

CASE NO.:
Appeal (civil) 393 of 2003

PETITIONER:
Ghaziabad Development Authority

RESPONDENT:
Shashi Kant Bhalla

DATE OF JUDGMENT: 18/08/2004

BENCH:
S. N. VARIAVA & ARIJIT PASAYAT

JUDGMENT:
J U D G M E N T

S. N. VARIAVA, J.

Before this Court a large number of Appeals have been filed by the Haryana Urban Development Authority and/or the Ghaziabad Development Authority challenging Orders of the National Consumer Disputes Redressal Commission, granting to Complainants, interest at the rate of 18% per annum irrespective of the fact of each case. This Court has, in the case of Ghaziabad Development Authority vs. Balbir Singh reported in (2004) 5 SCC 65, deprecated this practice. This Court has held that interest at the rate of 18% cannot be granted in all cases irrespective of the facts of the case. This Court has held that the Consumer Forums could grant damages/compensation for mental agony/harassment where it finds misfeasance in public office. This Court has held that such compensation is a recompense for the loss or injury and it necessarily has to be based on a finding of loss or injury and must co-relate with the amount of loss or injury. This Court has held that the Forum or the Commission thus had to determine that there was deficiency in service and/or misfeasance in public office and that it has resulted in loss or injury. This Court has also laid down certain other guidelines which the Forum or the Commission has to follow in future cases.

This Court is now taking up the cases before it for disposal as per principles set out in earlier judgment. On taking the cases we find that the copies of the Claim/Petitions made by the Respondent/Complainant and the evidence, if any, led before the District Forum are not in the paper book. This Court has before it the Order of the District Forum. The facts are thus taken from that Order.

In this case the Respondent was allotted a plot of land in July 1991. The Respondent paid all dues. Yet possession was not delivered. The Respondent thus filed a complaint.

The District Forum directed payment of interest at the rate of 18% per annum from the date of deposit to the date of payment. The District Court also awarded payments of Rs.5,000/- for mental agony and Rs.1,000/- as costs. The State Forum confirmed the Award, in the Appeal filed by the Appellants.

The Respondent did not go in Revision before the National Commission. The Appellants filed a Revision before the National Commission. For the first time they now claimed that the Karpuripuram Scheme was cancelled. The National Commission has not dealt with the aspect of cancellation of Scheme but awarded interest at the rate of 18% per annum.

As stated in the Judgment, in the case of Ghaziabad Development Authority vs. Balbir Singh (supra), where the Scheme is cancelled interest must be paid at the rate of 18%. The Respondent is thus entitled to get back his money with interest at the rate of 18% p.a. It is claimed by the Appellants that they have paid interest at the rate of 18% p.a. to the Respondent. The Respondent complains that interest at the rate of 18% has not been paid from the date each amount was deposited with the Appellants. He handovers to this Court and to the Advocate of the Appellants calculation showing what amount has remained payable.

The Appellants are directed to recalculate and pay to the Respondent interest at the rate of 18% p.a. on the deposits made by the Respondent from the date of each deposit till payment. It is clarified that amounts, if any, paid would first go towards payment/repayment of interest and the balance, if any, towards principle. The Appellants must, along with their payment, handover to the Respondent the calculation sheet showing how they have calculated the interest amount.

We clarify that this Order shall not be taken as a precedent in any other matter having been passed on account of the special features of the case. The Forum/Commission will follow the principles laid down by this Court in the case of Ghaziabad Development Authority vs. Balbir Singh (supra) in future cases.

The Appeal is disposed off accordingly.