

(2003) 02 NCDRC CK 0107

In the National Consumer Disputes Redressal Commission

KARTAR GOODS CARRIER (P.) LTD.

APPELLANT

Vs

YASHPAL GUPTA

RESPONDENT

Date of Decision : 07-02-2003

Acts Referred:

Citation : 2003 4 CPJ 20

Hon'ble Judges : M.Y.Kawoosa , ChVidya Sagar J.

Final Decision : Appeal allowed

Judgement

1. THIS appeal is directed against the ex parte order passed on 30.1.2001 by the District Forum whereby District Forum has allowed the complaint of the complainant in ex parte and has directed the appellant to pay Rs. 18,087/- with 12 per cent interest and appellant No. 2 has been directed to pay Rs. 5,000.00 as compensation for harassment and mental agony caused to the respondent/complainant. Appellant has challenged this order delayed by about 2 months. Condonation application has been filed and objections thereof have been invited.

2. HEARD learned Counsel for the parties. Learned Counsel for the appellant has categorically contended that appellant received no information, no summons regarding that case. They came to know about the case on 20.3.2001 when a letter accompanied with copy of judgment was sent by the respondents to him for executing the award of the District Forum. It is on this date he came to know about the ex parte award and immediately they rushed to file the appeal. We have considered the arguments of the Counsel for parties. It is a fact that no A/D has been received when the District Forum has sent registered summons to them. This is not so important because Post Office people generally does not sent A/D. They return the envelope if it is not delivered. Here the envelope has not been returned. District Forum has taken it that the delivery has been made. Learned Counsel for the appellant has invited our attention to the address on these receipts which is quite vague. Address has been written on the registered summons as "Dev Raj Kartar Goods Carrier Pvt. Ltd., Amritsar" while the proper address was Regional Office, Thakur Building, Shaheed Bhagat Singh Road,

Amritsar. Similarly, the registered post address to second appellant who was OP No. 2 instead of writing 20/21, Nehru Market, Jammu it was only written Kartar Singh Goods, Jammu. Patently the summons sent to both the appellants by the DF are defective, vague and incomplete. Natural consequence is that they should not have reached the proper destination. Secondly, our attention was drawn to the receipts. Learned Counsel for the appellant has contended that registered notice costs Rs. 26/- but these receipts show that tickets of only Rs. 20/- each have been paid. For these reasons, therefore, we are convinced that the application for condoning the delay is made out. Now we look to the merits of the case.

Facts barely needed for the disposal of this appeal that respondent/OP 2 booked a consignment of resout weighing 71.70 quintals through OP No. 1. This was to be delivered in Amritsar through appellant transporter. The goods were weighed and declared by the OP 71.75 quintals and carriage was also fixed accordingly but when the appellant carried the goods, goods were checked at Lakhanpore where it was found that 12 quintals were in excess instead of 71.75 qtls., it was 83.75 quintals. The truck was seized at the Lakhanpore Toll Post. Driver was imposed fine of Rs. 20,400/-. Payment was made by the driver, then it was again checked at Amritsar by Octroi Inspector and Sales Tax Officer. They seized the vehicle for 5 days. Thereafter released it ascertaining that the fine had been paid. The appellants claimed the fine money from the respondent. Respondent instead filed the case in DF and managed to have an award in ex parte.

3. WE have gone through the whole record. Facts patently show that the appellant should be given an opportunity to contest the case. He had no reason to take the case lightly. Learned Counsel for the respondent, namely Mr. P.N. Raina has appeared. He claims that no fine was paid by the appellant to Octroi Authorities. For these reasons, therefore, we set aside the ex parte order, sent the case back to the DF. Appellant is allowed to file the written version on or before the next date. Parties are directed to appear before the DF on 21.1.2003. Appeal allowed.