

BEFORE THE CONSUMER DISPUTES REDRESSAL
COMMISSION, RAJASTHAN, JAIPUR BENCH NO.1

FIRST APPEAL NO: 621/2016

The New India Assurance Co. Ltd. its regional office at
Nehru Palace, Tonk Road, Jaipur & ors.

Vs.

M/s. Delhi Haryana Trasport Co. Opp. Road No. 9 VKIA,
Sikar Road, Jaipur.

Date of Order 9.11.2017

Before:

Hon'ble Mrs. Justice Nisha Gupta- President

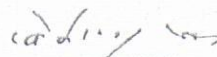
Mr. Rishipal Agarwal counsel for the appellant

BY THE STATE COMMISSION (PER HON'BLE MRS.

Reportable

JUSTICE NISHA GUPTA, PRESIDENT):

This appeal has been filed against the order passed by


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राजस्थान, जयपुर

the District Forum, Jaipur 4th dated 8.3.2016 whereby claim has been dismissed on the ground that transaction is commercial one hence, consumer complaint is not maintainable.

The contention of the appellant is that complaint is maintainable as complainant no. 2 preferred a claim with the insurance company which was honoured by them and further complainant no. 2 has executed a special power of attorney and letter of subrogation in favour of complainant no.1 and he has a right to recover the amount from the carrier transporter.

Heard the counsel for the appellant and perused the impugned judgment as well as original record of the case. None appeared on behalf of the respondent inspite of service.

The appellant has only relied upon 1 (2010) CPJ 4 (SC) Economic Transport Organization Vs. Charan Spinning Mills where the consumer complaint on behalf of the insurance company was found maintainable.

The contention of the appellant is that state of facts are

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also similar in this case hence, inspite of the fact that the transaction was commercial one the complaint is maintainable.

A bare perusal of the judgment passed by the apex court in Economic Transport Organization clearly shows that in commercial transaction the consumer complaint is not maintainable and judgment reads as follows:

“ We may also notice that section 2 (d) of Act was amended by Amendment Act 62 of 2002 with effect from 15.3.2003 by adding the words “but does not include a person who avails of such services for any commercial purpose” in the definition of 'consumer'. After the said amendment if the service of the carrier had been availed for any commercial purpose then the person availing the service will not be a 'consumer' and consequently, complaints will not be maintainable in such cases. But the said amendment will not apply to complaints filed before the amendment.”

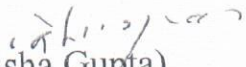
The complaints which were filed before 15.3.2002 are only found maintainable inspite of the fact that the transaction was commercial and in case of Economic Transport Organization the complaint was filed way back in 1996 hence, it was found maintainable but here in the present case

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complaint is filed on 18.2.2013 and it is admitted case between the parties that complainant no.2 M/s. Agrawal Marbles India Pvt.Ltd. is dealing in marble stones and transaction is commercial one, the Forum below has rightly held that complaint is not maintainable.

Hence, in view of the above , there is no merit in this appeal and liable to be rejected.


(Nisha Gupta)

President

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