

M.R.F. Ltd.

Vs

Jagdish Lal

Civil Appeal No. 2710 of 1999

Dr. A.S. Anand, CJI., S.B. Majmudar and M. Jagannadha Rao, JJ.

05.05.1999

JUDGMENT

M. Jagannadha Rao, J.

1. Leave granted.

2. The short point on which notice was issued in this case on 22nd January, 1999 was whether the consumer court should have followed the procedure under Section 13 of the Consumer Protection Act, 1986.

3. We have heard Mr. Ashok H. Desai, learned Senior counsel appearing for the appellant. The respondent though served, is not present.

4. Section 13(1)(c) of the Consumer Protection Act, 1986 provides as under :

13. *Procedure on receipt of complaint* - (1) The District Forum shall, on receipt of a complaint, if it relates to any goods -

(a)

(b)

(c) where the complaint alleges a defect in the goods which cannot be determined without proper analysis or test of the goods, the District Forum shall obtain a sample of goods from the complainant, seal it and authenticate it in the manner prescribed and refer the sample so sealed to the appropriate laboratory along with a direction that such laboratory make an analysis or test, whichever may be necessary, with a view to finding out whether such goods suffer from any defect alleged in the complaint or from any other defect and to report its findings thereon to the District Forum within a period of fifty-five days of the receipt of the reference or within such extended period as may be granted by the District Forum."

5. A bare reading of clause (c) would show that the District Forum, with a view to get proper analysis or test done, should obtain the sample of goods from the complainant and then follow the procedure prescribed in the said clause. In this case, the material on the record shows that the complainant had given the tyre and the tube which had burst, to the dealer, who in turn had sent it to the appellant. The procedure prescribed under Section 13(1)(c) of the Act was, therefore, not capable of being followed because the complainant was not in possession of the tyre and the tube.

There is no material to show that the appellant had returned the tyre and the tube to the respondent. That being the factual matrix, we do not see how any fault can be found with the District Forum, the State Forum or the National Commission in the matter of not following the procedure under Section 13(1)(c) of the Act.

6. This appeal, therefore, fails and is dismissed. No costs.

Appeal dismissed.