of justice in the Consumer Courts and common people are subjected to unreasonable delay in getting their cases heard."

Considering all these circumstances we direct the complainant to knock the door of the Civil Court for its claim. We find ourselves unable to deal with this complaint. This complaint is, therefore, returned. Complaint returned.