

**Rahul Sharma Vs. Pawan Garg, Director Curo India Pvt. Ltd. and Another**

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**Court :** Union Territory Consumer Disputes Redressal Commission SCDRC UT Chandigarh

**Decided On :** Apr-17-2014

**Judge :** Sham Sunder (Retd.), President, the Honourable Mr. Dev Raj, Member & the Honourable Mrs. Padma Pandey, Member

**Appeal No. :** Revision-Petition No. 11 of 2014

**Appellant :** Rahul Sharma

**Respondent :** Pawan Garg, Director Curo India Pvt. Ltd. and Another

**Judgement :**

Sham Sunder (Retd.), President:

1. This appeal is directed against the order dated 14.03.2014, rendered by the District Consumer Disputes Redressal Forum-I, U.T., Chandigarh (hereinafter to be called as the District Forum only) vide which, the Objection-Petition filed by the Opposite Parties was allowed.

2. The facts, in brief, are that Consumer Complaint, bearing No.210 of 2013, was filed by the complainant (now appellant), which was allowed vide order dated 20.08.2013, by the District Forum, and the Opposite Parties were directed as under:-

œFor the reasons recorded above, we find merit in the complaint and the same is allowed. The OPs are directed:-

- i) To make payment of interest on the amount of Rs.10.00 lacs deposited by the complainant @9% p.a. from the date of deposit upto 22.1.2013.
- ii) To make payment of an amount of Rs.50,000/- to the complainant as compensation for harassment and mental agony suffered by him and unfair trade practice employed by the OPs.
- iii) To make payment of an amount of Rs.7500/- to the complainant towards litigation expenses.

The liability of the OPs shall be joint and several.

This order shall be complied with by the OPs within one month from the date of receipt of its certified copy, failing which, they shall be liable to pay penal rate of interest @12% p.a. instead of 9% p.a. from the date of deposit upto 22.1.2013. Further, the OPs shall also make payment of interest @12% p.a. on the compensation of Rs.50,000/-, from the date of filing of the complaint till its realization, besides costs of litigation, as mentioned above.?

3. The Opposite Parties (now respondents), filed First Appeal No.428 of 2013, which was dismissed, by this Commission, vide order dated 09.10.2013.

4. Revision-Petition was filed by the Opposite Parties, in the National Consumer Disputes Redressal Commission, New Delhi, against the order dated 09.10.2013. Vide order dated 21.11.2013, the National Consumer Disputes Redressal Commission, New Delhi, stayed the execution of the order dated 09.10.2013, subject to the petitioners depositing 50% of the awarded amount, with the District Forum concerned, within four weeks. Rs.5000/-, were also directed to be paid by the petitioners/Opposite Parties, to the complainant, by means of demand draft, within two weeks, to meet his travel and allied expenses.

5. The Opposite Parties, accordingly, deposited a sum of Rs.1,11,750/-, with the District Forum, as per the order passed by the National Consumer Disputes

Redressal Commission, New Delhi.

6. Thereafter, the Execution Application, bearing No.132 of 2013, under Section 27 of the Consumer Protection Act, 1986 (hereinafter to be called as the Act only), was filed by the complainant/appellant, wherein, calculation sheet, was submitted by the Decree Holder/complainant, calculating the awarded amount, with interest @12% P.A., whereas, the Opposite Parties (now respondents), calculated the interest @9% P.A. The claim of the appellant was to the effect that since the payment was made, by the Opposite Parties, after one month, from the date of receipt of certified copy of the order dated 20.08.2013, passed in Consumer Complaint, bearing No.210 of 2013, they were liable to pay penal interest @12% P.A., from the date of deposit.

7. An Objection-Petition, was filed by the Opposite Parties, to the effect, that since stay was granted by the National Consumer Disputes Redressal Commission, New Delhi, subject to deposit of 50% of the awarded amount, in the District Forum, they deposited the same, with interest @9% P.A. It was further stated, in the Objection-Petition, that, in view of the stay aforesaid, interest @12% P.A. was not payable, at that juncture.

8. After hearing the Counsel for the parties, and, on going through the record of the case, the Objection-Petition, filed by the Opposite Parties, was allowed, as stated above.

9. Feeling aggrieved, the instant appeal, has been filed by the appellant/complainant.

10. We have heard the Counsel for the appellant, at the preliminary stage, and, have gone through the record of the case, carefully.

11. The Counsel for the appellant/decreed holder, submitted that since the awarded amount was not paid, within a period of one month, from the date of receipt of certified copy of the order dated 20.08.2013, as per the order of the National Consumer Disputes Redressal Commission, New Delhi, the Opposite Parties were liable to deposit 50% of the awarded amount, and, as such, interest @12% P.A.,

was required to be calculated, instead of @ 9% P.A.. He further submitted that since 50% of the awarded amount was not deposited, the stay could not operate. He further submitted that the order of the District Forum, allowing the Objection-Petition, being illegal and invalid, is liable to be set aside.

12. After giving our thoughtful consideration, to the contentions, advanced by the Counsel for the appellant, and the record, we are of the considered opinion, that the appeal is liable to be dismissed, at the preliminary stage, for the reasons, to be recorded hereinafter. Admittedly, the Consumer Complaint, bearing No.210 of 2013, was allowed by the District Forum, in the manner, referred to above. First Appeal No.428 of 2013, against the order of the District Forum, was dismissed by this Commission, vide order dated 09.10.2013. Still feeling aggrieved, the Opposite Parties filed Revision-Petition, before the National Consumer Disputes Redressal Commission, New Delhi. Vide order dated 21.11.2013, execution/operation of the order of this Commission, was stayed, subject to the petitioners depositing 50% of the awarded amount, with the District Forum concerned, within four weeks. Rs.5000/-, were also directed to be paid by the petitioners/Opposite Parties, to the respondent/ complainant, by means of demand draft, within two weeks, to meet his travel and allied expenses. The awarded amount was the one, which was mentioned by the District Forum, in paragraph number 10 of its order dated 20.08.2013. Since, the Revision-Petition against the order passed by this Commission, upholding the order dated 20.08.2013, rendered by the District Forum, in Consumer Complaint, bearing No.210 of 2013, is still pending, before the National Consumer Disputes Redressal Commission, New Delhi, assuming that if the same (Revision-Petition) is, ultimately, dismissed, even then the Opposite Parties shall be liable to pay penal interest @12% P.A., only from the date of such dismissal of the same, on account of the application of doctrine of merger. The District Forum was right, in holding that since the execution of the order dated 09.10.2013, passed by this Commission, upholding the order dated 20.08.2013, had been stayed, the Opposite Parties could not be compelled to deposit penal interest @12% P.A. The District Forum was also right, in holding that the Opposite Parties deposited the amount, as per the order dated 21.11.2013, passed by the National Consumer Disputes Redressal Commission, New Delhi, and, thus, no case was made out, for giving a direction to them

(Opposite Parties), to deposit any further amount. The District Forum was also right, in accepting the Objection-Petition of the Opposite Parties.

13. In view of the above discussion, it is held that the order passed by the District Forum, does not suffer from any illegality or perversity, warranting the interference of this Commission.

14. For the reasons recorded above, the appeal, being devoid of merit, must fail, and the same is dismissed, at the preliminary stage, with no order as to costs. The order of the District Forum is upheld.

15. Certified copies of this order, be sent to the parties, free of charge.

16. The file be consigned to Record Room, after completion.

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