

(2004) 03 NCDRC CK 0044

In the National Consumer Disputes Redressal Commission

KAMANS ROADWAYS

APPELLANT

Vs

G. YASHWANT

RESPONDENT

Date of Decision : 05-03-2004

Acts Referred:

Citation : 2004 2 CPJ 570

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

Final Decision : Appeal allowed

Judgement

1. THE complainant entrusted the goods of the value of Rs. 97,000/- for being transported to Bangalore to the opposite parties. According to the complainant, the goods were not delivered. Hence, the complaint has been laid.

2. BOTH the opposite parties remained absent in the lower Forum. Hence, the lower Forum passed an order directing the opposite parties to pay compensation as claimed in the complaint. Aggrieved by the said order, the second opposite party has preferred this appeal.

We are satisfied that the order as against the second opposite party cannot be maintained at all. The very definite allegation made in the complaint is that the complainant entrusted the goods to the first opposite party. In fact, Ex. A1, which is the consignment note dated 4.11.1997, while giving the value of the goods accepted for consignment as Rs. 30,000/-, also states that the lorry belonging to Sri Sai Prasad Roadlines is the transporter or the carrier and the lorry bearing No. TN-04-C-7474 is to be employed for transportation of the consignment. Therefore, in such circumstances, if at all there is a contract of carriage only between the complainant and the first opposite party. To the notice issued by the complainant, the first opposite party has given a reply stating that he handed over the consignment to the second opposite party. But the first opposite party has not chosen to appear and contest the matter or produce the records to show that he handed over the consignment in turn for transmission through the lorry belonging to the second opposite party. The lower Forum has also not adverted to the above aspect at all nor has given any reason as to how

the second opposite party namely the appellant herein is also liable in this context.

3. THEREFORE, we are of the view that the order passed by the lower Forum directing the second opposite party as well to pay compensation is not maintainable since there is absolutely no basis at all made out to rope in the second opposite party as well as in the claim. Hence, we have no hesitation in disturbing the award passed by the lower Forum as against the second opposite party. In the result, this appeal is allowed with cost of Rs. 250/-. The order of the lower Forum is modified. The complaint as against the second opposite party, namely the appellant herein, will stand dismissed with cost of Rs. 250/-. Time for compliance : Two months. Appeal allowed.