

(1996) 01 NCDRC CK 0042

In the National Consumer Disputes Redressal Commission

T.T. LTD.

APPELLANT

Vs

Saroja

RESPONDENT

Date of Decision : 30-01-1996

Acts Referred:

Citation : 1996 1 CPJ 393

Hon'ble Judges : D.R.Vithal Rao , Susheela Cheluvaraju , Kumar Gowda J.

Final Decision : Appeal allowed

Judgement

1. THIS appeal, by the opposite party, is directed against the order dated 18.2.93, passed by the District Forum, Chickmagalur, in complaint No. CPA/CM/22/91-92, directing the opposite parties to pay to the complainant a sum of Rs. 65,000/- as compensation. The facts, briefly stated, are as follows :

2. IT is the case of the complainant that on 7.9.90 she who cooking Dhal in a Prestige Pressure Cooker - manufactured by opposite party No. 1 and purchased from opposite party No. 2. IT is the further case of the complainant that the said Prestige Pressure Cooker suddenly exploded causing severe burn injuries on her chest and other parts of the body. The complainant was hospitalised subsequently for treatment and had incurred expenses of a sum of Rs. 10,000/- for treatment. The complainant has been advised to undergo plastic surgery for the removal of scars on the chest which would cost her in a sum of Rs. 20,000/-. She also claimed a sum of Rs. 20,000/- for loss of cosmetic value and a sum of Rs. 25,000/ for mental agony undergone by her. It is the grievance of the complainant that the said Prestige Pressure Cooker had manufacturing defect as it was manufactured with inferior quality material. The complainant sought in all a sum of Rs. 75,000/- as compensation from the opposite parties.

Both the opposite parties filed their version. They averred that the said Prestige Pressure Cooker had no manufacturing defect. They further averred that subsequent to the purchase of cooker during the course of its use the complainant had made use of duplicate spare parts for the said Pressure Cooker. Opposite Party No. 1 nextly averred that the burst had occurred due to opening

of the lid of Pressure Cooker which could have been due to wrong usage of Pressure Cooker. The opposite party further averred that they had replaced the cooker, on humanitarian grounds though they were not liable to do so.

3. DURING enquiry, the complainant examined herself as PW 1. The doctor who treated the complainant was examined as PW 2 and the Father-in-law of the complainant was examined as PW 3. The documents filed by the complainant, that is, medical certificate came to be marked as Ex. P 1. The opposite parties examined R.W. 1 and R.W. 2 and got marked Ex. D 1 and R 1. The District Forum, considering this material placed on record by the parties held that the said Prestige Pressure Cooker had a manufacturing defect and in that view directed the opposite parties to pay compensation in a sum of Rs. 65,000/- to the complainant.

4. WE have called for the records and received. WE have also heard the learned Counsel for the parties, perused the material placed on record. The occurrence is alleged to have taken place on 7.9.90. Admittedly the complainant had purchased the said Pressure Cooker in the year 1985-86 from a military canteen at Bangalore, through a relative of PW 3 the Father-in-law of the complainant. The pressure pan was purchased subsequently after four years. One Mr. Gangadhar a relative of PW 3 had purchased the same. About 5 years after the purchase, the said occurrence, that is, burst of the pressure cooker had taken place. The complainant has not placed any material on record to show that the said Prestige pressure cooker did suffer with any manufacturing defect. The only grievance made by the complainant is while she was cooking Dhal in the said pressure cooker, the lid burst opened and she sustained certain injuries. The burst opening of the lid may be due to wrong usage of the pressure cooker. The only evidence placed on record is the evidence of the complainant - the injured. The evidence of the doctor who subsequently treated the complainant and the evidence of the Father-in-law of the complainant, who was admittedly not present at the time of the occurrence would in no way help the complainant to establish the manufacturing defect in the cooker. On the basis of such evidence, it is very difficult to say that the burst opening of the pressure cooker was due to manufacturing defect of the cooker. Admittedly it was purchased in the year 1985-86 and the occurrence had taken place on 7.9.90. The complainant had used the said pressure cooker for about 5 years after the purchase without any complaint.

5. THE District Forum, on consideration of this material held, as -under : "THE explosion of the pressure cooker lid fitted to the pressure pan, and the damage caused to their parts, furnish sufficient proof, to lead to an inference of a defect in the manufacture of the product by opponent No. 1."

6. THIS finding recorded by the District Forum, in our opinion, is clearly erroneous and unsustainable. The District Forum had not only had no material to show that the Prestige Pressure Cooker had any manufacturing defect but it had also not seen even the said Pressure Cooker. So having regard to these facts, the

finding recorded by the District Forum holding that the said Prestige Cooker did have a manufacturing defect was clearly erroneous and unsustainable. Having regard to these facts and in the circumstances of the case, we are constrained to hold that the finding recorded by District Forum is unjust and untenable. ORDER In the result, therefore, this appeal is allowed. The order dated 18.2.93, recorded by the District Forum, Chickmagalur, in Complaint No. CPA/CM/22/91-92, is set aside and the complaint of the complainant is dismissed. The parties are directed to pay and bear their own costs in this appeal. Appeal allowed.