

(2003) 05 NCDRC CK 0065

NATIONAL CONSUMER DISPUTES REDRESSAL COMMISSION

Case No: None

JALANDHAR DELHI GOODS
TRANSPORT PVT. LTD.

APPELLANT

Vs

JYOTI SARUP SHOOR

RESPONDENT

Date of Decision: May 28, 2003

Citation: 2004 2 CPJ 144

Hon'ble Judges: H.S.Brar , C.P.Budhiraja , Jasbir Kapoor J.

Final Decision: Appeal dismissed

Judgement

1. IT is an appeal against the order dated 14.6.2001 of the District Consumer Disputes Redressal Forum, Jalandhar (hereinafter called the District Forum).

2. BRIEF facts stated in the complaint are that appellant No. 1 (opposite party No. 1 before the District Forum) (hereinafter called opposite party No. 1) was a goods transporter having its Head Office at 38, 1st Floor, Shaheed Bhagat Singh Park, Jalandhar and the Company was carrying the transport business in the name and style of Jalandhar-Delhi-Goods Transport Private Limited. Pandit Sukhdev Sharma-appellant No. 2 (opposite party No. 2 before the District Forum) (hereinafter called opposite party No. 2) was the Managing Director of opposite party No. 1 and was fully responsible for the acts and affairs of the business. M/s. Minakshi Plastic Company, Delhi got booked plastic DANA through its Manager Shri Ashok Sharma with the opposite parties vide G.R. No. 109576 dated 29.5.2000 from Delhi to Jalandhar as the opposite parties was having its office at Delhi. Two packages weighing 50 kgs. each were handed over to the Branch of opposite parties at Delhi. The goods were transported from Delhi Branch to Jalandhar Head Office i.e. the

opposite parties. The consignment was self/direct. The necessary documents were sent to the respondent-complainant (hereinafter called the complainant) for retirement/collection of goods being consumer/consignee. The complainant and the consignor had so many times visited the office of the opposite parties at Jalandhar for the retirement/collection of the goods, but the opposite parties had been putting off the matter on one pretext or the other. On demand, the complainant submitted the claim application with the opposite parties and thereafter the complainant came to know that out of 100 kgs. the material was short by 25 kgs. The complainant refused to take the delivery of the goods as the material was short by 25 kgs. It was then stated in the complaint that the opposite parties had committed a criminal breach of trust and they had misappropriated the material. However, the complainant under protest received one package of 50 kgs. and refused to take the delivery of the other package, which was short by 25 kgs. It is further alleged in the complaint that the complainant had suffered in business as well as reputation and harassment at the hands of the opposite parties. The value of the goods not collected from the opposite parties was Rs. 9,750/- at the rate of Rs. 195/- per kg. for 50 kgs. plus Rs. 570/- as freight charges. The opposite parties had committed unfair trade practice, which amounted to deficiency in service as a result of which the complainant demanded Rs. 9,750/- as costs of the material not received as well as Rs. 10,000/- as damages on account of compensation for harassment and mental tension and also Rs. 3,000/- as legal expenses.

In the written statement filed by the opposite parties preliminary objections were taken that the complainant had no locus standi to file the present complaint and the complainant was not a consumer as defined under the Consumer Protection Act, 1986; in para No. 2 of the complaint M/s. Meenakshi Plastic Co. got booked the plastic Dana through its Manager Ashok Kumar and if there was any consumer then it was only Meenakshi and not the complainant and the complaint was liable to be rejected on that short ground along with costs. On merits, it was denied that if the weight of each bag was 50 kgs. Only 75 kgs. of plastic Dana was handed over to the opposite parties by the complainant and the complainant had already received 50 kgs. of plastic Dana from the opposite parties. It is then stated in the reply that the consignor failed to take delivery of the same in spite of the fact that the opposite parties always remained willing to deliver the material. It was denied that if there was any deficiency in service on the part of the opposite parties. It was urged that the complaint be dismissed with costs. District Forum allowed the complaint. Hence this appeal.

We have heard the learned Counsel for the parties and have gone through the order of the District Forum as well as record of the case with their help. We do not find any infirmity in the order of the District Forum.

3. THE objection of the opposite parties that the complainant was not a consumer of the opposite parties as defined under the Consumer Protection Act, 1986 has rightly been rejected by the District Forum. THE complainant had already received all the documents sent to him for collection of the goods and one packet admittedly had already been collected by him. It has been mentioned in Ex. C8 affidavit filed by Shri Ashok Kumar Sharma, Manager, of M/s. Meenakshi Plastic Company, Sadar Bazar, New Delhi, which is at page 55 of the paper-book of the District Forum that he had booked two double bags of plastic Dana weighing 100 kgs. vide G.R. No. 109576 dated 29.5.2000 through M/s. Jalandhar Delhi Goods Transport Pvt. Ltd. at New Delhi and the goods were to be delivered at Jalandhar. He has specifically mentioned in his above affidavit that the Billity was self/direct and Shri Jyoti Sarup Shoor, Prop. of M/s. Oriental Tools Corporation, W.M. 243, Basti Guzan, Jalandhar was the consignee and he had sent all the original documents i.e. G.R. receipts etc. to Shri Jyoti Sarup for retirement of goods. This affidavit does not leave any doubt that the complainant was in fact the consignee as well as beneficiary of the goods. District Forum has also relied upon Y. Krishna v. Union of India, reported as III (1997) CPJ 399, in holding that the complainant was a beneficiary. Thus, in these circumstances, it has rightly been held by the District Forum that the complainant was the beneficiary as well as the consignee of the goods and he was, thus, a consumer of the opposite parties as defined under the Consumer Protection Act, 1986. As regards the consignment of two packets weighing 50 kgs. each of plastic Dana, it was to be delivered at Jalandhar to the complainant, it stands fully proved from the affidavit given by the complainant coupled with documents produced on the file. Ex. C-2 is a receipt issued by the opposite parties regarding the receipt of two packets of plastic Dana. Other documents also pertaining to the booking of two plastic Dana packets weighing 50 kgs. each with the opposite parties to be delivered at Jalandhar to the complainant. THE complainant's assertion made in the affidavit that he had collected only one packet as the other was found deficient of 25 kgs. has also not been contradicted by the opposite parties. It is stated by the complainant that two packets of 50 kgs. of plastic Dana were handed over to the opposite parties by the consignor and 25 kgs. of plastic has not been collected by the complainant. From the evidence on the file, it stands fully proved that the two packets of plastic Dana weighing 50 kgs. each were booked with the opposite parties to be transported to Jalandhar and to be handed over to the complainant and out of these two packets only one packet had been collected by the complainant as the other was found to be short of 25 kgs. Lost of plastic Dana by the opposite parties certainly amounts to deficiency in service on the part of the opposite parties. As such, the complainant was justified in refusing to accept the same, Shri Ashok Kumar Sharma, Manager of M/s. Meenakshi Plastic Company, Delhi in his affidavit

Ex. C-9 as well as the complainant-Jyoti Saroop in his affidavit Ex. C-11 have proved that the price of the plastic Dana was Rs. 195/- per kg. which has not been contradicted by the opposite parties.

In view of our discussions made above, we do not find any fault with the order of the District Forum. Consequently, this appeal is dismissed as meritless. Appeal dismissed.