

**(2007) 07 NCDRC CK 0048**

**In the National Consumer Disputes Redressal Commission**

VINOD KUMAR BOHARA

APPELLANT

Vs

SHREENATH TRAVELLERS

RESPONDENT

---

**Date of Decision :** 13-07-2007

**Acts Referred:**

**Citation :** 2007 3 CPR 42 : 2007 4 CPJ 164

**Hon'ble Judges :** S.N.Kapoor , B.K.Taimni J.

**Final Decision :** Revision Petition disposed of

---

## **Judgement**

1. THE petitioner was the complainant before the District Forum, where he had filed a complaint alleging deficiency in service on the part of the respondent.

2. VERY briefly the facts leading to filing of the complaint were that the complainant along with his family was travelling by bus, where he had three pieces of suitcases kept in the bus, but when he reached Baroda from Udaipur, he found that one of the suitcases was missing. The matter was reported to the Bus Operator, Police and others. When the issue was not getting settled, a complaint was filed before the District Forum, who after hearing the parties allowed the complaint and directed the respondent to pay Rs. 17,500. Aggrieved by this order, an appeal was filed before the State Commission, who partly allowed the appeal by way of reducing the compensation from Rs. 17,500 to Rs. 5,000 only. Aggrieved by this order this revision petition has been filed before us. Notice was issued to the respondent but as per material on record, he refused to take notice and vide our order dated 9.5.2000, it was decided to proceed against the respondent. Still, with a view to give him an opportunity to come and defend the case, a copy of the order dated 9.5.2000 was sent to him on 18.5.2007 for hearing the arguments on 11.7.2007. Yet nobody appeared, hence he is proceeded ex parte.

We heard the learned Counsel for the petitioner and perused the material on record. The detail of the contents in the lost suitcase has been given in detail in the complaint filed by the petitioner/complainant before the District Forum, total of which comes to Rs. 18,635. District Forum while allowing the complaint

reduced the amount claimed for loss of driving licence and added Rs. 365 as costs, thus, in all awarding compensation of Rs. 17,500.

3. WE have seen the cryptic order of the State Commission passed at the admission stage. WE see that no ground has been given by the State Commission in its order, to take any different view than the one taken by the District Forum. The District Forum has accepted the valuation of the material especially when this is not rebutted. The State Commission, in our view, had no ground whatsoever to reduce it to Rs. 5,000 just by stating, "articles given by the complainant appears to be excessive". (emphasis supplied). WE are unable to appreciate as to under what circumstances, it "appears" to the State Commission, that the articles are excessive. Keeping in view the material on record, the District Forum has awarded a certain amount. The Appellate Court can take a different view, but only based on material available on record, which has not been done in this case. In fact, no ground has been shown by the State Commission to vary the awarded amount. In view of above, we are unable to sustain the order passed by the State Commission, which is set aside and amount of compensation of Rs. 17,500 as awarded by the District Forum is upheld. However, this amount shall be payable by the respondent along with interest awarded by the State Commission, i.e., @ 9%.

4. THE respondent shall pay this amount to the petitioner/complainant within a period of six weeks from the date of this order, failing which the petitioner shall be free to proceed under Sections 25/27 of the Consumer Protection Act, 1986. The revision petition stands disposed of in above terms. Revision Petition disposed of.