

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 784 OF 2022

INDUSIND BANK LIMITED AND ANOTHER APPELLANTS

VERSUS

SIMARJIT SINGH RESPONDENT

J U D G M E N T

SANJIV KHANNA, J.

In July 2006, the respondent-complainant, Simarjit Singh had availed a loan of Rs. 13,50,000/- from the appellant, IndusInd Bank Limited for financing a truck. The loan was repayable in equal monthly instalments of Rs. 35,150/-. The respondent committed default in payment of three instalments due in October 2007, November 2007 and February 2008. Consequently, the Bank had issued demand notice dated 12th March 2008 for payment of Rs. 1,39,335/-. Thereupon, it is accepted, the respondent had paid Rs. 1,04,200/- on 24th March 2008, Rs. 35,150/- on 6th May 2008 and Rs. 36,000/- on 31st May 2008. Accordingly, Rs. 8,19,300/- was paid by 31st May 2008, while as per the instalment schedule, the

respondent was required to pay only Rs. 8,08,000/- up to June 2008.

2. Despite the respondent not being in arrears, the truck of the respondent with loaded cargo of timber, going from Gandhi Dham, Gujarat to Srinagar was stopped near village Bhasaur by about 10-12 persons on 3rd July 2008. They then forcibly took physical possession of the truck and the timber.
3. Thereupon, the respondent preferred Consumer Complaint No. 344 of 2008 alleging deficiency in service before the District Consumer Disputes Redressal Forum, Sangrur, which was dismissed *vide* order dated 04th December 2008. Thereafter, Appeal No. 11 of 2009 before the State Consumer Disputes Redressal Commission, Punjab¹ was treated/converted into original complaint bearing Special Consumer Complaint No. 344 of 2008, which complaint was allowed *vide* order dated 26th October 2018, with the following directions:

“i) to pay Rs 10,80,000/- being the value of the truck, in question, as on the date of repossession, along with interest at the rate of 9% per annum from the date of repossession of the vehicle, in question i.e. 05.07.2008 till realization;

ii) to pay Rs 20,00,000/- being the value of the timber loaded in the truck, in question, to the complainant,

¹ Hereinafter referred to as 'SCDRC'.

along with interest at the rate of 9% per annum from the date of repossession of the vehicle, in question i.e. 05.07.2008 till realization;

(iii) to pay compensation at the rate of Rs 3,000/- per month for the loss of livelihood suffered by the complainant for want of plying the truck, in question, for all these years, along with interest at the rate of 9% per annum from the date of repossession i.e. 05.07.2008 till realization; and

(iv) to pay Rs 40,000/- as litigation expenses.”

4. The appellant Bank and its Chairman moved Revision Petition bearing No. 187 of 2019 before the National Consumer Disputes Redressal Commission,² which has been dismissed *vide* the order dated 20th July 2021, now assailed before us.
5. The Bank had taken the stand before the SCDRC and the NCDRC that the respondent had voluntarily surrendered the truck. The *foras* for good reasons have rejected this plea. It was evident that the respondent had deposited Rs. 4,69,323/- as margin money and had already paid more amount than required under the payment schedule. The assertion of the Bank that the respondent had taken another loan of Rs. 8,77,000/- *vide* Loan Account No. JL 004701H and had defaulted in payment of the instalments therein was held

² Hereinafter referred as 'NCDRC'.

to be inconsequential for the present case as the two transactions were unrelated and different.

6. This Court, while issuing notice *vide* order dated 17th September 2021, has recorded that the document(s) relied on by the Bank evidencing alleged surrender of the truck by the respondent was held to be fabricated by the SCDRC. This being a finding of fact, would not be interfered by this Court at this stage. The notice was limited to the direction assessing Rs. 20,00,000 as the value of the timber loaded on the truck.
7. The orders dated 26th October 2018 of the SCDRC and 20th July 2021 of the NCDRC are silent on the value of timber and have merely gone by the figure mentioned by the respondent in the complaint. The respondent did not enclose and rely upon any document to support the valuation of timber and the claim for Rs. 20,00,000.
8. The respondent's stand before us is that the documents relating to the valuation of the consignment were in the truck itself. Even if this is to be accepted, the respondent could have placed on record some documents or confirmation from the consignor or the consignee to show the value of the timber. It was stated before us that the truck union, of which the respondent was a member, had

settled the matter with the consignor/consignee. However, these papers were also not placed on record.

