

Superintending Engineer and Others Vs. Jalindar and Others

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Court : Maharashtra State Consumer Disputes Redressal Commission SCDRC
Aurangabad

Decided On : Mar-13-2014

Judge : The Honourable Mr. S.M. Shembole, Presiding Judicial Member & the Honourable Mrs. Uma S. Bora, Member

Appeal No. : First Appeal No. 273 of 2008 291 of 2008 In Complaint Case No. 246 of 2007

Appellant : Superintending Engineer and Others

Respondent : Jalindar and Others

Judgement :

Uma S. Bora, Member:

1. Appeal No. 273/2008 is filed by Superintending Engineer M S E D Co. Ltd. and others against the judgment and order passed by District Forum, Osmanabad on 13.01.2008 while deciding consumer complaint No.264/2007.

2. Appeal No.291/2008 is filed by Jalindar Vitthal Kawale and others praying for enhancement of compensation granted by District Forum Osmanabad while allowing consumer complaint No.246/2007. Both these appeals are related to common subject matter we have therefore decided to dispose of these appeals by common judgment and order.

3. Facts giving rise to these appeals are as under: Complainant Shri. Jalinder, Shridhar and Murlidhar are real brothers. All the complainants are agriculturists and owners of land Gut No.217,218 and 222. In the season of 2006-07 all the complainants sowed sugarcane in 1 hector and 40-R area. On 05.03.2007 there was sparking on the electric line passing through the field of complainant. The circuit fuse on the transformer was not proper and therefore due to said sparking sugarcane standing in the field of all the complainants was burnt to ashes. Therefore all the complainants approached to Forum by claiming compensation. Immediately after incident of fire intimation was given to the MSEDCL but appellant did not pay any heed. Therefore each complainant claimed compensation of Rs.2,94,000/- and cost of the complaint.

4. Appellant appeared before Forum and resisted the complaint mainly on the ground that incident of fire did not occur due to negligence of appellant, but it is a natural incident. It is further submitted by appellant that complainants were in arrears of electricity charges. Therefore false complaints were filed with malafied intention to avoid payment of electricity charges. In fact, sugarcane was already supplied to the sugar factory, but to grab the money complaints were filed. Complainants never made grievance about the non-maintenance of electric lines. Report of Electrical Inspector is not proper. Hence complaint be dismissed.

5. Electrical Inspector also appeared before Forum and submitted his say. It is submitted by Electrical Inspector that in the R and Y phase conductor there was only distance of 4 to 5 inches which was not proper and due to that, sparking had occurred. It is obligatory on the part of MSEDCL to maintain the said electric lines and all the apparatus and machineries. Therefore appellant is liable to pay the compensation.

6. After hearing all the parties District Forum directed appellants to pay Rs.29,280/- to complainant No.1 i.e. Jalindar, to pay Rs.9,060/- to Shridhar and Rs.40,627/- to Murlidhar. Forum also directed the appellants to pay Rs.500/- for cost to each of the complainant.

7. Dissatisfied with the said judgment and order original opponents came in appeal for quashing and setting aside the order, while original complainants came in

appeal for enhancement of compensation. Adv. Shri. V. B. Deshmukh appeared for MSEDCL, Adv. Shri. S. A. Wakure appeared for the respondent. It is submitted by Adv. Shri. V. B. Deshmukh that before the incident of fire not a single complaint was filed by the complainant making grievance about the maintenance of electric lines. After the incident Electrical Inspector visited the field after two months, therefore said report is not to be believed. It is further submitted by Adv. V.B. Deshmukh that in fact all the complainants had already supplied the sugarcane to the sugar factory and therefore there was no sugarcane standing in the field at the time of incident. But as complainants were in arrears of electricity charges they filed false complaints with intention to grab the money.

8. It is submitted by Adv. Shri. Wakure that, all the complainants are owner of land admeasuring 1 Hector 40 R each, but while granting the compensation Forum made the discrimination. Forum did not mention any ground for said discrimination. All the complainants had sowed the sugarcane in the same area of field and sugarcane standing in the field of all three complainants was burnt. Electrical Inspectors report is on record. According to which all the complainants suffered the loss. It is held by Electrical Inspector that due to negligence of the MSEDCL sugarcane standing in the field of complainants was burnt. Therefore District Forum granted compensation, but did not consider the fact that all the complainants suffered loss equally. Therefore order of Forum be modified.

9. We thus heard the submission of both the counsel and perused the record. It is an admitted fact that all the complainants are owner of land admeasuring 1 Hector 40-R each. It is seen from the record that fire had occurred due to sparking on the electric lines. Electrical Inspectors report is on record, according to which due to negligence or non-maintenance of electric lines sparking had occurred for which appellant MSEDCL is liable. In our view while granting the compensation Forum made discrimination but did not explain the reason for said discrimination. Forum granted minimum compensation of Rs.9,269/- and maximum compensation of Rs.40,627/-. In our view all the complainants are entitled to same amount compensation i.e. Rs.29,280/-. It has come on record that all the complainants supplied the sugarcane to the factory. In our view therefore the compensation of Rs.29,280/- is just and proper. In the result, we are dismissing the appeal filed by

the MSEDCL i.e. Appeal No.273/2008 and modifying the order of Forum by partly allowing Appeal No.291/2008. Hence-

ORDER

1. Appeal No.273/2008 is hereby dismissed.
2. Appeal No.291/2008 is partly allowed.
3. Appellant MSEDCL is directed to pay Rs. 29,280/- to each of the complainant with interest @ 6 % p.a. from the date of order of Forum i.e. 13.01.2008, within a month from receipts the copy of this order.
4. Rest of the order of Forum is maintained as it is.
5. No order as to cost.

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