

(2004) 11 NCDRC CK 0012

NATIONAL CONSUMER DISPUTES REDRESSAL COMMISSION

Case No: None

VISHAL GOODS
TRANSPORT CO.

APPELLANT

Vs

MAHAVIR POLYMERS
PVT. LTD.

RESPONDENT

Date of Decision: Nov. 18, 2004

Citation: 2005 3 CPJ 89

Hon'ble Judges: J.D.Kapoor , Mahesh Chandra J.

Final Decision: Appeal partly allowed

Judgement

1. APPELLANT is a transporter. Vide impugned order dated 8.6.1999 passed by the District Forum the appellant has been directed to pay Rs. 41,569/- (after deduction of Rs. 15,000/- from total value of the consigned goods being Rs. 56,569/-) with interest @ 15% p.a. from 2.12.1992 besides Rs. 1,000/- as cost of litigation. Feeling aggrieved the appellant has preferred this appeal.

2. ADMITTEDLY two consignments, one for 35 cartons another for 30 cartons were booked by the respondent with the appellant. Total value of the consignments was Rs. 56,569/-. Both the consignments were in the name of the respondent and the appellant was directed to give delivery of the same to M/s. Raja Agencies on the basis of consignee copy. However, the goods were delivered to M/s. Raja Agencies, Kota on the receipt of Rs. 15,000/- whereas respondent No. 2 remitted out of the said amount to respondent No. 1 Rs. 10,000/- on 30.1.1993 and Rs. 5,000/- on 29.4.1993.

According to the appellant the above consignments were given to M/s. Raja Agencies on oral instructions and that too without consignee copy. It was on this short ground alone that having delivered the goods on oral instructions and without consignee copy that the appellant was held guilty for deficiency in service and was ordered to pay the total value of the consigned goods. The main contention of the Counsel for the appellant is that the respondent has not denied having given oral instructions to the appellant for giving the consignment to M/s. Raja Agencies without consignee copy as the respondent has not filed any affidavit denying this fact that he had given the oral instructions to the appellant for delivering the consignment to M/s. Raja Agencies. Besides this the Counsel also contended that the respondent had admitted having received Rs. 23,000/- on 30.11.1992 and Rs. 16,807/- on 12.11.1992 over and above Rs. 15,000/- received by him. Moreover the respondent had admitted in the rejoinder that the goods were sold on credit to M/s. Raja Agencies and the payment was to be received in due course.

On the contrary the Counsel for the respondent contended that the aforesaid amounts received by it did not relate to the consignments in question and these were in respect of a different transaction.

3. EVEN if we assume that the respondent had given oral instructions for delivering the consignments to M/s. Raja Agencies still the fact remains that the consignments should not have been delivered without consignee copy. This lapse on the part of the appellant amounts to deficiency in service. Without going into the details whether the respondent had received an amount of Rs. 54,000/- in all including Rs. 15,000/- against the consignments and also without going into the question whether the goods were sold on credit, we feel inclined to allow the appeal partly by awarding compensation on account of deficiency in service on giving the consignments on oral instructions and delivering the goods without consignee copy to the tune of Rs. 20,000/- as respondent is not entitled to recover the value of the goods on his having sold on credit basis. This amount shall be payable by the appellant within 15 days.

Bank Guarantee/FDR, if any, furnished by the appellant be returned forthwith.

4. A copy of this order as per the statutory requirements, be forwarded to the parties free of charge and also to the concerned District Forum and thereafter the file be consigned to Record Room. Appeal partly allowed.