
(1995) 02 NCDRC CK 0026

In the National Consumer Disputes Redressal Commission

ROHINI GROUP OF THEATRES

APPELLANT

Vs

V. GOPALAKRISHNAN

RESPONDENT

Date of Decision : 17-02-1995

Acts Referred:

Citation : 1995 2 CPC 675 : 1995 3 CPJ 102 : 1995 3 CPR 380 : 1996 1 CLT 471

Hon'ble Judges : S.A.Kader , Ramani Mathuranayagam , V.S.Kandasamy J.

Final Decision : Appeal dismissed without costs

Judgement

1. THIS is an appeal against the order of the Consumer Disputes Redressal Forum, Madras (South) dated 11.8.94 in O.P. 839/92. The Opposite Party is the appellant.

2. THE complainant attended the matinee show in the Opposite Party, theatre on 24.6.92. He parked his bicycle in the parking space allotted by the theatre on payment of necessary charge and token receipt. When he returned after the show, he found the bicycle missing. He has therefore come forward with this claim for the value of the cycle and compensation. The Opposite Party contended that the complainant is not a consumer and is not entitled to maintain this complaint. It was further contended that the Opposite Party was not responsible for the vehicle parked in the complex and the parking is at the risk of the owners. It is also averred that one bicycle was found abandoned in the parking space on that day and it was entrusted to the police.

The District Forum found that there was deficiency and directed the Opposite Party to pay to the complainant, the cost of the cycle at Rs. 1,417/- and compensation in the sum of Rs. 1,000/- and cost of Rs. 300/-. It is this order that is challenged in the appeal.

3. THE complainant who has gone to see the film has hired or availed of the services of the Opposite Party for parking his bicycle in the parking space maintained by the Opposite Party on payment of the necessary charge under token receipt. THE complainant is, therefore, a consumer and is entitled to

maintain this complaint. The contention of the Opposite Party that it is not responsible for the safety of the vehicle parked in the complex and it is at the risk of the owner has to be mentioned only to be rejected. By collecting parking charge, the Opposite Party has taken custody of the cycle and it is responsible for its safety. It is futile to contend that the vehicle is parked at the risk of the owner, when the Opposite Party has received parking charge and taken custody of the bicycle. The position of the Opposite Party is that of a Bailee and it is bound to take as much care of the goods bailed to him as a man of ordinary prudence would, under similar circumstances, taken care of his goods of the same bulk quality and value of the goods bailed (vide Section 151 of the Contract Act). According to the complainant, his bicycle which he purchased only on 11.3.92 under Ex. A 2 had been lost when it was parked in the parking space of the Opposite Party on 24.6.92. There is absolutely no evidence on the side of the Opposite Party that it took as much care as is required of a prudent man as laid down under Section 151 of the Contract Act. The Opposite Party is, therefore, liable for the loss of the vehicle.

4. IT is urged by the learned Counsel for the appellant that it was found that a cycle had been abandoned in the parking space on that day and it was produced before the Police Station. The complainant who was present before us stated that he inspected the cycle left abandoned and found that it was not his bicycle. The abandoned cycle was an old one while his cycle was a new one which had been purchased only on 11.3.92. Within 3 months, it has been lost and the District Forum has rightly awarded damages for its loss as claimed by the complainant. The order for compensation does not also call for interference. In the result, the appeal fails and is dismissed, no costs. Appeal dismissed without costs.