

(1999) 05 NCDRC CK 0106

In the National Consumer Disputes Redressal Commission

KOPPANATHI DEVALLU

APPELLANT

Vs

Divisional Manager, Oriental Insurance Co. Ltd.

RESPONDENT

Date of Decision : 05-05-1999

Acts Referred:

Citation : 2000 1 CPJ 463

Hon'ble Judges : S.Parvatha Rao , T.Ranga Rao , Mamata Lakshmanna J.

Final Decision : Revision Petition disposed of

Judgement

1. THE petitioner in the R.P. was the complainant in OP. No. 267/1994 on the file of East Godavari District Forum. THE respondents in the R.P. were the opposite parties in that O.P. O.P. No. 27/1994 was disposed of by the East Godavari District Forum by its order dated 10.10.1996 directing the opposite parties to pay Rs. 1,70,000/- towards the claim amount Rs. 3,500/- towards the amount spent for salvage operation i.e., in all Rs. 1,73,500/- together with interest @ 18% per annum from 1.2.1994 till the date of payment and also costs of Rs. 500/-. That was questioned by the opposite parties in that O.P. before this Commission in FA No. 979/1996. That F.A. was disposed of by this Commission by order dated 2.7.1997 with one modification i.e., reducing the interest of 18% granted by the District Forum to 12% and in other respects this Commission confirmed the order of the District Forum. Pending the appeal, in FA IA No. 1421/96 this Commission granted stay of the order of the District Forum in the O.P. dated 10.10.1996 subject to the condition of the respondent depositing Rs. 1,74,000/- in the District Forum pending further orders. A sum of Rs. 1,74,000/- was deposited in the District Forum by the respondents on 19.12.1996. THE said amount was put in a fixed deposit by the District Forum and it was so till the appeal was disposed of. On 15.11.1997 the petitioner was permitted to withdraw the said sum of Rs. 1,74,000/- together with interest of Rs. 11,949/- accrued thereon on the fixed deposit i.e., in all a sum of Rs. 1,85,949/-. Meanwhile, the respondents deposited Rs. 78,417/- by cheque dated 7.11.1997 in the District Forum, being the interest @ 12% on Rs. 1,74,000/- from 1.2.1994 upto 7.11.1997 as per the order of this Commission in FA No. 979/1996. THE petitioner herein i.e., complainant in the

O.P., filed EA. SR. No. 12/1998 for issuance of a cheque for Rs. 78,417/-. THE District Forum rejected that application by its order dated 19.3.1998 holding as follows : "He (petitioner herein) is not entitled to withdraw whatever amount is available with the Forum to the credit of this petition. THE amount in excess of the decree shall be refunded to the respondent/JDR. Hence the petitioner is entitled to only Rs. 59,391.00 being the balance amount as per the decree and he is not entitled to Rs. 78,417/- as claimed. Hence this petition is rejected with liberty to come up with a separate petition as per his entitlement." This is being questioned in the present R.P. as illegal and irregular.

2. THE petitioner in his affidavit dated 22.4.1999 filed before us in the present R.P. stated as follows : "It is submitted that as per the orders of this Hon"ble Commission in F.A. No. 979/96, I am entitled for Rs. 1,73,500/- with interest @ 12% per annum from 1.2.1994 till the date of payment. THE interest on Rs. 1,73,500/- @ 12% per annum from 1.2.1994 to 15.11.1997 comes to Rs. 78,417/-. It is further submitted that the respondents herein after the disposal of F.A. No. 979/1996 calculated the interest as per the orders and deposited Rs. 78,417/- towards interest... I submit that the principal amount is Rs. 1,74,000/- and as per the order of the District Forum, I am entitled to interest of Rs. 78,470/- and the total amount comes to Rs. 2,52,470/-. Out of the interest amount of Rs. 78,470/-, I have withdrawn only Rs. 59,391/- and still I have to get a sum of Rs. 19,030/- as the interest accrued on the fixed deposit ensures to my benefit. Even otherwise, alternatively I submit that even the interest accrued on fixed deposit Rs. 11,949/- is deducted still I have to receive a sum of Rs. 7,081/-."

No exception can be taken to the observations of the District Forum in its order dated 19.3.1998 rejecting EA. SR. No. 12/1998 that the petitioner was entitled to take the money with interest only as per the award @ 12% per annum and that he was not entitled to withdraw whatever amount was available with the Forum to the credit of OP No. 27/1994 and that the amount in excess of the decree should be refunded to the respondents. But the basis for holding that the petitioner was entitled to Rs. 59,391/- only and that he was not entitled to Rs. 78,417/- was not stated by the District Forum.

As we see, the only question that really arises is whether the petitioner is entitled to interest on Rs. 1,73,500/- @ 12% per annum from 1.2.1994 to 19.12.1996, the date when Rs. 1,74,000/- was deposited by the respondents before the District Forum, or from 1.2.1994 till November, 1997 when the amount was actually allowed to be withdrawn by the petitioner after F.A. No. 979/1996 was disposed of by this Commission. This respondents in fact deposited before this Commission Rs. 78,417/- as interest due to the complainant calculating interest upto November, 1997. The complainant claims interest @ 12% from 1.2.1994 to November, 1997 which according to him also comes to Rs. 78,417/-. This can be only on the basis that the sum of Rs. 1,74,000/- deposited by the respondents before the District Forum on

19.12.1996 did not belong to the complainant and that he had no right to withdraw that amount. Rightly so, because stay was granted by this Commission in FA. IA. No. 1421/1996 on the request of the respondents herein, who are the appellants in FA, and the amount deposited in the District Forum pursuant to the stay order was not permitted to be withdrawn by the petitioner herein till the disposal of the appeal. From this it follows that the petitioner cannot have interest that accrued on Rs. 1,74,000/- while it was with the District Forum and the District Forum put it in fixed deposit. That interest will have to go to the respondents. The petitioner cannot have interest twice over. He can have only one interest and that is the 12% from 1.2.1994 till November, 1997 and that is Rs. 78,417/-. As admitted by the petitioner he had already received Rs. 11,949/- and Rs. 59,391/- i.e., in all Rs. 71,340/- in addition to the sum of Rs. 1,74,000/-. Therefore he can have only a further sum of Rs. 7,077/- (Rs. 78,417 - 71,340). He shall be permitted to withdraw Rs. 7,077/- from the amount still lying in deposit with the District Forum to the credit of OP No. 27/1994 and the balance if any shall be permitted to be withdrawn by the respondents. If no amount is still lying in deposit with the District Forum, the respondents shall pay Rs. 7,077/- to the petitioner within four weeks from today i.e., by 2.6.1999.

3. THE R.P. is accordingly disposed of. Revision Petition disposed of.