

(1998) 07 NCDRC CK 0033

In the National Consumer Disputes Redressal Commission

N. KUPPUSAMY

APPELLANT

Vs

NAMAKKAL SOUTH INDIA TRANSPORT

RESPONDENT

Date of Decision : 23-07-1998

Acts Referred:

Citation : 1998 3 CPJ 500

Hon'ble Judges : E.J.Bellie , Pulavar V.S.Kandasamy , Angel Arulraj J.

Final Decision : Appeal allowed

Judgement

1. OF the two opposite parties against whom an award has been passed by the District Forum, the 1st opposite party is the appellant. The complainant engaged the services of the 2nd opposite party who was a lorry agent, for transporting its goods from Cochin to Trichy on 9.3.1993-The 2nd opposite party in turn engaged the lorry of the 1st opposite party. While the goods were being transported, on the way it appears due to some mechanical defect of the lorry, the lorry could not proceed further and the 1st opposite party informed the 2nd opposite party about it and asked him to make some arrangements for taking the goods to Trichy. In this process there was a delay. According to the complainant the goods were delivered with a delay of 156 days and also there was some damage to the goods. Alleging deficiency in service on the part of both the opposite parties the complaint was filed for compensation.

2. BOTH the opposite parties contested the matter, The District Forum, on consideration of the evidence, held that there was deficiency in service on the part of both the opposite parties and it passed an award. As against this order of the District Forum, the 1st opposite party alone has filed this appeal.

Even from the complainant's averments in the complaint it is clear that the complainant had engaged the services of the 2nd opposite party who appears to be a lorry agent for transporting goods and the 2nd opposite party in turn engaged the lorry belonging to the 1st opposite party for the purpose. There is no contract or connection between the complainant and the 1st opposite party. This being the case, if anything had happened on the way to the goods, the

person who would be liable to the complainant is the 2nd opposite party and not the 1st opposite party. If at all the 1st opposite party is liable, it is definitely to the 2nd opposite party and not to the complainant. In this view of the matter, we hold that the order passed by the District Forum against the 1st opposite party is not correct and that has to be set aside.

3. ACCORDINGLY the appeal is allowed and the order of the District Forum is set aside so far as the 1st opposite party is concerned. There will be no order as to costs. Appeal allowed.