

(2004) 07 NCDRC CK 0058

In the National Consumer Disputes Redressal Commission

INDO FRENCH LABORATORIES LIMITED

APPELLANT

Vs

KERALA ROADWAYS LIMITED

RESPONDENT

Date of Decision : 13-07-2004

Acts Referred:

Citation : 2005 2 CPJ 443

Hon'ble Judges : A.Raman , R.Vanaroja J.

Final Decision : Appeal allowed

Judgement

1. THE respondent has not appeared before this Commission. THE Lower Forum has held clearly on appreciation of facts that there has been deficiency in service on the part of the opposite parties. Admittedly the consignment entrusted by the complainant to the opposite parties was not delivered to the consignee. THE consignment got damaged in a fire accident which took place during transit. THE complainant wrote several letters to the opposite parties as we see from the Exhibits marked on the side of the complainant and which have been referred to by the Lower Forum. THE opposite parties have not cared to reply. Not only that, they have not heeded to the request of the complainant to re-book the consignment. THEy have omitted to give certificate of damage and thus on every account, the opposite parties have been guilty of wanton negligence and carelessness. Finally it became clear that out of the consignment of 89 boxes of medicines, only 13 boxes were found intact while the other 76 boxes were found damaged.

2. THE Lower Forum has found everything in favour of the complainant but while concluding, the Lower Forum has passed an order directing the complainant to furnish the value of the 76 boxes damaged in the fire accident to the opposite parties so as to enable them to pay the value of the damaged consignment within one month from the date of its order and directed the opposite parties to pay the value of 76 boxes of medicines and further directed the opposite parties to entrust 13 boxes containing the medicines to the complainant with a cost of Rs. 1,000/-. Aggrieved by the order, the complainant has preferred this appeal

before this Commission.

The Supreme Court has held in the decision reported in III (2000) CPJ 1 (SC)=VI (2000) SLT 867= 2000 (7) Supreme Court Cases 668 that the Consumer Protection Act is one of the benevolent pieces of legislation intended to protect a large body of consumers and that the Forum should not adopt an unrealistic attitude and should not reject the claims of excessive or exaggerated and that the Forum should require the parties to adduce evidence so that the matter can be decided on all aspects and on merits. They have further observed that while quantifying damages, Consumer Forums are required to make an attempt to serve the ends of justice so that compensation is awarded, in an established case, which not only serves the purpose of recompensing the individual, but which also at the same time, aims to bring about a qualitative change in the attitude of the service provider.

3. HERE, there has been a careless, and indifferent attitude displayed by the opposite parties. 89 boxes of medicines were entrusted out of which 76 boxes were damaged. Only 13 boxes were found intact and even then they were not delivered to the complainant or to his consignee. There is an invoice produced by the complainant which gives the value of the medicines sent as Rs. 1,06,392/-. The letter dated 15.9.1995 gives it at Rs. 1,06,392/-. There are letters to the effect which set out the value. The complainant has also given the value in the notice issued by him. The opposite parties have not chosen to produce any material disputing the value of the goods sent. Therefore, in the circumstances, directions issued by the Lower Forum are not a solution but would only prolong the agony of the parties. In the circumstances of the case, there is no purpose in directing the opposite parties to return 13 boxes which were consigned on 16.8.1995. Those 13 boxes of medicines will be of no utility today. Therefore, as far as the complainant is concerned, all the 89 boxes of the medicines have been lost. The complainant has given the value of the 89 boxes of medicines at Rs. 1,06,392/-. We have to accept the same in the absence of any materials from the opposite parties disputing the same. The complainant is entitled to a reasonable rate of interest on the same. Therefore, we have to accept the appeal and modify the order passed by the Lower Forum.

4. IN the result, this appeal is allowed with cost of Rs. 250/-. The order passed by the Lower Forum is hereby modified. There will be a direction to the opposite parties to pay a sum of Rs. 1,06,392/- with interest at 12% per annum from 16.8.1995 till date of realization. Time for payment : Two months. Appeal allowed.