

NON-REPORTABLE

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION
CIVIL APPEAL NO. 8043 OF 2022

Mahindra and Mahindra Financial Services Ltd. ...Appellant(s)

Versus

Nizamuddin ...Respondent(s)

J U D G M E N T

M.R. SHAH, J.

1. Feeling aggrieved and dissatisfied with the impugned judgment and order dated 23.03.2022 passed by the National Consumer Disputes Redressal Commission (hereinafter referred to as the National Commission) at New Delhi in Revision Petition No. 222 of 2022, by which, the National Commission has dismissed the said revision petition preferred by the appellant and ultimately has not interfered with the order passed by the District Forum confirmed by the State Commission ordering return/refund of Rs. 3,45,000/- being insurance amount of the vehicle

sold which was hypothecated after deducting 10% depreciation and directing that the appellant to pay the complainant Rs. 300/- per day towards compensation/loss suffered because of not plying of the vehicle from the date of picking up of the vehicle hypothecated and sold from 19.12.2004 till the date of payment of the actual amount, the original opponent – financial company has preferred the present appeal.

2. Vide order dated 14.07.2022 a limited notice has been issued by this Court on the amount of compensation/damages awarded by the District Forum at Rs. 300/- per day. Therefore, the short question which is posed for consideration of this Court is whether the District Forum was justified in awarding the compensation/damages at Rs. 300/- per day?
3. Having heard learned counsel appearing on behalf of the respective parties and having gone through the order passed by the District Forum confirmed up to the National Commission it appears that no cogent reason has been given by the District Forum determining/awarding the compensation/damages at Rs. 300/- per day. While

awarding the compensation/damages at Rs. 300/- per day,

it is observed by the District Forum as under: -

“As far as the question of granting compensation to the complainant is concerned the said vehicle of the complainant was insured from the Oriental Insurance Company for a sum of Rs. 3,45,000/-. Therefore, upon deducting the depreciation amount from this amount he is entitled to get the value of his vehicle. Apart from this the complainant has submitted that from the said vehicle he was earning Rs. 500/- per month (sic). Therefore, the compensation be granted to the complainant at the rate of Rs. 500/- per day from the date of its picking up i.e. 19.12.04. In our opinion his income from the said jeep can be assumed as Rs. 300/- and it is justifiable to grant him the said amount from the opposite party. Accordingly the complaint deserves to be allowed.”

Nothing is on record that any evidence was led on the loss suffered because of not plying the vehicle hypothecated and sold. Therefore, in absence of any cogent evidence led, the District Forum was not justified in determining and awarding the compensation/damages at Rs. 300/- per day. At the same time, it cannot be disputed that the original complainant was able to pay the monthly instalment and he was also the owner cum driver. It also cannot be disputed that as the hypothecated vehicle was detained/seized and thereafter, sold which was found to be illegal, the complainant shall be entitled to the

compensation/loss suffered because of not plying of the vehicle seized and sold illegally.

4. Instead of remanding the matter to the District Forum for determining the loss/damages we deem it proper to award reasonable loss/damages. It is reported that a sum of Rs. 3,45,000/- has been deposited by the appellant which has been withdrawn by the complainant in the year 2017. The complainant cannot be paid the loss/damages per day till the date of actual payment because of the prolonged litigation. If the same is accepted in that case the damages/compensation shall be much more than the value of the vehicle.
5. In view of the above and for the reasons stated above the present appeal is allowed in part. The order passed by the District Forum confirmed up to the National Commission ordering/awarding the compensation/damages at Rs. 300/- per day from 19.12.2004 till the date of payment of the actual amount is hereby modified and it is directed that the appellant herein shall pay to the original complainant the compensation/damages towards loss suffered because of not plying of the vehicle at Rs. 5000/-

per month from the date of the picking up of the vehicle i.e., 19.12.2004 till 31.12.2007. The appellant is directed to pay the said amount with interest @ 7.5% from December, 2004 till the actual payment within a period of six weeks from today. The present appeal is allowed to the aforesaid extent. In the facts and circumstances of the case there shall be no order as to costs.

.....J.
[M.R. SHAH]

NEW DELHI;
NOVEMBER 04, 2022

.....J.
[M.M. SUNDRESH]