

(2004) 05 NCDRC CK 0053

NATIONAL CONSUMER DISPUTES REDRESSAL COMMISSION

Case No: None

MAJ. MUKUL DEV

APPELLANT

Vs

RELIANCE INDIA MOBILE

RESPONDENT

Date of Decision: May 28, 2004

Citation: 2004 3 CLT 642 : 2004 3 CPJ 396

Hon'ble Judges: K.K.Srivastava , MajGenS.P.Kapoor J.

Final Decision: Appeal allowed

Judgement

1. THIS is an appeal filed against order dated 10.2.2004 passed by the District Consumer Disputes Redressal Forum-II, U.T., Chandigarh (for short hereinafter referred to as the District Forum) vide which the complaint has been dismissed on the ground that it contains a claim for inflating an amount of compensation. The District Forum made reference to the decision of the Hon"ble National Consumer Disputes Redressal Commission, New Delhi (for short hereinafter to be referred as National Commission) in 2003 CLT 245 (NC).

2. IT is relevant to note that the notice of the complaint case had been served on the respondent who failed to appear before the District Forum and allowed the complaint case to proceed ex parte. The appellant led evidence in the shape of his affidavit along with documents Annexures C-1 to C-4.

After considering the case of the complainant in Para 4 and referring the complaint dated 23.7.2003 (copy Annexure C-3) and copy of legal notice dated 20.8.2003 served by the complainant on the respondent No. 1 (in para 5), the District Forum disposed of the complaint on the ground mentioned in para 6 of the impugned

order, which runs as under : "6. However, in the present case, the complainant has made highly inflated claim of Rs. 4,00,000/- as compensation. As ruled by the Hon"ble National Commission in 2003 CLT 245 (NC), claims for inflated amounts of compensation are irrational, if not ludicrous and so these should be thrown out. Obviously, the present one is the case in which this authority should be invoked with its full vigour. Consequently, this complaint is dismissed for making a grossly inflated claim for compensation. Certified copy of this order be communicated to the parties. After compliance file be consigned to record."

It may be pointed out that it is not the case where the complaint was not held to be maintainable under the provisions of the Consumer Protection Act, 1986. The appellant had prayed for award of the amount claimed by him on the ground mentioned in the complaint case. In case the amount of compensation claimed was found to be excessive, the District Forum could award the amount which according to it was just, proper and adequate and this is of course subject to the finding to be recorded by the District Forum that the complainant was entitled to get compensation. In case the District Forum came to the conclusion that the complaint lacked merit and deserves to be dismissed, the question of considering the amount of compensation would not have arisen.

3. THE Hon"ble National Commission, as would appear from the observation made in para 6 of the impugned order, ruled that claims for inflated amounts of compensation are irrational, if not ludicrous and so these should be thrown out. Applying the ratio of the judgment of the Hon"ble National Commission to the facts of the case, the District Forum observed in para 6 that the case in hand was such in which the authority of the Hon"ble National Commission should be invoked with full vigour.

It may be mentioned that the amount of compensation being inflated would vary from case to case and no particular amount claimed as compensation could per se be termed as inflated and particularly when no such plea appears to have been raised before the District Forum on behalf of the O.Ps. who had not even put in appearance after receiving the notice before the District Forum.

4. WE are thus of the considered opinion that the District Forum committed an error in dismissing the complaint without considering the merit of the claim and only on the ground of holding the amount of Rs. 4,00,000/- compensation as inflated. The appeal has thus considerable force and is allowed. The impugned order dated 10.2.2004 passed in 464 of 2003 passed by the District Forum is set aside. The complaint case is remanded to the District Forum-II, U.T., Chandigarh for disposal according to law. The parties shall appear before the District Forum-II, U.T., Chandigarh on 7.6.2004. Copies of this order be sent to the parties free of charge. Appeal allowed.