

(2007) 08 NCDRC CK 0065

In the National Consumer Disputes Redressal Commission

JAYMALA AMBALAL PANCHAL

APPELLANT

Vs

RECOLD APPLIANCES PVT LTD

RESPONDENT

Date of Decision : 10-08-2007

Acts Referred:

Citation : 2007 4 CPJ 152

Hon'ble Judges : S.N.Kapoor , B.K.Taimni J.

Advocate : Hemantika Wahi , R.P.Bhatt

Judgement

1. -THE appellant was the complainant before the State Commission, where she had filed a complaint alleging deficiency in service on the part of the respondents, namely, M/s. Racold Appliances Pvt. Ltd. and Gujarat Electricity Board (GEB).

2. UNDISPUTED facts of the case are that the complainant along with her husband had gone to her father's house at Patan, Mehsana, Gujarat. This house was enjoying the electricity connection given by the GEB. It also had a geyser which her father had purchased from M/s. Racold Appliances Pvt. Ltd. It is the case of the complainant that when her husband was having bath, he was electrocuted on account of defect in the said geyser as also on account of defective wiring by the GEB. The matter was taken up with both the respondents but when nothing was coming out of it, a complaint was filed before the State Commission, who after hearing the parties, dismissed the complaint against both the respondents. Aggrieved by this order this appeal has been filed before us. Dealing with the case, vis-a-vis, the first respondent M/s. Racold Appliances Pvt. Ltd. , there is no dispute that the father of the complainant had purchased the geyser in 1984 and it had a warranty for one year, whereas the episode of electrocution happened in 1989. In view of these conditions, the State Commission rightly exonerated the first respondent from the liability, as under the terms of warranty no liability would lie after the expiry of the warranty period on the part of the first respondent.

As far as the responsibility of the second respondent is concerned, it is the case

of the appellant that they had not provided the "earthing" as also "cut-out" on the pole.

3. ON these issues we heard the learned Counsel for both the parties and find that at the time when the father of the complainant obtained the electricity connection as per rules, the report of the electricity contractor, i. e. , M/s. Ashish Electric Stores, Gandhi Road, Patan, was obtained by the complainant's father, which is on record in which it is clearly stated that "the earthing has been properly done between phases". This document is also signed by the Electrical Mechanical Engineer of the second respondent. This document appeared as Annexure VI in Vol. V of the paper book. As per this document, the site was inspected by the lineman before giving the connection. His report is also part of the test report which was filed by the complainant's father before taking the connection. For this we need to reproduce the Rule 33 of the Indian Electricity Rules, 1956, which reads as follows : "33. Earthed terminal on consumer's premises.- (1) The supplier shall provide and maintain on the consumer's premises for the consumer's use a suitable earthed terminal in an accessible position at or near the point of commencement of supply as defined under Rule 58: provided that in the case of medium, high or extra-high voltage installation the consumer shall, in addition to the aforementioned earthing arrangement, provide his own earthing system with an independent electrode: provided further that the supplier may not provide any earthed terminal in the case of installations already connected to his system on or before the date to be specified by the State Government in this behalf if he satisfied that the consumer's earthing arrangement is efficient. (2) The consumer shall take all reasonable precautions to prevent mechanical damage to the earthed terminal and its lead belonging to the supplier. "

Since the report of the electrical contractor is in conformity with this provision, hence no deficiency in service on the part of the second respondent can be fastened on this count.

4. RULE 31 of the Indian Electricity Rules, 1956 reads as under : "31. Cut-out on consumer's premises- (1) The supplier shall provide a suitable cut-out in each conductor of every service-line other than an earthed or earthed neutral conductor or the earthed external conductor of a concentric cable within a consumer's premises in an accessible position. Such cut-out shall be contained within an adequately enclosed fireproof receptacle. Where more than one consumer is supplied through a common service-line, each such consumer shall be provided with an independent cut-out at the point of junction to the common service.

(2) Every electric supply line other than the earth or earthed neutral conductor of any system or the earthed external conductor of a concentric cable shall be protected by a suitable cut-out by its owner. "

(Emphasis supplied] It is not in dispute that this was a group housing society and

when we go through the affidavit filed by the second respondent's Executive Engineer, we find that the cut-out had been given at the main pole, but when we go through the second part of Rule 31 (1), it is clear that where more than one consumer is supplied through a common service line, each such consumer shall be provided with an independent cut-out at the point of junction to the common service. After perusal of material on record, we do not find that such facility, regarding cut-out was provided in this case. A point was also made by the learned Counsel for the respondent that under the Rule 45 of the Indian Electricity Rules, 1956, when the geyser was installed in 1984, the second respondent should have been informed which has not been done in this case. We have seen the second respondent's "conditions and Miscellaneous Charges for Supplying of Electrical Energy". Para 12 (b) reads as under : "as required by Rule 45 of the Indian Electricity Rules, 1956, no electrical installation work (including additions, alterations, repairs and adjustments to existing installations) except such requirements of lamps, fans fuses, switches and other component part of the installation, as in no way after the capacity and character of the installation, shall be carried out upon the premises on behalf of any consumer or owner, for the purposes of supply of energy to such consumer or owner except by an Electrical Contract licensed by Governments in this behalf and under the direct supervision of a person holding a certificate of competency issued by Government. Any person committing breach of Rule 45 shall render himself liable to punishment under Rule 139 of the said rules. "

5. AS per material on record, i. e. , the test report we see that there was no geyser when the inspection report was prepared and it was added later on.

6. BE that as it may, the fact remains that the husband of the complainant was electrocuted and in view of the fact that no individual cut-out was provided, the respondent cannot be completely absolved of its liability. After hearing the parties at some length and perusal of material on record we find that the complainant who is a widow, has an invalid child, will need support, in the absence of the father, who died on account of electrocution. In these peculiar facts and circumstances of the case, we suggest that the second respondent GEB to pay Rs. 1 lakh to the complainant as an ex gratia payment, to help to take care of the young widow/complainant and more importantly, of the invalid child in the circumstances, in which she has been thrown into on account of loss of her husband by electrocution.

It is made clear that we are not settling a law in favour of the complainant or against the GEB and it will not be cited as a precedent in any other case. Upon making the payment, as stated by the learned Counsel for the complainant, the complaint shall stand withdrawn. Ordered accordingly.