
(2001) 02 NCDRC CK 0078

In the National Consumer Disputes Redressal Commission

Union of India

APPELLANT

Vs

TARA ARORA

RESPONDENT

Date of Decision : 07-02-2001

Acts Referred:

Citation : 2001 2 CPJ 200

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

Final Decision : Appeal dismissed with costs

Judgement

1. THIS is an appeal against the judgment and order dated 3.11.1999 passed by District Consumer Forum, Haridwar in Complaint Case No. 208/ 98.

2. THE facts of the case stated in brief are that the Late Lajpat Rai Arora opened an account N.S.S. No. 120020572 with the opposite party No. 1 through the opposite party No. 2. A sum of Rs. 40,000/- was deposited in that account. Sri Lajpat Rai Arora died on 3.11.1996. Smt. Tara Arora and son of Late Sri Lajpat Rai Arora who is the complainant No. 2 were made nominees of that account. THEy are the legal successor of that amount. After the maturity of the account, the complainants applied for maturity amount on 12.6.1998 through a duly filled up form for withdrawal of the amount. THE Death Certificate and Pass Book was also surrendered to the appellant. This was returned back on the ground that the complainant No. 2 was not a nominee. On 12.9.1998 one certificate was also given to the appellant for immediate payment of the amount but nothing was done. A registered notice was given through Advocate on 25.9.1998 but no reply was given to it. It was said that the complainant No. 2 has not been entered as nominee, therefore, the amount cannot be paid to them. THE complainants have prayed for return of Rs. 40,000/- along with interest and Rs. 5,000/- as compensation. The opposite parties in its written version have alleged that the complainant is not a consumer. It has also been said that the nomination is noted on the pass book on the first page. This nomination has not been noted on the pass book, therefore, no payment can be made on the basis of nomination and the complaint is liable to be dismissed.

The parties led evidence before the learned District Consumer Forum in support of their respective contentions. The learned District Forum after considering the case of the parties, directed the opposite parties to pay a sum of Rs. 40,000/- along with interest at the rate of 18% per annum and it also granted Rs. 2,000/- as compensation and Rs. 1,000/- as cost.

3. AGGRIEVED against this order the appellants have come in appeal and has challenged the correctness of the order passed by learned District Consumer Forum. We have heard the learned Counsels for the parties. Learned Counsel for the appellant has argued that no succession certificate has been filed because there is no nomination entered in the pass book. The payment can be made only after the succession certificate is filed. According to the learned Counsel for the opposite party, in the form a nomination was made in favour of the complainant but due to an oversight these nominations have not been mentioned in the pass book by the appellants. The learned District Forum has considered this aspect of the matter and found that original form by which the account was opened has not been placed before it on the pretext that it was not available. It is common knowledge that when a nomination is made, it is filled in the form. From the form the entries in respect of nomination are carried and noted on the pass book. If the entries are not noted on the pass book by the clerk concerned then the complainants are not to be blamed and they cannot be allowed to suffer for the fault of the clerk concerned. According to the case of the complainant, the nomination of the complainant No. 1 has been mentioned while the nomination of complainant No. 2 has not been mentioned. Even if the nomination of the complainant No. 1 was mentioned, therefore, she should have been paid the entire amount ignoring the complainant No. 2. Even the nomination has not been entered by the bank clerk in the ledger, this will also not affect the case of the complainant. The Form SB-3 which was presented in the Post Office at Roorkee has not been produced and it has been said that even after thorough search, it could not be traced out. If the nomination form has been lost then it is the responsibility of the appellants and this amounts to deficiency of service. The complainants are entitled to the amount which has been deposited in NSS Scheme of which the nominees are the complainant. No other person according to the opposite parties/appellants has come forward to claim this amount. This amount is, therefore, liable to be paid by the appellants to the complainant as has been correctly held by the learned District Forum. It is not necessary for us to go into the details of the matter as the learned District Forum has in the detailed order considered every aspect of the matter and has come to the definite decision. This appeal has no force and is liable to be dismissed. ORDER The appeal is dismissed with cost of Rs. 2,000/-. The judgment and order of the learned District Consumer Forum is confirmed. Let compliance of this order be made within a period of two months. Let copy of this order be made available to the parties as per rules. Appeal dismissed with costs.