

(2005) 10 NCDRC CK 0018

In the National Consumer Disputes Redressal Commission

RAM SINGH

APPELLANT

Vs

Inderjeet Ahuja

RESPONDENT

Date of Decision : 07-10-2005

Acts Referred:

Citation : 2005 3 CPR 644 : 2005 4 CPJ 343

Hon'ble Judges : J.D.KAPOOR , MAHESH CHANDRA J.

Judgement

1. THE appellant was allotted a site by MCD for the purpose of parking of vehicle on licence basis. The respondent parked his Maruti van on 28.7.1997 at about 11.00 a.m. after payment of Rs. 10 and obtained a receipt No. 3596. However, when he went to collect the van in question in the evening, he was shocked to find that his vehicle was missing.

2. ON account of deficiency in service, the appellant vide impugned order dated 12.10.1999 has been directed to pay Rs. 1,00,000 though the respondent has claimed the value of the car at Rs. 1,87,000 alongwith 12% p.a. interest from the date of parking till realization and Rs. 1,000 as cost of litigation. Through this appeal, he has assailed the impugned order by taking the plea that he was actually a contractor of parking site of MCD at Mori Gate whereas the vehicle in question was parked at Kashmere Gate, Delhi and thus there was no relationship between him and the contractor and this is apparent from the receipt of parking produced by the respondent showing that the vehicle was parked at Kashmere Gate he was wrongly held guilty for deficiency in service.

3. HOWEVER , perusal of the FIR lodged by the respondent with the Police at the first instance immediately after he found the vehicle was missing shows that the vehicle was parked at Mori Gate parking. The version of the respondent to the effect that when he enquired from the employee of the appellant about the van, he told him that the van has been taken by his employee and he would be coming soon. After waiting for sufficient time, the person did not come nor did the van. He immediately lodged a report with the Kashmere Gate Police Station.

4. WE have perused the impugned order which is highly extensive and elaborate and has dealt with each and every aspect of the matter and find no infirmity in the finding of the fact that the vehicle was parked at the site of MCD and was stolen may be with the connivance of the employee of the contractor but once a contractor decides to operate the parking site through its employees, the contractor becomes directly liable for consequences. Whenever there is contract between the parties in relation to service like one in question, the person, who provides service has to be held liable for service if there is any shortcoming or imperfection. "Deficiency" means any fault, imperfection, shortcoming or inadequacy in the quality, nature and manner of performance which is required to be maintained by or under any law for the time being in force or has been undertaken to be performed by a person in pursuance of a contract otherwise in relation to any service. Appellant has nowhere shown that parking was at owners risk or he shall not be liable for any theft. In the instant case, appellant told the respondent that one of his employees has taken the vehicle and he would soon be coming with the vehicle. This aspect renders the appellant liable for the payment of damages as to the loss suffered by the respondent.

5. THOUGH we uphold the order of payment of Rs. 1 lac but do not feel inclined to award interest as in terms of Section 14 of the Consumer Protection Act, 1986, consumer is only entitled to compensation as to the loss or injury suffered by him. Until and unless there is contract between the parties for payment of interest, the consumer cannot be awarded interest.

6. SINCE the complaint was lodged in the year 1997 and the impugned order was passed in the year 1999, we award compensation of Rs. 10,000 in lieu of interest. In view of the decision of this appeal, the second appeal, filed by the appellant whereby the District Forum has awarded sentence of two years for non-compliance of the impugned order stands quashed. Any deposits made by the appellant shall be adjusted towards the amount of compensation of this appeal. The payment shall be made within two months.

7. A copy of this order, as per the statutory requirements, be forwarded to the parties free of charge and also to the concerned District Forum and thereafter the file be consigned to the Record Room. Ordered accordingly.