
(2001) 10 NCDRC CK 0032

In the National Consumer Disputes Redressal Commission

SURAT ELECTRICITY CO. LTD.

APPELLANT

Vs

HANSRAJBHAI DHANJIBHAI VIRANI

RESPONDENT

Date of Decision : 22-10-2001

Acts Referred:

Citation : 2002 1 CLT 325 : 2002 1 CPJ 209 : 2002 1 CPR 156

Hon'ble Judges : M.S.Parikh , M.K.Joshi J.

Final Decision : Appeal partly allowed

Judgement

1. THIS appeal arises from order dated 21.12.1999 rendered by the learned Consumer Disputes Redressal Forum, Surat in Case No. 294/1997. The learned Forum has directed the opponent Surat Electricity Company Limited to pay to the complainant, compensation in the sum of Rs. 30,000/- with interest @ 16% p.a. from 18.11.1998 till payment. It was the complainant's case that he was consumer with regard to electricity services made available in Flat No. 6 in B-Block of Surat Government Colony, wherein he was residing. On 14.7.1997, there was fire on account of short-circuit due to sudden rise in the voltage resulting into complete damage occurring to the colour television, cassette player-cum-recorder of Philips Company, 30 cassettes, wall clock, photos, tube light and wiring estimated at Rs. 30,000/-. The complaint was lodged at Entry No. 12/1997 with Umra Police Station and the Panchnama regarding the damage was made on the same day. Fire brigade was also informed. It was noticed that cables which were very old and deteriorated were causing frequent accidents in the City of Surat and the opponent electricity company was not taking care of repairing and maintaining the electricity cables. The concerned employees of the opponent electricity company were not taking care of maintaining the supply of electricity more particularly by supervising the supply/flow of electricity. They were not careful about the sudden rise in the voltage. It was, therefore, overall duty/obligation of the opponent electricity company to see that no accident occurred so as to cause loss/damage to the consumers. The complainant frequently presented his grievance before the opponent electricity company and ultimately gave notice through Advocate on 10.3.1997. Yet, the complainant was

deprived of the compensation for the aforesaid damage. He, therefore, prayed for compensation as aforesaid as also compensation in the sum of Rs. 11,000/- on the head of loss of pleasure and cost quantified at Rs. 5,000/-.

2. THE matter went ex-parte against the opponent Surat Electricity Company on account of consistent default on the part of concerned employees/officers of the opponent electricity company. THE learned Forum considered the evidence placed on record. THE evidence included report of the expert viz. Electrical Inspector and the correspondence which the complainant entered into with the opponent Surat Electricity Company. THE learned Forum, therefore, passed the impugned order in favour of the complainant. The opponent electricity company has come before this Commission by way of appeal under Section 15 of the Consumer Protection Act, 1986 [Act for short] against the impugned order as aforesaid.

We have heard the learned Advocate for the appellant [original opponent] and the learned representative for the complainant being the respondent herein. We have gone through the impugned order and pieces of evidence on which the learned Forum has relied. One of the documents is the report of Electrical Inspector who, upon personal investigation at the site, has opined that there was sudden rise in the voltage in Block B resulting into damage to various items enumerated by the complainant who was residing in that block in flat No. 6. The Electrical Inspector has also opined that there was cable fault resulting into sudden rise in the voltage in all the flats of B-Block. We have referred to this report for the simple reason that it was submitted by the learned Advocate for the appellant electricity company that the electricity company would not be responsible for the accident as the short-circuit must be treated to have occurred inside the house occupied by the complainant. The report of the Electrical Inspector indicates otherwise. The short-circuit has occurred not in the wiring installed inside the house occupied by the complainant but it has occurred in the main cable of opponent Surat Electricity Company supplying electricity to all the houses/flats of B-Block. If that is so, negligence on the part of the opponent electricity Company shall have to be presumed on the principle of *res ipsa loquitor*. It is for the Surat Electricity company to find out whether it was due to negligence of the concerned staff in supervising the electricity supply or negligence in repairing/maintaining the cables or negligence of any other kind. In any event, the complainant would be entitled to reasonable compensation for the deficiency in service which is apparent on the face of the aforesaid facts.

3. HAVING taken ourselves to the various heads of damages, we are of the considered opinion that the learned Forum appears to have not considered the use of various items for number of years by the complainant. Reasonable depreciation ought to have been deducted from the compensation for various items prayed for by the complainant. HAVING heard the learned Advocate for the opponent Surat Electricity Company as well as the learned representative for the original complainant, we are of the opinion that it would be just and proper to award compensation in the sum of Rs. 15,000/- while reducing the rate of

interest from 16% to 12%. The parties have worked out the amount payable to the complainant as per such a direction to be given in this appeal. Accordingly the complainant will be entitled to withdraw Rs. 20,750/- out of the amount of Rs. 36,500/- stated to have been deposited in this Commission and the balance amount will have to be paid back to opponent Surat Electricity Company Limited being the appellant herein. This appeal is accordingly partly allowed, with a direction that the impugned order would be modified to that extent. Office shall verify the deposit of Rs. 36,500/- and then issue A/c Payee cheque in favour of the complainant for Rs. 20,750/- and will issue A/c Payee cheque for balance amount in the name of original opponent Surat Electricity Company Limited. This appeal accordingly stands disposed of, with no further order as to costs. Appeal partly allowed.