
(2015) 06 NCDRC CK 0040

In the National Consumer Disputes Redressal Commission

Case No : 2103 of 2011 (Against the Order dated 28/02/2011 in Appeal No. 572/2007 of the State Commission Orissa)

Union of India and Ors.

APPELLANT

Vs

Surendranath Panda And Ors.

RESPONDENT

Date of Decision : 08-06-2015

Acts Referred:

Citation : (2015) 06 NCDRC CK 0040

Hon'ble Judges : V.B.GUPTA J.

Advocate : Disposed off

Judgement

1. HEARD .

2. BRIEF facts are, that Respondent No. 2/Complainant No. 2 (wife of Respondent No. 1/Complainant No. 1) was suffering from cancer and was undergoing treatment at Tata Memorial Hospital, Mumbai since 1999. Respondent No. 2 had an appointment with Doctor, at Mumbai on 29.4.2003. They preferred 3 A/C Coach for their journey from Bhubaneswar to Mumbai. On 19.4.2003, they applied to Petitioner No. 1/Opposite Party No. 5 for two tickets and reservation in 2nd class A.C. berth in Konark Express for their journey on 27.4.2003. Petitioners issued tickets on concession for travel of cancer patient. A blank paper ticket was issued by petitioner No. 5 bearing 343436 dt. 19.4.2003 for two passengers worth Rs. 906/ -. Respondents were allotted berth No. 45 and 46 in S/3 coach. But they did not find their names on 27.4.2003 in the list affixed to 3 tier A.C. Coach. They approached the coach attendant but in vain. Ultimately they travelled in non -A.C. coach to Mumbai on 27.4.2003. Due to journey in non -AC coach, respondent No. 2 suffered from severe vomiting, fever and sleeplessness and her health condition further deteriorated. As a result treatment was postponed from 29.4.2003 to 6.5.2003. Thereafter, respondents filed complaint before District Forum, praying compensation towards mental and physical sufferings and differential fare of A.C. and Non -A.C. as well as extra cost incurred by them, at Mumbai totaling to Rs. 3,60,000/ -.

3. PETITIONERS in their written statement, took the plea, that booking for A.C. Berth reservation from Bhubaneswar to Mumbai for sum of Rs. 906/- is not correct. No reservation seat has been issued to the respondents nor they were assured for providing reservation in Two A.C. Berth.

4. DISTRICT Forum, vide order dated 21.5.2007 partly allowed the complaint. It directed the petitioners to jointly and severally pay a compensation of Rs. 50,000/-, i.e., Rs. 25,000/- towards additional medical expenses of respondent No. 2 and accommodation of both respondents at Mumbai beyond the scheduled date and Rs. 25,000/- towards compensation for harassment, mental agony caused to them due to deficiency in service by petitioners in providing 3 -A/C berth against confirmed reserved tickets with litigation cost of Rs. 1,000/-. Being aggrieved, petitioners (filed First Appeal No. 572 of 2007) before the State Commission, which vide its impugned order dated 28.2.2011, concurred with the order of District Forum and dismissed the appeal.

5. NOW , petitioner has filed this revision.

6. THE State Commission in its order observed; "We have examined the L.C.R. in detail and in view of the stand taken by the appellants that there was no application form for reservation in 2 A.C Coach by the complainants, they were not provided with reservation and as such, the opposite parties/appellants are no way liable to compensate the complainants. Having not been substantiated through any document and the complainants having suffered both mental and physical harassment since complainant No. 2 is a cancer patient and her condition aggravated due to travelling in Non -A.C. coach and the schedule date of treatment could not commence due to her aggravated health condition and both the complainants had to over stay at Mumbai incurring extra expenditure, we find no reason to interfere with the impugned judgment and order of the District Forum, Balasore.

In the result, we dismiss the appeal and direct the appellants to comply with the orders of the District Forum within a period of 45 days from the date of receipt of our order."

