
(2006) 12 NCDRC CK 0032

In the National Consumer Disputes Redressal Commission

SUKHWINDER SINGH MALHI

APPELLANT

Vs

SDO TELEPHONE BATALA

RESPONDENT

Date of Decision : 11-12-2006

Acts Referred:

Citation : 2007 2 CPJ 46

Hon'ble Judges : K.S.Gupta , Rajyalakshmi Rao J.

Advocate : Amit Dayal , Anil Amrit , C.Mukund

Judgement

1. -THIS revision is directed against the order dated 23. 12. 2002 of Consumer Disputes Redressal Commission Punjab, Chandigarh dismissing appeal against the order dated 28. 12. 1999 of a District Forum, whereby petitioner/opposite party No. 1 was directed to pay to respondent No. 1/complainant an amount of Rs. 60,856 with interest etc.

2. IN short, the facts giving rise to this revision are these. M/s. Pillar Gabriele, Monkstr-1 booked orders from respondent No. 1, M/s. Addinath Fabrics and M/s. A. K. Knitfab, Ludhiana. Order placed by respondent No. 1 was for one used circular knitting machine. Votainer was handed over three consignments by the supplier pertaining to the said buyers. Respondent No. 2/ O. P. No. 2 is the agent of Votainer in India. Air Express International GmbH, also agent for Votainer shipped from Germany the consignments vide bill of lading dated 17. 10. 1998. It was alleged that three consignments were kept into one container. Petitioner issued Master Bill of Lading No. ICD 4301 dated 24. 10. 1998 at Hamburg to M/s. AIR Express International, shipper wherein respondent No. 2 was shown as consignee. However, in Import General Manifest by mistake the name of respondent No. 1 was not entered. Consignments reached Ludhiana on 3. 12. 1998 but the documents for release of machine to respondent No. 1 did not reach the Custom authorities at Ludhiana till 8. 1. 1999. Respondent No. 1 through its clearing agent was able to get the consignment released from Ludhiana dry port only on 16. 1. 1999. Because of delay in release the respondent No. 1 had to pay heavy detention charges etc. for recovery whereof

complaint was filed, which was contested both by the petitioner and respondent No. 2 by filing separate written versions. The main plea taken by petitioner was that it was not a party to the bill of lading dated 17. 10. 1998. Master Bill of Lading ICD 4301 dated 24. 10. 1998 at Hamburg was issued by the petitioner on the basis of two bills of lading dated 17. 10. 1998 (copies at pages 26-27) and it was due to mistake and/or negligence by Votainer that consignment could not be handed over to respondent No. 1 immediately upon arrival in Ludhiana. In its written version the respondent No. 2 shifted liability for the amount claimed on the petitioner. It was pointed out that even the undertaking was given on 10. 11. 1998 by respondent No. 2 to indemnify the petitioner in the event of any claim arising out by the consignment in question. We have heard Mr. C. Mukund for petitioner, Mr. Anil Amrit for respondent No. 1 and Mr. Amit Dayal for respondent No. 2.

It is not in dispute that the machine for which order was placed by respondent No. 1 on M/s. Pillar Gabriele reached Ludhiana on 3. 12. 1998, documents of release did not reach upto 8. 1. 1999, machine was released to respondent No. 1 on 16. 1. 1999 for the delay in taking delivery of machine, the respondent No. 1 had to pay heavy detention charges etc. to the Customs authorities at Ludhiana. It is also not in dispute that in Import General Manifest the name of respondent No. 1 was not mentioned. Order of State Commission notices that Air Express International pointed out this error to M/s. Karl Geuther GMBH and Co. agent of petitioner in Bremen who issued Cargo correction sheet No. 1 dated 6. 11. 1998 still the petitioner's office at Mumbai failed to include the name of respondent No. 1 in Import General Manifest. There was time gap of about one month in between issuing of cargo correction sheet and machine reaching Ludhiana. Had the correction been made by including the name in Import General Manifest in time, the respondent No. 1 would have not to pay heavy detention charges, etc. to the Customs authorities at Ludhiana. Further, one fails to understand why despite furnishing indemnity by respondent No. 2 on 11. 10. 1998, the petitioner did not take prompt action to rectify the error. Evidently there was deficiency in service on part of petitioner in the matter. There is no illegality or jurisdictional error in the orders passed by Fora below warranting interference in revisional jurisdiction under Section 21 (b) of Consumer Protection Act, 1986.

3. RESULTANTLY, revision is dismissed with cost of Rs. 5,000 to respondent No. 1. Amount of Rs. One lakh allegedly deposited by the petitioner with the State Commission pursuant to this Commission's order dated 28. 5. 2003 , is released in favour of respondent No. 1. Revision dismissed.