

Sovintorg (India) Ltd.

Vs

State Bank of India, New Delhi

Civil Appeal No. 823 of 1992

(S. Saghir Ahmad, R. P. Sethi JJ)

11.08.1999

JUDGMENT

R.P. Sethi, J. –

1. Not satisfied with the majority view of the National Consumer Disputes Redressal Commission (hereinafter called "the National Commission") but allured by the observation made by one of its members (Bala Krishna Eradi, J.), the appellant has moved this Court for modifying the majority order of the National Commission with direction to the respondent to pay the compensation for wrongfully withholding the amount and the interest at the commercial rates as then prevent.

2. The facts of the case are that the appellant-company had a bank account with the respondent-bank wherein in the month of June, 1983 a cheque for Rs. One lakh was deposited by the appellant for collection and the proceeds thereof to be credited to its account. The appellant alleged that though the proceeds of the cheque were collected on June 17, 1983 yet they were not deposited in its account for over a period of seven years. The appellant filed a complaint before the State Consumer Disputes Redressal Commission (hereinafter called "the State Commission") constituted under the Consumer Protection Act, 1986 (hereinafter called 'The Act') detailing therein its entitlement to the following amounts :

(a) Principal amount deposited with the Defendant on 15.5.83	Rs. 1,00,000/-
(b) Normal and penal Interest @ 24% per annum quarterly compounded as per standard usual practice prevalent in all Nationalised Banks w.e.f. 18.6.83 to 31.10.89	Rs. 3,26,000/-
(c) Compensation for business losses inflicted on the petitioner on account of above criminal acts/omissions and commissions by the deft	Rs. 2,00,000/-
(d) Nominal damages/general damages/special damages/substantial damages including for loss of prestige, status and mental agony, suffered by the petitioner company and its Managing Director	Rs. 2,00,000/-

Total Rs.

3. The State Commission partly allowed the complaint by directing the respondent to pay Rs. One lakh with interest at the rate of 12% p.a. with quarterly rests from the date when the amount was received till the date of payment within the time prescribed by it. As noticed earlier the majority of the National Commission confirmed the order of the State Commission. Hence this appeal.

4. Learned counsel appearing for the appellant has vehemently argued that the State Commission as well as the National Commission were not justified in rejecting the claim of the appellant in so far as it pertained to payment of the compensation and the interest at the rate of 24% per annum. Reliance is also placed on the provisions of Section 34 of the Civil Procedure Code. It is contended that in view of the finding of one of the members of the National Commission, the negligence of the respondent stood proved which entitled the appellant to the payment of the amount claimed before the State Commission.

5. After hearing the learned counsel for the parties and perusing the record, we have noticed that the State Commission as well as the National Commission have concurrently found that the amount realised by the collection of cheque in question could not be deposited apparently on the basis of an understanding between the parties which authorised the bank to keep the same as margin money for the guarantee furnished by the Bank on behalf of the complainant company to the Chief Controller of Exports and Imports. It has been found that the bank was not wrong in having retained the said amount in its custody. The appellant was further found to have not proved as to from which date the contract for guarantee stood terminated. However, the said contract was found to be in force as late as in 1987. In the absence of any negligence, we do not find any substance in the submission made by the learned counsel for the appellant to modify the orders of the State Commission and National Commission for directing the payment of compensation on allegedly wrong retention of the amount as was submitted in the complaint.

6. Relying upon the provision of Section 34 of the Civil Procedure Code, the learned counsel for the appellant submitted that appellant was entitled to the payment of interest at the rate at which moneys are lent or advanced by Nationalised Banks in relation to commercial transactions. Referring to I.A. 2 filed in this Court and Banking Law and Practice in India issued in 1991, she had contended that the appellant was entitled to the payment of interest minimum at the rate of 19.4 per cent per annum. The general submission made in this behalf cannot be accepted in view of the provision of Section 14 of the Act. There was no contract between the parties regarding payment of interest on delayed deposit or on account of delay on the part of the opposite party to render the services. Interest cannot be claimed under Section 34 of the Civil Procedure Code as its provisions have not been specifically made applicable to the proceedings under the Act. We, however, find that the general provision of the Section 34 being based upon justice, equity and good conscience would authorise the Redressal Forums and Commissions to also grant interest appropriately under the circumstances of each case. Interest may also be awarded in lieu of compensation or damages in appropriate cases. The interest can also be awarded on equitable grounds as was held by this Court in *Satinder Singh & others v. Amrao Singh & others*, 1961(3) SCR 676. Referring to the provision of the Interest Act of 1939, in relation to the compulsory acquisition of land where no specific provision is made for grant for awarding the interest, the Court held :

"In this connection we may incidentally refer to Interest Act, 1939 (XXXII of 1939). Section 2 of this Act confers power on the Court to allow interest in cases specified therein, but the proviso to the said section makes it clear that interest shall be payable

in all cases in which it is now payable by law. In other words, the operative provisions of s. 1 of the said Act do not mean that where interest was otherwise payable by law Court's power to award such interest is taken away. The power to award interest on equitable grounds or under any other provisions of the law is expressly saved by the proviso to s. 1. This question was considered by the Privy Council in *Bengal Nagpur Railway Co. Ltd. v. Ruttanji Ramji*, 1938 L.R. 65 I.A. 66. Referring to the proviso to s. 1 of the Act the Privy Council observed "this proviso applies to cases in which the Court of equity exercises its jurisdiction to allow interest." We have already seen that the right to receive interest in lieu of possession of immovable property taken away either by private treaty or by compulsory acquisition is generally regarded by judicial decisions as an equitable right; and so, the proviso to s. 1 of the Interest Act saves the said right. We must accordingly hold that the High Court was in error in rejecting the claimants' case for the payment of interest on compensation amount and so we direct that the said amount should carry interest at 4% per annum from the date when respondent 2 took possession of the claimant's lands to the date on which it deposited or paid the amount of compensation to them."

To the same effect is the judgment in *Laxmichand v. Indore Improvement Trust, Indore and others*, AIR 1975 SC 1303. The State Commission as well as the National Commission were, therefore, justified in awarding the interest to the appellant but in the circumstances of the case we feel that grant of interest at the rate of 12% was inadequate as admittedly the appellant was deprived of the user of sum of Rs. One lakh for over a period of seven years. During the aforesaid period, the appellant had to suffer the winding up proceedings under the Companies Act, allegedly on the ground of financial crunch. We are of the opinion that awarding interest at the rate of 15 per cent per annum would have served the ends of justice.

7. Under the facts and circumstances of the case the appeal is partly allowed by modifying the orders of the State Commission as well as the National Commission with direction that the appellant shall be entitled to the payment of Rs. One lakh with interest at the rate of 15% per annum with quarterly rests from the date when the amount was received by it till the date of payment. The difference of the amount on account of enhancement of the rate of interest shall be paid to the appellant within a period of six weeks from the date of this judgment.