

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.1989 OF 2011

CHIEF COMMER.MAN., CENTRAL RAILWAY & ANR. . . . APPELLANT(s)

VERSUS

SALAUDDIN YAKUB SHAIKH & ORS. . . . RESPONDENT(s)

O R D E R

This appeal is directed against an order dated 19th December, 2008 passed by the National Consumer Disputes Redressal Commission (National Commission) in Revision Petition No.4564 of 2008.

The complainant has been served in the matter and vakalatnama has been filed on his behalf. However, the Registry has taken an objection that the vakalatnama has been filed by a person who is not an Advocate-on-Record. Intimation of the defect has been communicated by the Registry to the complainant who has received intimation of the defect. However, the complainant has not taken any steps to cure the defect and, therefore, no one is present on behalf of the complainant.

The complaint is based on the fact that the complainant's brother has parked his car in the authorized parking lot of the Railway Station at Sholapur

on 30th June, 2005. The complainant went to Mumbai and returned the same day and noticed that his car was not there at the authorized parking lot. Accordingly, he filed a complaint with the police authorities though he could have filed it with the Railway Police Force, but did not do so.

Be that as it may, the complainant appointed a surveyor who assessed the loss suffered by the complainant at Rs.3,60,000/-. Accordingly, he filed a complaint before the District Consumer Disputes Redressal Forum, Pune (District Forum). The District Forum after hearing the parties came to the conclusion that the amount of Rs.3,60,000/- should be paid to the complainant by the person to whom the contract was awarded by the Railway authorities for holding a parking lot.

Feeling aggrieved, the contractor preferred an appeal before the State Consumer Disputes Redressal Commission, Maharashtra at Mumbai (State Commission) and the order passed by the District Forum was modified to the extent that the complainant could recover the amount jointly and severally from the Railway authorities as well as from the contractor.

Against the order passed by the State Commission on 27th March, 2008, a revision petition was filed by the

Railways and that came to be dismissed by the National Commission on 19th December, 2008.

The only submission made by learned counsel for the appellants/Railways is that it is quite likely that the complainant or his brother had received the insurance amount from the insurance company since the owner of the vehicle was holding a third party insurance that was valid on the date of the alleged loss of the car.

We are unable to determine whether the complainant or his brother received any amount from the insurance company because there is no appearance on behalf of the complainant. Since the amount is not very high, it is possible that the complainant has chosen not to appear in this Court.

In our opinion, it will be in the interest of justice if the matter is remanded to the District Forum to ascertain whether the complainant or his brother has recovered the amount from the insurance company in the first instance. In case the complainant or his brother has received the amount from the insurance company, it is not necessary for us to go into any other issue.

The appeal is disposed of with the direction to the District Forum to ascertain the factual position and take a fresh decision in the matter uninfluenced by the orders

passed by the State Commission as well as by the National
Commission.

.....J.
(MADAN B. LOKUR)

.....J.
(ADARSH KUMAR GOEL)

NEW DELHI
NOVEMBER 30, 2016

ITEM NO.107

COURT NO.6

SECTION XVII

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Civil Appeal No(s).1989/2011

CHIEF COMMER.MAN.,CENTRAL RAILWAY & ANR.

Appellant(s)

VERSUS

SALAUDDIN YAKUB SHAIKH & ORS.

Respondent(s)

Date : 30/11/2016 This appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE MADAN B. LOKUR
HON'BLE MR. JUSTICE ADARSH KUMAR GOEL

For Appellant(s) Mr. Surender Kumar Gupta, Adv.
Ms. Rashmi Malhotra, Adv.
Mr. Raj Bahadur Yadav, Adv.
Mr. Arvind Kumar Sharma, AOR

For Respondent(s)

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

The appeal is disposed of in terms of the signed order with the direction to the District Forum to ascertain the factual position and take a fresh decision in the matter uninfluenced by the orders passed by the State Commission as well as by the National Commission.

(SANJAY KUMAR-I)
AR-CUM-PS

(JASWINDER KAUR)
COURT MASTER

(Signed order is placed on the file)