
(2018) 03 NCDRC CK 0101

In the National Consumer Disputes Redressal Commission

Case No : First Appeal No. 14 Of 2009

Sepeedcrafts Ltd

APPELLANT

Vs

Bharat Kumar Yadav & Anr

RESPONDENT

Date of Decision : 07-03-2018

Acts Referred:

Citation : (2018) 03 NCDRC CK 0101

Hon'ble Judges : Prem Narain, J

Bench : Single Bench

Final Decision : Disposed Off

Judgement

Prem Narain, J.

1. This Appeal has been filed by the Appellant - Speedcrafts Ltd., against the order dated 17/29.10.2008 of the State Commission passed in Complaint

Case No. 37 of 1998.

2. Heard both the learned counsel for the parties.

3. Learned counsel for the Appellant states that the matter was heard on 11.09.2008 when the Appellant was not present. It has been further stated

that the matter was originally listed on 21.08.2008 and later on, it was got listed on 08.08.2008, on which date the Appellant was present before the

State Commission, but the State Commission did not sit on that date and the next date was given by the Court Master, for 28.11.2008. However, when

he went to the State Commission on 28.11.2008, he was apprised that the matter was already heard on 11.09.2008 and the order was passed on

17.10.2008. The Appellant had filed a Miscellaneous Application bearing No. 54/08 for recall of the order dated 17.10.2008. The State Commission

vide its order dated 22.12.2008 dismissed the said application on the ground

that the State Commission did not have the power to review its own order.

4. Learned counsel for the Appellant agrees with the assertion that the State Commission does not have any power to review its own order. However,

the learned counsel states that the State Commission has recorded in its order dated 22.12.2008 that the date of 28.11.2008 was mentioned in the

cause list, though, it has been deleted later on, and another date, i.e., 11.09.2008 was inserted in the cause list, though the order-sheet does not show any cutting or over-writing, and 11.09.2008, was recorded as the date.

5. Learned counsel for the Appellant requested that he has got no opportunity to present his arguments and neither he has got the opportunity to cross-examine the reports given by the Experts which were submitted by the complainant.

6. On the other hand, learned counsel for the respondent No.1/complainant stated that there was no correction or over-writing in the original order-

sheet and therefore the date 11.09.2008 was the only date given and the OP/Appellant was well aware of this date. The counsel further stated that

this order dated 22.12.2008 of the State Commission also records that the OP was not present on many dates, particularly on 03.04.2008, 30.04.2008,

28.05.2008 and 24.06.2008 and this itself speaks about the conduct of the Appellant/OP who only wanted to linger on the matter.

7. In this connection, learned counsel for the Appellant states that on these dates, particularly on 03.04.2008, the State Commission did not function

due to strike and on 30.04.2008 the State Commission did not sit due to lack of coram. He further states that on almost all these dates, the State

Commission did not sit and the dates were given by the Court Master.

8. I have given a thoughtful consideration to the arguments of both the learned counsel. Though, it is true that there is no correction or over-writing in

the original order sheet and the next date after 08.08.2008 was fixed for 11.09.2008, but in its order dated 22.12.2008, the State Commission has

mentioned that there was other date as 28.11.2008 and that was mentioned in the cause list. This gives rise to suspicion that the date of 28.11.2008

might have been given by the Court Master, but was changed to 11.09.2008 later on. Though, the OP/Appellant was not appearing on so many dates,

but he has not got any opportunity of being heard or cross-examine the Experts or to give any counter to the expert reports and because at one

occasion, the chances are that the correct date might have been noted by the OP and the same might have been changed by the Court Master,

therefore, in the interest of justice, I deem it appropriate to remand the matter to the State Commission for deciding the matter afresh, after hearing

both the parties and after giving an opportunity to file their fresh evidence by both the parties.

9. Accordingly, order dated 17/29.10.2008 of the State Commission is set aside at a cost of Rs.20,000/- payable to the respondent No.1/complainant,

by way of demand draft, on or before the next date of appearance of the parties before the State Commission, and the matter is remanded to the State

Commission for deciding the complaint afresh, after giving opportunity to both the parties to file fresh evidence and after giving opportunity of being

heard to both the parties. It is also requested that as the matter is a very old one, the State Commission shall try and endeavor to decide this complaint,

within a period of four months, positively. The State Commission shall proceed with the case after the cost has been paid by the OP/ Appellant herein

to the complainant, as stated above. However, the State Commission shall have the power to extend by a maximum period of four weeks, in case of

any exigency.

10. The learned counsel for the Appellant states that he has deposited Rs.3,00,000/- in terms of the order dated 12.03.2009, before the State

Commission. The State Commission shall disburse the amount as per its order, on the final disposal of the complaint.

11. The record of the State Commission shall be sent back, immediately by the Registry, along with copy of this order.

12. Parties are directed to appear before the State Commission on 27.04.2018.

13. The First Appeal No. 14 of 2009 stands disposed of, in the above terms.