

**(2004) 10 NCDRC CK 0083**

**NATIONAL CONSUMER DISPUTES REDRESSAL COMMISSION**

**Case No:** None

Harmit singh

APPELLANT

Vs

Union of India

RESPONDENT

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**Date of Decision:** Oct. 13, 2004

**Citation:** 2005 2 CPJ 151

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

**Advocate:** Vijay Kumar Mangla , K.C.Sahoo

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**Judgement**

1. BY this common order we are disposing of two appeals filed against the order of District Consumer Disputes Redressal Forum-I, U.T., Chandigarh [hereinafter referred to as District Forum-I, for short], dated 15.4.2004 in Complaint Case No. 319 of 2002, Sh. Harmeet Singh v. Union of India and Another.

2. THE complaint in nutshell is that the complainant bought a second hand Ambassador car for Rs. 1 lac and applied to O.P. No. 2 for transfer of ownership along with all the relevant papers on 25.4.1995. He was issued a slip for receipt of the documents and was repeatedly asked to come to collect the registration book but the same was never given on one pretext or the other. Ultimately in 2001 he was told that the file concerning his case is not traceable. THE complainant then served a legal notice to the O.Ps. on 23.10.2001 but it evoked no response. THE complainant avers that because of non-use in the absence of registration certificate the car has become junk and he could not even sell the car. In this complaint alleging deficiency in service on the part of the O.Ps, the complainant has sought following relief:

(a) Rs. one lakh as the price of the car. (b) Rs. 50,000/- on account of repeatedly visiting the O.Ps. office. (c) Rs. 20,000/- on account of mental torture and harassment.

The version of the O.Ps. is that on account of a fire in the office of O.P. No. 2 on 5.12.2000 the papers for transfer of ownership in case of the complainant were destroyed/misplaced. It has also been stated that the office has initiated disciplinary proceedings against officials responsible for the delay.

During the pendency of the complaint O.P. No. 2 asked the complainant to re-submit documents, the same was done and the registration certificate was delivered to the complainant on 9.7.2003.

3. LEARNED District Forum in their analysis of the case did not find the reason given the O.Ps. for the delay i.e., fire in the office of O.P. No. 2 on 5.12.2000 as tenable because by then more than 5 years had passed since the complainant had applied for the transfer of ownership of the car. It held that non-providing the registration certificate for such a long time as eight years constitutes deficiency in service on the part of O.Ps. Consequently, it directed the O.P. No. 2 to pay Rs. 2,000/- as lumpsum compensation to the complainant and also awarded Rs. 500/- in addition as cost of litigation.

Aggrieved by the order the complainant filed Appeal No. 324 of 2004 and the O.Ps. have filed a counter Appeal No. 382 of 2004. Both the appeals were taken on board and record of the complaint case was summoned from District Forum. Notices were sent to the respondents in both the appeals. Mr. V.K. Mangla, Advocate appeared on behalf of the complainant whereas Mr. K.C. Sahu, Govt. Pleader represented the O.Ps.

4. MR. V.K. Mangla, Advocate submitted that the compensation awarded is grossly inadequate, as it does not compensate the complainant adequately for the car having become junk and for his harassment for a long period of 8 years. He, therefore, prayed for enhancement of the compensation as prayed in the complaint.

Mr. K.C. Sahu, Govt. Pleader submitted that the complainant is not a consumer qua the O.Ps. of the appellant should be restored. During this period the appellant was

getting telephone bills along with telephone was never raised in the written statement nor was it raised at any other time before the District Forum. It cannot now lie in the mouth of the O.Ps. at this stage, to claim that the complainant is not a consumer.

The delay of 8 years in issuance of the registration certificate is patent and other than the outbreak of fire on 5.12.2000 no reason has been given by the O.Ps. for this delay. Learned District Forum-I has rightly observed that even till the date of fire 5 years had elapsed from the time the complainant sought the transfer of ownership. In our considered view there has been clear deficiency in service on the part of O.P. No. 2 in non-delivery of the registration certificate for a period of 8 years and we uphold this view of the learned District Forum. However, where we disagree with the learned District Forum is the quantum of compensation.

5. THE complainant has asked for compensation on three counts i.e., cost of the car, expenses incurred on visits to the office of O.P. No. 2 and mental torture and harassment. As regards the compensation sought for the value of the car because it became junk due to non-use, this needs to be proved as a fact. No evidence in this regard has been led in this case and this issue in our considered view cannot be adjudicated under the summary procedure of trial under the Consumer Protection Act, 1986. To seek this relief a competent Civil Court is the right authority. Coming to the award of compensation under the other two heads, it is clearly established by the own admission of O.P. No. 2 that the poor complainant has been made to run repeatedly to their office for over 8 years. During this long period his mental trauma though not quantifiable, is quite easy to imagine. Keeping in view the entirety of facts of the case, we are of the firm view that the compensation awarded is grossly inadequate and this portion of the impugned order needs modification. THEREfore, the Appeal No. 324 of 2004 of the complainant is partly allowed. THE appeal of the O.Ps. No. 382 of 2004 is dismissed as it lacks merit. Consequently, the impugned order is amended to the extent that O.P. No. 2 shall pay a lumpsum Rs. 15,000/- to the complainant in addition to payment of Rs. 500/- as costs of litigation. Subject to this modification, the impugned order is upheld and the complainant is granted the liberty to approach a Civil Court of competent jurisdiction regarding claim of the cost of the car, if so advised. THE complaint stands disposed of in aforesaid terms. THE parties are left to bear their own costs of appeals. Copies of this order be sent to the parties free of charges. Complaint disposed of.