

(2013) 05 NCDRC CK 0017

In the National Consumer Disputes Redressal Commission

Sh. Jogender

APPELLANT

Vs

U.H.B.V.N.L

RESPONDENT

Date of Decision : 22-05-2013

Acts Referred:

Citation : 2013 0 NCDRC 446 : 2013 3 CPJ 377

Hon'ble Judges : SURESH CHANDRA J.

Advocate : R.K.SHARMA , S.S.Hooda

Judgement

1. THIS revision petition is directed against the impugned order dated 30.5.2012 passed by the Haryana State Consumer Disputes Redressal Commission, Panchkula ("State Commission " for short) in F.A. No.1580 of 2011 by which the State Commission, on an appeal filed by the OPs/respondents, modified the order of the District Forum and reduced the amount towards the cost of a buffalo from Rs.50,000/- to Rs.25,000/- thereby reducing the amount of compensation payable by the OPs to the petitioner/complainant.

2. BRIEFLY put, the facts relevant for disposal of this revision petition are that complainant 's two buffaloes got electrocuted when old electric wires belonging to the OPs fell down on them. One buffalo died on the spot and OPs were approached and police was informed. The cost of the said buffalo as estimated by the veterinary surgeon was approximately Rs.50,000/-. The other buffalo also died subsequently. The petitioner / complainant filed a complaint seeking a compensation of Rs.1 lakh as the cost of the two buffaloes besides compensation/ interest/ litigation expenses of Rs.50,000/-. On appreciation of the evidence and hearing the parties, the District Forum vide its order dated 30.10.2011 allowed the complaint and directed the OPs to pay a sum of Rs.1 lakh to the complainant on account of death of his buffaloes. Aggrieved by this order of the District Forum, the OPs challenged the same before the State Commission which vide its impugned order partly accepted the appeal and modified the order of the District Forum as stated above. Aggrieved of the decision of the State Commission, the complainant/petitioner has now filed the present revision petition against the

impugned order praying for restoration of the order of the District Forum which awarded the compensation of Rs.1 lakh on account of the death of the two buffaloes to the petitioner. We have heard learned counsel Mr. R.K. Sharma, Advocate for the petitioner and learned counsel Mr. S.S. Hooda, Advocate for the OPs/respondents.

3. THE State Commission vide its impugned order having returned its concurrent finding regarding the negligence and deficiency in service on the part of the respondents/OPs, the limited issue for our consideration in the present revision petition is in respect of the quantum of the damages to be awarded to the petitioner. It is seen that the petitioner had filed his affidavit in support of his complaint and it was stated therein that he had purchased a buffalo from one Shri Sita Ram for a sum of Rs.40,000/- on 1.11.2007. In addition to this buffalo, he was also having another buffalo and he had taken good care of both the buffaloes. He had further submitted in his affidavit that the cost of the buffaloes was assessed as Rs.50,000/- each by the veterinary surgeon in his report and hence he had claimed Rs.1 lakh on account of the cost for the two buffaloes besides other compensation. No other evidence was put forth by the OPs before the District Forum in respect of assessment of the cost of buffaloes. Placing reliance on the affidavit of the petitioner and the report of the veterinary surgeon, the District Forum awarded an all inclusive compensation of Rs.1 lakh on account of death of the two buffaloes due to electrocution. Perusal of the impugned order shows that there was no other evidence placed before the State Commission regarding the cost/price of the buffaloes. Even then, the State Commission modified the amount of damages on account of cost of buffaloes from Rs.50,000/- to Rs.25,000/- each. While doing so, the State Commission has made the following observations:- "Accordingly, it is ordered that the complainant is entitled to compensation on account of death of one buffalo only. The District Forum has awarded compensation of Rs.50,000/- on account of cost of buffalo as assessed by Veterinary Surgeon in his PMR report. However, we are of the view that the cost of the dead murrah breed buffalo approximately assessed by the Veterinary Surgeon as Rs.50,000/- is not based on any market value rather the same was assessed by way of approximation without there being any evidence with respect to the cost of the buffalo. We, therefore, feel that the cost of the one murrah breed buffalo of the complainant @ Rs.50,000/- as assessed by the Veterinary Surgeon by way of approximation is on higher side and we reduce the same from Rs.50,000/- to Rs.25,000/-. Thus, the complainant is entitled is entitled to compensation of Rs.25,000/- i.e. the cost of one buffalo. "

4. IT is evident from the aforesaid observations of the State Commission that it did not have any particular reason or basis to differ from the finding of the District Forum in respect of the assessment of the cost of the buffaloes. In the circumstances, the impugned order modifying the cost of the buffaloes cannot be sustained and is liable to be set aside. We, therefore, set aside the impugned order and confirm the order dated 13.10.2011 passed by the District Forum which was based on the affidavit evidence of the petitioner and the report of the

veterinary surgeon. The respondents are directed to comply with the order of the District Forum within a period of 30 days failing which they shall be liable to pay interest @ 9% p.a. on the awarded amount till the date of actual payment.

5. THE revision petition is allowed in terms of the aforesaid directions with no order as to costs.