

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 1831-1832 OF 2022
[@ SPECIAL LEAVE PETITION (C) NOS. 19666-19667 OF 2016]

M/S NARENDRAN SONS

Appellant (s)

VERSUS

NATIONAL INSURANCE CO. LTD.
3 MIDDLETON STREET & ANR.

Respondent(s)

O R D E R

Leave granted.

The challenge in the present appeals is to an order passed by the National Consumer Disputes Redressal Commission (for short, "NCDRC") on 06.10.2015, whereby the revision filed by the National Insurance Company Ltd. (for short, "the Insurance Company") was allowed and the amount of compensation awarded by the State Consumer Disputes Redressal Commission (for short, "the State Commission") of Rs. 7,59,660/- was reduced to Rs.4,06,125/-.

It is not necessary to state the facts in detail, but the facts in short are that the present appellant sent a consignment of 800 Hercules mats at the cost of US \$ 13.4 per mat and 1300 Competitor mats at the cost of US \$ 9 per mat, the total order value being US \$ 22420 to a consignee in United States of America (USA). However, the goods got damaged during transit. The Insurance Company appointed M/s Ewig

International Marine Corporation, an authorized Surveyor and settling agent of the Insurance Company in the USA. Keeping in view the report filed and the salvage value, the learned District Consumer Disputes Redressal Commission awarded a sum of Rs. 6,02,775/-. Both, the Insurance as well as the appellant availed the remedy of appeal before the State Commission. The State Commission returned a finding of fact that the loss suffered by the appellant amounted to Rs. 7,59,660/- while allowing the appeal filed by the appellant and dismissing the appeal of the Insurance Company. The Insurance Company filed two revisions before the NCDRC. Such revisions were allowed and the amount of compensation reduced to Rs. 4,06,125/-.

We have heard the learned counsel for the parties and find that the jurisdiction of NCDRC under Section 21(b) of the Consumer Protection Act, 1986 is akin to the revisional jurisdiction conferred under the Code of Civil Procedure, 1908. Section 21 of the Consumer Protection Act, 1986 is reproduced hereunder:-

"21. Jurisdiction of the National Commission - Subject to the other provisions of this Act, the National Commission shall have jurisdiction -

(a) to entertain -

(i) complaints where the value of the goods or services and compensation, if any, claimed exceeds rupees one crore; and

(ii) appeals against the orders of any State Commission; and

(b) to call for the records and pass appropriate orders in any consumer dispute which is pending before or has been decided by any State Commission where it appears to the National Commission that such State Commission has exercised a jurisdiction not vested in it by law, or has failed to exercise a jurisdiction so vested, or has acted in the exercise of its jurisdiction illegally or with material irregularity."

The NCDRC could interfere with the order of the State Commission if it finds that the State Commission has exercised jurisdiction not vested in it by law or has failed to exercise its jurisdiction so vested, or has acted in exercise of its jurisdiction illegally or with material irregularity. However, the order of NCDRC does not show that any of the parameters contemplated under Section 21 of the Act were satisfied by NCDRC to exercise its revisional jurisdiction to set aside the order passed by the State Commission. The NCDRC has exercised a jurisdiction examining the question of fact again as a court of appeal, which was not the jurisdiction vested in it.

Consequently, we allow the present appeals and

set aside the order passed by the NCDRC and restore the order passed by the State Commission but with interest @ 9% from the date of filing of complaint till realisation.

The Insurance Company had deposited an amount of Rs. 10,78,881/- with the State Commission on 14.10.2011. The appellant will pay the amount awarded by the State Commission after adjusting the amount disbursed to the appellant in terms of the order of NCDRC, if any. The appellant shall be entitled to interest at the rate of 9% per annum from the date of filing the complaint till the date of deposit of the amount with the State Commission on 14.10.2011 and on the remaining amount with interest @ 9% per annum, if any, from the date of filing of the complaint till the date of payment.

Pending interlocutory application(s), if any, is/are disposed of.

.....J.
[HEMANT GUPTA]

.....J.
[V. RAMASUBRAMANIAN]

New Delhi;
MARCH 07, 2022.

ITEM NO.14 Court 11 (Video Conferencing) SECTION XVII-A

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (C) No(s). 19666-19667/2016

(Arising out of impugned final judgment and order dated 06-10-2015 in Revision Petition No. 1381-1382/2011 passed by the National Consumers Disputes Redressal Commission, New Delhi)

M/S NARENDRAN SONS Petitioner(s)

VERSUS

NATIONAL INSURANCE CO. LTD.
3 MIDDLETON STREET & ANR. Respondent(s)

Date : 07-03-2022 These petitions were called on for hearing today.

CORAM : HON'BLE MR. JUSTICE HEMANT GUPTA
HON'BLE MR. JUSTICE V. RAMASUBRAMANIAN

For Petitioner(s) Ms. Anitha Shenoy, Sr. Adv.
 Ms. Rashmi Nandakumar, AOR
 Mr. Shankar Narayanan, Adv.
 Ms. Aarti Krupa Kumar, Adv.

For Respondent(s) Ms. Sakshi Mittal, AOR
 Mr. Vishnu Mehra, Adv.
 Mr. Anant Mehrotra, Adv.

UPON hearing the counsel the Court made the following
O R D E R

Leave granted.

The Civil Appeals are allowed in terms of the signed order.

Pending interlocutory application(s), if any, is/are disposed
of.

(JAYANT KUMAR ARORA)
COURT MASTER

(RENU BALA GAMBHIR)
COURT MASTER

(Signed order is placed on the file)