
(2001) 03 NCDRC CK 0022

In the National Consumer Disputes Redressal Commission

Union of India

APPELLANT

Vs

MOHAMMAD SHAHID

RESPONDENT

Date of Decision : 27-03-2001

Acts Referred:

Citation : 2002 2 CPJ 239

Hon'ble Judges : K.C.Bhargava , D.D.Bahuguna J.

Final Decision : Appeal allowed

Judgement

1. THIS is an appeal against the judgment and order dated 28.5.1993 passed by District Consumer Forum, Etawah in Complaint Case No. 414/1992.

2. THE facts of the case stated in brief are that the complainant on 20.12.1991 sent two bundles of hand-made cloths by railway for Cuttack. A goods receipt was also issued for the same. THEse bundles did not reach at Cuttack and were neither delivered back to Etawah or to the complainant. THE complainant went to Cuttack in order to see as to what happened to these bundles but could not be informed as to what happened to these bundles. THE cloths worth Rs. 29,955.00 was sent through these bundles and he has paid a sum of Rs. 265/- as cost of railway fare. The opposite party No. 1 Station Superintendent, Railway filed his written statement. It has been alleged that the claim is barred and cannot be filed in this Forum. The parties led evidence in support of their respective contentions and the learned District Forum decreed the claim of the complainant and directed for payment of Rs. 30,720/- alongwith interest at the date of 12% per annum to the complainant.

Aggrieved against this order, the appellant has come in appeal and has challenged the correctness of the order passed by learned District Consumer Forum.

3. WE have the learned Counsel for the respondent. None is present from the side of the appellant. A perusal of the grounds of appeal will go to show that it has been alleged that the District Forum has no jurisdiction to decide this case as

the same is barred under Section 15 of the Railway Claims Tribunal Act. A perusal of Section 15 of the Railway Claims Tribunal Act will go to show that it bars the jurisdiction of any Court or authority for the matters which are within the jurisdiction of the Railway Claims Tribunal Act. Now we peruse Section 13 which deals with the jurisdiction and powers and authority of Claims Tribunal. Section 13 of the said Act lays down the jurisdiction, power and authority of the Claims Tribunal. It provides that the Claims Tribunal shall exercise all those powers which were being exercised by the Civil Court or Claims Commissioner appointed under the Railways Act regarding the responsibility of railway administrations as carriers, in respect of compensation for loss, damage, destruction, deterioration or non-delivery of animals or goods entrusted to a railway administration for carriage by railways. It also provides that the case of compensation payable under Section 82-A of the Railways Act shall also be triable by the Railway Claims Tribunal. WE are not concerned at present for refund of the fare or freight. The claims under Section 124A of the Railways Act are also made triable by the Claims Tribunal. For the present we are not concerned with the provisions of Section 124A of the Railways Act because that deals with other matters which are not involved in the present case. The present case is covered under the provisions of Section 13(1)(a)(i). Section 15 of the Act provides that no Court or other authority shall have any authority to exercise any jurisdiction, powers or authority in relation to matters mentioned in Sub-sections 1 and 1(a). Thus there is a specific bar for trial of cases which are covered by Section 13 of the Act. When there is a specific bar provided under the Special Act, then the provisions of other Act will not apply as the jurisdiction has been vested exclusively with the Railways Claims Tribunal with regard to those cases which come within Section 13 of the Railways Claims Tribunal. It may be said that the loss of goods during the transit is covered by the provisions of Section 13 of the Act and any loss which might have occurred on account of theft etc. is also covered under the provisions of Section 13 and a claim in respect of that loss is only entertainable by the Railway Claims Tribunal and not under the Consumer Protection Act. Section 13(1)(a)(i) specifically provides that the case for losses etc. shall be triable exclusively by Railways Claims Tribunal Act. Thus in view of this specific provision of law, it is clear that the present complaint could not have been filed under the Consumer Protection Act but the matter should have been taken under the Railways Claims Tribunal Act which was competent to decide this case. Thus we find that the learned District Forum has wrongly decided the claim of which it has no jurisdiction to decide. The appeal is, therefore, liable to be allowed. ORDER The appeal is allowed and the judgment and order of the learned District Forum are set aside and the complaint is dismissed. There will be no order as to cost. Let copy of this order be made available to the parties as per rules. Appeal allowed.