

(2004) 11 NCDRC CK 0043

In the National Consumer Disputes Redressal Commission

Tilak Raj

APPELLANT

Vs

PAndO (INDIAN AGENCIES) PVT. LTD.

RESPONDENT

Date of Decision : 24-11-2004

Acts Referred:

Citation : 2005 3 CPJ 421

Hon'ble Judges : J.D.Kapoor , Mahesh Chandra , Rumnita Mittal J.

Final Decision : Appeal allowed

Judgement

1. THE complaint of the appellant seeking refund of Rs. 44,895/- paid by him to the respondent who is an agent of shipping lines was dismissed vide order dated 1.3.1996. Feeling dissatisfied the appellant has preferred this appeal.

2. PRIMARY facts more or less are not in dispute. A contract of carriage was entered into with the respondent M/s. P & O Containers for delivery of two containers containing goods imported from Korea by the appellant which were bound for Bombay. The consignment arrived at Bombay on 8.4.1992. On 16.4.1992 the appellant contacted the respondent for transferring the containers to Delhi to which the respondent agreed. The consignment arrived at Delhi on 21.5.1992. On being informed about the arrival of the consignment on 22.5.1992 the appellant contacted the respondent for taking delivery the respondent raised a debit note/bill amounting to a sum of Rs. 70,587/- showing Rs. 39,813/- Rs. 2,201/- as detention and demurrage charges and Rs. 21,600/- as handling charges. However, the appellant made the payment under protest and received the consignment. The grievance of the appellant is that the respondent not only took longer time in transporting container from Bombay to Delhi for which he was required to pay Rs. 1,000/- per day as detention charges and this act on the part of the respondent amounts to deficiency in service and entitles the appellant to seek refund of the amount charged by the respondent in this regard. On the contrary the learned Counsel for the respondent has relied upon a letter dated 16.8.1992 sent by the appellant wherein request for transferring the consignment to Delhi was made. The relevant extracts of the said letter are as

under: "With reference to the above we hereby request you to allow us to amend the I.G.M. from local to I.C.D. Delhi on payment of your usual charges of Container Detention. For your kind information we undertake to pay all your dues such as BPT/Railway/CUSTOM Amendment fees as per receipt of Delhi office, I.C.D. Delhi and oblige."

As is apparent from the aforesaid letter of request the appellant agreed to pay the charges of container detention and also all dues such as BPT, Railway, Custom and amendment fees as per receipt at Delhi office I.C.D. Delhi.

3. THE allegation of the appellant that the respondent took inordinately long time of 31 days in transferring the consignment from Bombay to Delhi appears to be justified. May be for any reason inordinately long time taken by the respondent in delivering the consignment amounts to deficiency in service. At the same time we cannot be unmindful of the fact that the respondent is not a transporter or carrier but is merely an agent of shipping line and on receiving request from the appellant delivering the consignment from Bombay to Delhi the respondent engaged the services of M/s. Perfect Cargo Movers at Bombay and time in delivering consignment was taken by the said cargo movers. However, the Perfect Cargo Movers have also tried to explain each and every day's delay. Whatever may be the reasons the fact remained that the appellant was charged Rs. 1,000/- per day as detention charges for 31 days unnecessarily. Once a consumer engages the services of providers of service, may be through its agent, the said provider is expected to act efficiently so as to avoid the unnecessary loss to the consumer. However, by giving all the concession to the respondent as well as to the Perfect Cargo Movers in view of their explanation of delay in transfer of the consignment we deem that the appellant is entitled to compensation on account of damages and unnecessary loss suffered in the process. At the most fifteen days period can be permitted to the respondent in arranging the transfer of consignment from Bombay to Delhi. We at the same cannot be oblivious of the fact that the appellant amended the IGM from local to I.C.D. Delhi after 8 days of the arrival of the consignment at Bombay and also agreed to pay all the usual charges namely container detention charges and other dues such as BPT, Railway, Custom, amendment fees, etc.

4. TAKING overall view of the matter we deem that compensation of Rs. 15,000/- to the appellant shall meet the end of justice. This amount shall be paid by the respondent within 15 days. A copy of this order as per the statutory requirements, be forwarded to the parties free of charge and also to the concerned District Forum and thereafter the file be consigned to Record Room. Appeal allowed.