
(2003) 04 NCDRC CK 0018

In the National Consumer Disputes Redressal Commission

ORIENTAL INSURANCE Company Limited	APPELLANT
Vs	
SAVIKAR PLYBOARDS LIMITED	RESPONDENT

Date of Decision : 02-04-2003

Acts Referred:

Citation : 2003 2 CPJ 649

Hon'ble Judges : K.K.Srivastava , Devinderjit Dhatt , MajGenS.P.Kapoor J.

Final Decision : Appeals allowed

Judgement

1. THIS order will dispose of three appeals bearing Nos. 131, 132 and 133 all of 2003 which arise from the order of the District Consumer Disputes Redressal Forum-II (for short hereinafter referred to as the District Forum) dated 24.1.2003 filed by the Oriental Insurance Company Limited (for short hereinafter referred to as the Insurance Company) & Anr. The complaint was filed by Savikar Plyboard Limited, which were registered at Nos. 399, 400 and 401 all of 2002.

2. THE learned Counsels for the appellant as well as the respondent contended that these three appeals involved common question of fact and law and thus be heard together and decided by a common judgment. Accordingly, we have heard the bunch of three appeals referred to above, which are being decided by this order, which is being delivered in Appeal No. 131 of 2003. The main grievance of the appellant is that the District Forum rejected the prayer of the appellant to file the written statement and evidence in support of the contention on the ground that the prescribed period of time had lapsed. The District Forum while declining the prayer placed reliance on the case of Dr. J.J. Merchant & Ors. v. Shrinath Chaturvedi, III (2002) CPJ 8 (SC)=IV (2002) SLT 714=2002 CTJ 757 (S.C.). Resultantly, there was no defence version placed in the complaint case on behalf of the appellant and the only version, which was before the District Forum, was that of the respondent/complainant and only evidence led by the complainant was on record.

So far as the position of law in allowing time beyond 45 days under Section 13(2) of the C.P. Act is concerned, the same has been settled by the Hon'ble Apex

Court in the case of *Topline Shoes Ltd. v. Corporation Bank*, II (2002) CPJ 7 (SC)=IV (2002) SLT 235=2002 CTJ 682 (S.C.). The Hon''ble Apex Court has held, inter alia, as under : "...the intention to provide a time frame to file reply, is really meant to expedite the hearing of such matters and to avoid unnecessary adjournments to linger on the proceedings on the pretext of filing reply. The provision however, as framed, does not indicate that it is mandatory in nature. In case the extended time exceeds 15 days, no penal consequences are prescribed, therefor. The period of extension of time "not exceeding 15 days", does not prescribe any kind of period of limitation. The provision appears to be directory in nature, which the Consumer Forums are ordinarily supposed to apply in the proceedings before them. We do not find force in the submission made by the appellant, in person, that in no event, whatsoever the reply of the respondent could be taken on record beyond the period of 45 days. The provision is more by way of procedure to achieve the object of speedy disposal of such disputes. It is an expression of "desirability" in strong terms. But it falls short of creating of any kind of substantive right in favour of the complainant by reason of which the respondent may be debarred from placing his version in defence in any circumstances whatsoever. It is for the Forum or the Commission to consider all facts and circumstances along with the provisions of the Act providing time frame to file reply, as a guideline, and then to exercise its discretion as best it may serve the ends of justice and achieve the object of speedy disposal of such cases keeping in mind principles of natural justice...."

3. UNDER the Consumer Protection Act, 1986 (for short hereinafter referred to as the C.P. Act) as amended, the Consumer Disputes Redressal Agencies are required to state reasons if the complaint case is not decided within the time frame as set out for the disposal of the complaint case/appeal is concerned. It cannot thus be said that under no circumstances, the time prayed for filing the written statement and evidence be allowed and the evidence of the O.P. has to be closed. The Hon''ble Apex Court, however, held that every effort should be made by the Consumer Disputes Redressal Agencies to ensure that the time schedule prescribed under the Act/Rules is maintained and the O.P. shall not indulge in dilatory tactics. However, the Hon''ble Apex Court clearly held that the provisions contained regarding time of 30 days and further time of 15 days is only directory in nature and not mandatory and in a given case, the time can be allowed if there are sufficient reasons for the same. Now coming to the facts of the case, Mr. Ashwani Talwar, Advocate appearing for the appellants contended that as a matter of fact, the complainant had filed a number of complaints involving four Insurance Companies, the Insurance Company was not able to finalize the written statement because of the peculiar facts which were to be examined by the Company after getting information from various quarters including its Dubai office. These reasons in detail were mentioned before the District Forum but the District Forum rejected the prayer on the ground that the appellants/O.Ps. had already availed a period of 84 days in filing the written statement. The appellants have, however, filed written statement and affidavit by

way of evidence in reply to the allegations made in the complaint case. We are satisfied that the appellants were prevented by sufficient cause in filing the written statement within the time frame provided by the C.P. Act and the District Forum was not justified in rejecting the prayer for time to file written statement as evidence. At this stage, the learned Counsel for the respondent/complainant contended that the complainant would also like to file replication to the written statement and evidence by way of rebuttal of the pleas of defence taken in the written statements.

4. THE appeals are accordingly allowed. THE impugned order under appeal passed in all the three complaint cases are set aside. THE complaint cases bearing Nos. 399, 400 and 401 of 2002 are remanded to the District Forum with the direction to take on record of the complaint cases the written statement filed by the appellants and evidence filed by way of affidavits and to allow time to the respondent/complainant to file replication and evidence in rebuttal. THE District Forum shall, however, decide the complaint case preferably within one month from the date of receipt of the record of these cases. THE Cash Orders bearing Nos. 457522, 457523 and 457524 dated 27.3.2003 for a sum of Rs. 25,000/- each drawn on Punjab National Bank, in respect of 50% of the amount awarded by the District Forum or Rs. 25,000/-, whichever is less, which have been placed on record of appeal files shall be returned to the appellants. THE parties are directed to appear before the District Forum-II, U.T., Chandigarh on 21.4.2003. Copies of this order be sent to the parties free of charge. Appeals allowed.