In the present case, the incident occurred in the year 2003. Thus, more than 12 years have passed and this litigation is going on for last 12 years. Moreover, there are concurrent findings of facts given by both the fora below. Even otherwise, only paltry amount of Rs. 50,000/- plus interest is involved in this case, hence this Commission is not inclined to entertain this petition, in view of the decision of Apex Court in "Gurgaon Gramin Bank v. Khazani and another, : IV (2012) CPJ 5 (SC), where Apex Court observed; "2. Number of litigations in our country is on the rise, for small and trivial matters, people and sometimes Central and State Governments and their instrumentalities Banks, nationalized or private, come to courts may be due to ego clash or to save the Officers" skin. Judicial system is over -burdened, naturally causes delay in adjudication of disputes. Mediation centers opened in various parts of our country have, to some

extent, eased the burden of the courts but we are still in the tunnel and the light is far away. On more than one occasion, this court has reminded the Central Government, State Governments and other instrumentalities as well as to the various banking institutions to take earnest efforts to resolve the disputes at their end. At times, some give and take attitude should be adopted or both will sink. Unless, serious questions of law of general importance arise for consideration or a question which affects large number of persons or the stakes are very high, Courts jurisdiction cannot be invoked for resolution of small and trivial matters. We are really disturbed by the manner in which those types of matters are being brought to courts even at the level of Supreme Court of India and this case falls in that category."

The Apex Court further held;

"10. The Chief Manager stated in the affidavit that no bill was raised by the counsel for the bank for conducting the matter before the National Consumer Dispute Redressal Commission. We have not been told how much money has been spent by the bank officers for their to and fro journeys to the lawyers' office, to the District Forum, State Forum, National Commission and to the Supreme Court. For a paltry amount of Rs. 15000/ -, even according to the affidavit, bank has already spent a total amount of Rs. 12,950/ - leaving aside the time spent and other miscellaneous expenses spent by the officers of the bank for to and fro expenses etc. Further, it may be noted that the District Forum had awarded Rs. 3,000/ - towards cost of litigation and compensation for the harassment caused to Smt. Khazani. Adding this amount, the cost goes up to Rs. 15,950/ -. Remember, the buffalo had died 10 years back, but the litigation is not over, fight is still on for Rs. 15,000/ -.

11. Learned counsel appearing for the bank, Shri Amit Grover, submitted that though the amount involved is not very high but the claim was fake and on inspection by the insurance company, no tag was found on the dead body of the buffalo and hence the insurer was not bound to make good the loss, consequently the bank had to proceed against Smt. Khazani.

12. We are of the view that issues raised before us are purely questions of facts examined by the three forums including the National Disputes Redressal Commission and we fail to see what is the important question of law to be decided by the Supreme Court. In our view, these types of litigation should be discouraged and message should also go, otherwise for all trivial and silly matters people will rush to this court.

13. Gramin Bank like the appellant should stand for the benefit of the gramins who sometimes avail of loan for buying buffaloes, to purchase agricultural implements, manure, seeds and so on. Repayment, to a large extent, depends upon the income which they get out of that. Crop failure, due to drought or natural calamities, disease to cattle or their death may cause difficulties to gramins to repay the amount. Rather than coming to their rescue, banks often

drive them to litigation leading them extreme penury. Assuming that the bank is right, but once an authority like District Forum takes a view, the bank should graciously accept it rather than going in for further litigation and even to the level of Supreme Court. Driving poor gramins to various litigative forums should be strongly deprecated because they have also to spend large amounts for conducting litigation. We condemn this type of practice, unless the stake is very high or the matter affects large number of persons or affects a general policy of the Bank which has far reaching consequences.

14. We, in this case, find no error in the decisions taken by all fact finding authorities including the National Disputes Redressal Commission. The appeal is accordingly dismissed with cost of Rs. 10,000/- to be paid by the bank to the first respondent within a period of one month. Resultantly, the Bank now has to spend altogether Rs. 25,950/- for a claim of Rs. 15,000/-, apart from to and fro travelling expenses of the Bank officials. Let God save the Gramins."

7. ABOVE quoted observations of the Apex Court, with all force are fully applicable to the facts and circumstances of the present case.

8. UNDER these circumstances, since incident occurred about 12 years ago and only paltry amount is involved in this revision, hence, this commission is not inclined to entertain this revision. However, the question of law raised in this petition, if any, is kept open to be decided in an appropriate case, where stakes are high. Present revision stand disposed off accordingly.

9. NO order as to cost.