9. On the question of value of the timber, the appellant Bank has gleaned our attention to Annexures P/12 to P/18. These documents, it is stated, are related to the consignment in question: the consignment note dated 26th June 2008 issued by New Bikaner Punjab Haryana Roadlines showing the value of timber (P/12); retail invoice issued by M/s. Green Gold Timbers Private Limited in favour of Fayaz Timber Traders, Srinagar (P/13); surrender letter dated 07th July 2008 executed by the respondent in favour of the Bank (P/14); letter dated 23rd July 2008 from New Bikaner Punjab Haryana Road Lines, Gandhi Dham, stating that the timber in truck No. PB 13Q 8731 had been shifted and loaded on another truck by their representative Mr. Balwant Singh (P/15); transit slip dated 30th June 2008 issued by Excise and Taxation Department, Punjab (P/16); confirmation by Fayaz Timber Traders that they had received imported timber from Green Gold Timber Private Limited sent *vide* G.R. No. 793 dated 26th June 2008 issued by New Bikaner Punjab Haryana Road Lines, Gandhi Dham (P/17); and letter dated 24th January 2019 of Green Gold Timbers Private Limited confirming having received payment for the timber from Fayaz Timber Traders (P/18). Relying on these documents, the appellants

have highlighted that the value of the timber loaded in the truck was Rs. 4,13,710/- and it was delivered to the consignee.

10. It appears that the above documents were neither filed before the SCDRC nor the NCDRC. Usually, we would not have taken these documents on record, *albeit* we are inclined to pass an order of remit to the SCDRC as we find that neither of the Commissions examined and went into the question of valuation of the consignment. The orders of the SCDRC and the NCDRC to this extent are flawed.

11. In view of the foregoing discussion, we partly allow the present appeal and set aside the impugned order insofar as it affirms that the Bank is to pay Rs. 20,00,000/- as the cost/value of the timber along with interest @ 9% per annum, with an order of remit to the SCDRC to examine this issue afresh without being influenced by its earlier order, including the order passed by the NCDRC. The appellants and the respondent would be permitted to file additional documents regarding delivery to the consignee and the valuation of the consignment, including the documents filed by the Bank before us. The parties would be asked to lead evidence through affidavits. However, we clarify that we have not interfered with the direction requiring the appellants to pay Rs. 10,80,000/- being the truck's

value along with interest @ 9% per annum from 5th July 2008 till realisation, compensation @ Rs. 3,000/- per month for the loss of livelihood along with interest @ 9% per annum from 5th July 2008 till realisation and Rs. 40,000/- as litigation expenses.

12. It is stated that the Bank had already deposited Rs. 28,34,496/- before the SCDRC. The amount to the extent we have upheld the order of the NCDRC would be paid to the respondent. In case there is any discrepancy or short payment, it will be open to the respondent to question the computation made by the Bank. We would also like to clarify that compensation granted @ Rs. 3,000/- per month for loss of livelihood from 5th July 2008 would be payable for the period up to 31st October 2018, along with interest @ 9% per annum from 5th July 2008 up till realisation/payment was made. The compensation @ Rs. 3,000/- per month would not be payable post the decision of the SCDRC on 26th October 2018. We have rounded the date to 31st October, 2018.
13. To cut short any delay, parties are directed to appear before the SCDRC along with their affidavits by way of evidence enclosing therewith necessary documents on 21st March 2022. On the said date, the SCDRC would fix the date for consideration of evidence and, if required and necessary, cross-examination may be directed.

As the case is fairly old, it would be appropriate if the proceedings are concluded within six months from the first date of hearing.

14. There will be no order as to costs.

.....J.
(DR. D.Y. CHANDRACHUD)

.....J.
(SANJIV KHANNA)

**NEW DELHI;
FEBRUARY 03, 2022.**