

Harini Enterprises Vs. K. Monappa

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Court : Andhra Pradesh State Consumer Disputes Redressal Commission
SCDRC Hyderabad

Decided On : Dec-17-1998

Judge : S. Parvatha Rao, President, the Honourable Mr. K. Ranga Rao, Member
& the Honourable Dr. (Mrs.) Mamata Lakshmana, Member

Appeal No. : F.A. No. 140 of 1997

Appellant : Harini Enterprises

Respondent : K. Monappa

Judgement :

K. Ranga Rao, Member:

1. Aggrieved by the order dated 23.1.1997 passed by the Mahabubnagar District Forum in O.P. No. 31/1995 whereby it directed the opposite party to pay to the complainant an amount of Rs. 74,800/- with interest at 18% per annum from 19.2.1994 till the date of realisation and also to pay compensation of Rs. 20,000/- and costs of Rs. 1,000/- within thirty days from the date of the order, the opposite party i.e., Harini Enterprises represented by its Proprietor, P. Ravinder Reddy has preferred this appeal.

2. The case of the respondent herein who was the complainant before the District Forum was that as an unemployed youth he obtained a loan from the District Co-operative Central Bank, Mahabubnagar to purchase a Diesel Auto that the

opposite party on his request sent a quotation for three wheeler Jumbo Model Auto for Rs. 74,800/- undertaking to deliver the Auto within four weeks from the date of placing the order, that he accepted the quotation and sent an amount of Rs. 74,800/- by way of demand draft dated 19.12.1994 to the opposite party through the State Bank of Hyderabad Service Branch, Hyderabad and it was received by the opposite party and that the opposite party postponed delivery of the auto on some pretext or other and has not delivered the vehicle till the date of the complaint. Hence the complainant filed the complaint, O.P. No. 31/1995 before the Mahabubnagar District Forum praying for directions to the opposite party to pay back the amount of Rs. 74,800/- together with interest at 18% per annum from 19.2.1994 to pay expenses of Rs. 30,000/- and also to pay compensation of Rs. 50,000/- and costs.

3. The opposite party filed a version/counter stating that the Mahabubnagar District Forum has no territorial jurisdiction since the demand draft was obtained from the State Bank of Hyderabad, Service Branch at Hyderabad, that the complainant has not approached him at any time for taking delivery of the vehicle, that the complainant wanted to purchase a second hand vehicle and not a new vehicle, that a part of the demand draft amount was paid to the complainant when the complainant threatened him with dire consequences that the complainant has not spent Rs. 30,000/- for expenses, that the purchase of an Auto-rickshaw is for commercial purpose and therefore the complaint is not maintainable and that the complaint is liable to be dismissed with costs.

4. At the time of enquiry the complainant filed his affidavit and got Exs. A-1 to A24 marked in support of his case. The opposite party has filed an affidavit. No oral evidence was adduced by either party.

5. After considering the material on record the District Forum held, that the opposite party received Rs. 74,800/- from the complainant for supply of a three wheeler Jumbo Model Auto- rickshaw and failed to deliver the same to the complainant, that the opposite party has not repaid any part of the demand draft amount, that since the complainant being an unemployed youth took the loan from the District Co-operative Central Bank for self-employment purpose and

purchased the vehicle, it is not for commercial purpose and that the complaint is maintainable. Accordingly the District Forum passed the impugned order.

6. The point for consideration is whether there is deficiency of service on the part of the opposite party and whether the order of the District Forum is sustainable ?

7. It is contended for the appellant that because the Auto was sought to be purchased by the complainant for hiring purpose it is for commercial purpose and therefore the complaint is not maintainable. We do not agree with this contention. The complainant took a loan from the District Co-operative Central Bank as an unemployed youth under self-employment scheme to run the vehicle for eking out his livelihood. It may be that he may be earning money by hiring it to some others. That does not mean that it is for commercial purpose.

8. It is next contended that the District Forum has no territorial jurisdiction since the bank through which the demand draft was obtained by the complainant is located in Hyderabad town. It may be seen that the State Bank of Hyderabad has a Branch at Mahabubnagar and hence we hold that the Mahabubnagar District Forum has got jurisdiction to entertain the complaint.

9. The next contention of the appellant is that he paid a part of the demand draft amount to the complainant. He does not say what amount he has paid and how he paid the amount. There is also no evidence to show that any amount was paid by the opposite party to the complainant. Hence we hold that no part of the demand draft amount was paid by the opposite party to the complainant.

10. It is next contended for the appellant that having granted interest at the rate of 18% per annum, the District Forum ought not to have granted separate compensation of Rs. 20,000/-. We agree with this contention. The District Forum granted interest at the rate of 18% per annum from the date of payment by the complainant to the opposite party. Hence we hold that this portion of the order of the District Forum has to be set aside.

11. It is next contended for the appellant that the rate of interest granted by the District Forum is on high side. We agree with this contention. As this transaction

involves purchase of a vehicle, we hold that the rate of interest can be fixed at 15% per annum.

In the result, the appeal is partly allowed and the order of the District Forum is modified and the opposite party is directed to pay to the complainant Rs. 74,800/- together with interest at 15% per annum from 19.2.1994 till the date of payment by way of refund of the amount received by him from the complainant for purchase of the vehicle and also costs of Rs. 1.000/- within one month from the date of this order. The order of the District Forum as far as it relates to payment of compensation of Rs. 20,000/- is set aside. There shall be no order as to costs in this appeal.

Appeal partly allowed.

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