

(2002) 05 NCDRC CK 0053

In the National Consumer Disputes Redressal Commission

Life Insurance Corporation of India

APPELLANT

Vs

RAMCHANDER SINGH

RESPONDENT

Date of Decision : 22-05-2002

Acts Referred:

Citation : 2003 2 CPJ 327

Hon'ble Judges : K.C.Bhargava , D.D.Bahuguna J.

Advocate : Arjun Bhargava

Final Decision : Allowed

Judgement

1. THIS is a revision against the order dated 1.2.1999 passed by District Consumer Forum, Shahjahanpur in Execution Case No. 28/1998 arising out of Complaint Case No. 126 of 1991.

2. IT is not necessary to mention the facts in detail. Learned Counsel for the revisionist has argued that the complaint was decreed by the District Forum and the appeal against that judgment was also dismissed by this State Commission. However, in the revision filed against the judgment of the State Commission before the National Commission, the same was allowed and the judgments and orders of the State Commission and the District Forum were set aside. The learned Counsel has further argued that a sum of Rs. 10,000/- was paid to the complainant in pursuance of the orders of the State Commission and the District Forum. According to the learned Counsel an application was moved under Section 27 of the Consumer Protection Act for recovery of the same amount of Rs. 10,000/- paid to the complainant. The order has been delivered by the District Forum holding that the provisions of Section 27 do not apply to these proceedings and the amount paid to the complainant cannot be directed to be refunded. Aggrieved against this order of the learned District Forum, the present revision has been filed by the Life Insurance Corporation of India. None was present from the side of the opposite party/complainant even though notice was sent to him.

Learned Counsel for the revisionist has argued that the provisions of Section 27 of the Consumer Protection Act will also apply in this case. One need not approach the District Consumer Forum under Section 25 of the Consumer Protection Act as both the sections are independent.

3. SECTION 27 of the Consumer Protection Act relates to the penalty and provides that any person against whom an order has been made by the National Commission, fails or omits to comply with any order made by the District Forum. Such a person shall be punishable with imprisonment for a term which shall not be less than one month. In the present case as has already been seen the National Commission has set aside the order of the State Commission and the District Forum and the amount already paid by the Insurance Company to the complainant becomes payable to the Insurance Company. The learned District Forum should have issued notice to the opposite party/complainant for refund of the amount paid to him by the Insurance Company. Provisions of SECTION 27 will apply to this case and the applicant cannot be directed to pursue remedies before the Civil Court. Therefore, the order passed by the District Forum in the execution case is not proper and is liable to be set aside. ORDER The order dated 1.2.1999 passed by District Forum concerned in Execution No. 28/1998 is set aside and the case is remanded to the learned District Forum for trial after issuing notice to the opposite party and the revisionist according to law. Let copy as per rules be made available to the parties. A copy of this order be sent to the District Forum concerned by the office. Revision allowed.