
(1999) 07 NCDRC CK 0013

In the National Consumer Disputes Redressal Commission

Oriental Insurance Company Ltd.

APPELLANT

Vs

GULAB ROAD LINES

RESPONDENT

Date of Decision : 29-07-1999

Acts Referred:

Citation : 1999 2 CPC 557 : 1999 3 CPR 280 : 2000 2 CPJ 321

Hon'ble Judges : J.B.Garg , P.K.Vasudeva , Devinderjit Dhatt J.

Final Decision : Complaint allowed

Judgement

1. M/s. Deepak Spinners Ltd.-complainant No. 2 entrusted a consignment containing packages of P.W. yarns etc. which was to be delivered to M/s. Neeta Textiles, Kurala Road, Andheri, Mumbai-59. The truck No. MCY 5266 which carried the consignment on 31.10.1996 belonged to M/s. Gulab Road Lines, Sanjay Stadium, A.B. Road, Guna (M.P.). The aforesaid transport company failed to deliver the goods at the destination. An FIR was lodged under Section 406, I.P.C. bearing No. 248 of 1996 at Police Station Guna Cantt. and ultimately an "untraced" report was submitted by the police. The investigation and survey made, indicated that the driver Balkar Singh s/o Shri Shingara Singh of the truck wilfully diverted the vehicle to some place other than the destination. The complainant possessed insurance policy No. 23112/21/00003/97 of a huge sum of Rs. 1 crore 20 lacs and in response to the demand payment of Rs. 9,79,800/- was made to M/s. Deepak, Spinners Ltd., complainant No. 2.

2. SINCE the branch office of the complainant No. 2 is situated at Chandigarh and insurance policy was also issued by complainant No. 1 at Chandigarh the present complaint has been instituted here. The complainant No. 2, the owner of the goods has received the aforesaid amount from complainant No. 1 as a consequence of subrogation. The relief claimed by the Oriental Insurance Co. Ltd. from M/s. Gulab Roadlines, the transporter is in the sum of Rs. 9,78,800/- together with interest @ 18% p.a. from 5.6.1997. In support of the complaint a copy of the insurance policy Annexure C-1, the complainant No. 2 had been getting goods such as raw material, finished goods etc. etc. insured even earlier

(Annexure-2). A receipt which shows that the payment of Rs. 9,79,800/- was made to complainant No. 2 is Annexure C-6. The fact that the FIR was lodged is established from copy of the FIR C-12 and C-13. The goods were packed for carriage with M/s. Gulab Roadlines respondent No. 1 is established from receipts Annexures C-10 to C-11.

The facts and documents referred to above established that goods were entrusted to M/s. Gulab Road Lines by respondent No. 2 and these were lost in transit. Since the goods entrusted for purpose of carriage were not delivered to the consignee it is not required that owner of the goods should prove negligence on the part of carrier though in this case negligence of the carrier too is well-established and remained un rebutted. The Insurance Company paid the compensation amount to the owner complainant No. 2 and the process of subrogation was completed. Since the Insurance Company has joined the consignor while suing the carrier it shall be also deemed to be a consumer.

3. M/s. Gulab Road Lines were served but they did not appear in person or through a Counsel. They have sent a reply by post wherein the factum of loss of goods has not been controverted. The only plea is that the Commission at Chandigarh had no jurisdiction because the loss took place some where in Madhya Pradesh. This plea has no merit. The complainant No. 2 has an office at Chandigarh. The insurance policy was from 1.5.1996 to 30.4.1997. The complainant No. 1, Oriental Insurance Co. Ltd. who issued the aforesaid policy has its registered office in Sector 17-A, Chandigarh. The consequence is that the complaint succeeds. It is ordered that sum of Rs. 9,79,800/- is payable by respondent No. 1 together with interest @ 18% p.a. from 17.10.1998, the date of institution of the complaint till realisation. Complaint allowed.