

(2017) 07 NCDRC CK 0002

In the National Consumer Disputes Redressal Commission

Case No : 1892 of 2017

V. SANTOSH S/O LATE K VISWANATHAN

APPELLANT

Vs

MANAGER, PUNJAB NATIONAL BANK, & ORS.

RESPONDENT

Date of Decision : 25-07-2017

Acts Referred:

[Consumer Protection Act, 1986](#), [Section 2\(1\)\(a\)](#)
(1) - Definitions

Citation : (2017) 07 NCDRC CK 0002

Hon'ble Judges : Ajit Bharihoke, Anup K Thakur

Advocate : V. SANTOSH

Judgement

1. Complainant participated in an auction proceedings ordered in execution proceedings by 2 nd Additional Senior Civil Judge at Mysore. The executing court accepted his bid of Rs.36,10,000/-. After the acceptance of the bid, the complainant as per the directions of the Court deposited the entire amount of Rs.36,10,000/- in Court on 09.07.1996 and 22.07.1996. On the application of complainant, the executing court directed the aforesaid amount to be kept in fixed deposit in Punjab National Bank, Law Courts Extension Counter, Mysore. The judgment debtor resisted the execution proceedings. The execution proceedings were closed by the concerned Court on 07.03.2003 because the decree holder reported the receipt of entire decretal amount from the judgment debtor. On 07.03.2003 itself, the concerned executing court directed the complainant to file voucher of receiving the amount with accrued interest. On 17.03.2003, as per the orders of the executing court, a cheque of Rs.57,91,464/- dated 24.03.2003 was issued in favour of the complainant against the payment of deposited amount with interest.

2. According to the complainant he was paid Rs.9,44,330/- less because of wrong calculations. The complainants, therefore, called upon the opposite party bank to make good the aforesaid loss. The opposite party bank refused to pay the alleged deficient amount of Rs.9,44,330/-. Feeling aggrieved, the complainant has filed instant complaint seeking following reliefs:

"That the complainant prays that this Hon"ble Commission may be pleased to pass an order directing the opposite party bank to pay a sum of Rs.524,91,97,480 on account of loss and compensation claimed by the complainant. Compute further compensation from 1.07.2017 @ Rs.9,44,330/- per day till the date of payment alongwith the costs of the complaint and such further relief as this Commission may consider appropriate and fit in the circumstances of the case."

3. We have heard arguments on admission particularly the pecuniary jurisdiction of this Commission to entertain this complaint.

4. Section 2 (1) (a) (i) of the Consumer Protection Act, 1986 deals with pecuniary jurisdiction of the National Commission to entertain original complainants and it reads as under:

21. Jurisdiction of the National Commission. - Subject to the other provisions of this Act, the National Commission shall have jurisdiction-

(a) to entertain-

(i) complaints where the value of the goods or services and compensation, if any, claimed exceeds rupees one crore".

5. On bare reading of the above, it is clear that only the complaints in which value of goods or services and the compensation claimed exceeds Rs.1.00 crore can be entertained by the National Commission. On perusal of prayer clause of the complaint, we find that principal prayer of the complainant is for recovery of Rs.9,44,330/- allegedly paid less. Against the aforesaid principal amount, the complainant has asked for highly unreasonable and disproportionate compensation of Rs.524,91,97,480/- for mental torture, harassment etc. We find no justification for such disproportionate claim. It is obvious that such a highly disproportionate claim of compensation has been made only with a view to bring the consumer dispute within the pecuniary jurisdiction of this Commission.

6. Hon"ble Supreme Court in the matter of Ghaziabad Development Authority Vs. Balbir Singh (2004) 5 State Commission 65 while dealing with compensation has observed as under:

"However, the power to and duty to award compensation does not mean that irrespective of facts of the case compensation can be awarded in all matters at a uniform rate of 18% per annum. As seen above what is being awarded is compensation i.e. a recompense for the loss or injury. It therefore necessarily has to be based on a finding of loss or injury and has to correlate with the amount of loss or injury. Thus the Forum or the Commission must determine that there has been deficiency in service and/or misfeasance in public office which has resulted in loss or injury. No hard and fast rule can be laid down, however a few examples would be where an allotment is made, price is received/paid but possession is not given within the period set out in the brochure. The Commission/Forum would then need to determine the loss. Loss could be determined on basis of loss of rent which could have been earned if possession

was given and the premises let out or if the consumer has had to stay in rented premises then on basis of rent actually paid by him. Along with recompensing the loss the Commission/Forum may also compensate for harassment/injury both mental and physical. Similarly, compensation can be given if after allotment is made there has been cancellation of scheme without any justifiable cause."

7. On reading of the above, it is clear that compensation in a consumer case is meant to recompense the complainant for loss or injury suffered by him and it has to be proportionate with the value of goods or services which are stated to be deficient. In the instant case, bare reading of relief claimed makes it clear that relief claimed is highly disproportionate to the loss suffered by the complainant. It appears that complainant has inflated the relief sought with a view to defeat the hierarchy of the system and bring the case within the pecuniary jurisdiction of this Commission, which in our view, is not permissible.

8. In view of the discussion above, we are of the opinion that instant case does not fall with the pecuniary jurisdiction of the National Commission. Complaint is accordingly rejected. It is made clear that this order will not come in the way of the complainant to approach the fora having pecuniary jurisdiction for seeking relief on the same cause of action.