

(2004) 08 NCDRC CK 0098

In the National Consumer Disputes Redressal Commission

National Insurance Company Ltd.

APPELLANT

Vs

KAILASH CHANDRA MAHESHWARI

RESPONDENT

Date of Decision : 06-08-2004

Acts Referred:

Citation : 2005 1 CPJ 741

Hon'ble Judges : D.P.S.Choudhary , Asma Ahmad J.

Final Decision : Appeals dismissed

Judgement

1. O.P. (National Insurance Company) is the appellant which has preferred the appeal against the order dated 18.7.2003 passed in Complaint Case No. 4/2003 whereby and whereunder directed the O.P.-appellant to compensate the complainant the amount of damages as claimed by him.

2. THE brief fact of the case is that complainant has filed a complaint for settlement of the claim as the truck of the claimant met with an accident. During the pendency of the complaint interlocutory order has been passed by order dated 18.7.2003 on the petitions of both the parties wherein the District Forum has directed the appellant that complainant has complied with supply of all the relevant documents including fitness certificate, therefore, the appellant should settle the claim as claimed for at the earliest. Against this order this appeal has been preferred. At the time of argument it was enquired from the learned appellant's Lawyer as to how this appeal is maintainable under Section 15 of the Consumer Protection Act because the appeal has been preferred against the interlocutory order passed on the petition of both the parties. What was the claim of the complainant, what was the rejoinder of the appellant with regard to the claim, and what has been happened to the claim case is not before us. We are of the view that this appeal is not maintainable and is prematured. As mentioned in the impugned order the District Forum has passed the order dated 14.5.2003 in the complaint case and thereafter both the parties have filed the petition and thereafter the impugned order dated 18.7.2003 was passed. The appeal has not been preferred against the order dated 14.5.2003 nor the copy of the order has

been annexed. We are not in a position to know what was the order of the District Forum against the appellant.

In the result, we are of the view that this appeal is not maintainable and accordingly dismissed.

3. O.P.-appellant has preferred Appeal No. 384/2003 under Section-27A of the Consumer Protection Act against the order dated 30.7.2003 passed in Complaint Case No. 4/2003 directing the appellant to make good the loss to the claimant within a week from the date of the order and when the order was not complied within the time frame the District Forum passed punishment order directing the appellant to undergo imprisonment for a year along with penalty of Rs. 5,000/- for non-compliance of the order dated 18.7.2003. A warrant was also issued to take the accused persons in custody. The main contention of the appellant before us is that the impugned order is bad in law and against the provisions of Section 27A of the Consumer Protection Act. No execution proceeding was initiated and warrant was issued.

4. AT the time of hearing of this appeal we enquired from the appellant whether any appeal has been preferred against the order dated 14.5.2003 passed in complaint case by the District Forum but the answer was in negative. The result is that the order of the District Forum passed in the complaint case dated 14.5.2003 has become final. Therefore, for the compliance of the order the District Forum was entitled to take the legal course as provided under the Act on the petition filed by the decree holder-complainant. Prima facie, we do not find any illegality in the impugned order dated 30.7.2003 of the District Forum, Kishanganj. In the result, there is no merit in this appeal, which is accordingly dismissed. however, there shall be no order as to cost. Appeals dismissed.