
(2006) 04 NCDRC CK 0023

In the National Consumer Disputes Redressal Commission

State Bank of Mysore

APPELLANT

Vs

K.VASANTH KUMAR

RESPONDENT

Date of Decision : 21-04-2006

Acts Referred:

Citation : 2006 2 CLT 464 : 2006 2 CPC 303 : 2006 2 CPJ 345

Hon'ble Judges : K.S.Gupta , B.K.Taimni J.

Final Decision : Appeal disposed of

Judgement

1. THIS appeal is directed against the order dated 5.8.2004 of Karnataka State Consumer Disputes Redressal Commission, Bangalore allowing complaint with direction to the appellant/opposite party - Bank to return banker's cheque amount equivalent to US \$ 5000 including commission paid with interest @ 15% p.a. from the date of cheque till date of payment, pay Rs. 1 lakh by way of compensation and cost of Rs. 10,000 to the respondents/complainants.

2. IN short, the facts giving rise to this appeal are these. Respondent No. 1 who is father of respondent No. 2, was having a current account with the appellant bank. On request of respondent No. 1 the appellant issued banker's cheque bearing No. 19458 dated 27.12.2001 for US \$ 5000 after charging commission. Cheque was payable to Arizona State University Tempe, USA. It was alleged that cheque was obtained for the purpose of registration/admission of respondent No. 2 in Arizona State University for higher studies. On reaching USA the respondent No. 2 gave the cheque for his admission to the said University. However, it was returned unpaid. Respondent No. 2 was warned of cancellation of registration/admission if the amount was not paid by 15.2.2002. It was stated that respondent No. 2 somehow managed to get the amount arranged through his sister's account and paid the registration/admission charges to the University. Alleging deficiency in service the respondents filed complaint seeking certain reliefs which was contested by the appellant. It was stated in written version that complaint was bad for non-joinder of Chase Manhattan Bank which has returned the Banker's cheque in question unpaid. It was stated that appellant was in no

way responsible for the wrongful act of the said Bank. Amount of banker's cheque was offered to be returned subject to return of cheque by the respondents but they failed to do so. State Commission allowed the complaint in the manner noted above. By the order dated 11.10.2004 the operation of the impugned order was stayed on the condition of appellant refunding the amount equivalent to US \$ 5000 including commission with interest @ 15% from 15.2.2002 till payment. On 11.11.2005 Shri Ramesh N. Keswani for appellant made the statement that appellant has complied with the order dated 11.10.2004 in full. It was pointed out that even amount of Rs. 10,000 of cost has also been paid to the respondents. Thus, the controversy between the parties now centres around the amount of compensation of Rs. 1 lakh as awarded by the State Commission. Relying on letter dated 25.8.2004 received by the appellant from Chase Manhattan Bank (copy at page 27) the submission advanced by Mr. Varadarat R. Havaladar for appellant was that the cheque in question was returned unpaid for the reason of first signature on it being irregular and not for insufficient funds. As may be seen from the impugned order similar ground was taken before the State Commission but was negated by the Commission observing that no material had been produced to support that ground. State Commission was of the view that even if the banker's cheque was returned on said ground it was mistake on the part of appellant Bank for which the respondents could not be made to suffer. Obviously, said letter dated 25.8.2004 had been received by the appellant after passing of the order under appeal. As may further be seen from the impugned order the amount of Rs. 1 lakh was awarded taking note of the stand taken by respondents that the cheque in question was returned on ground of funds being unavailable which stand now stands be relied by the above letter dated 25.8.2004. In all probabilities the respondent No. 2 must have suffered mental agony on account of said banker's cheque having been dishonoured by Chase Manhattan Bank. There was likelihood of registration/admission of respondent No. 2 being cancelled by the said University if he had not paid the money through his sister's account. Appellant, thus, cannot escape liability from paying compensation to the respondents. Needless to repeat that on the amount of banker's cheque refunded the respondents have received interest @ 15% p.a. In the facts and circumstances of case the amount of compensation of Rs. 1 lakh which is on higher side, deserves to be reduced to Rs. 20,000. With this modification the appeal stands disposed of leaving the parties to bear their own costs. Appeal disposed of