

NATIONAL CONSUMER DISPUTES REDRESSAL COMMISSION  
NEW DELHI

FIRST APPEAL NO. 411 OF 1996

(From the order dated 14.8.96 IN O.P. No.102/95  
of the State Commission, Tamil Nadu)

Union of India & Ors. .. Petitioners  
Vs.  
Sri Ramji Enterprises & Anr. .. Respondents

BEFORE:

HON'BLE MR. JUSTICE D.P. WADHWA,  
PRESIDENT  
HON'BLE MR. JUSTICE C.L. CHAUDHRY, MEMBER  
HON'BLE MR. JUSTICE J.K. MEHRA, MEMBER.  
MR. B.K. TAIMNI, MEMBER

- (i) Section 15 of Railway Claims Tribunal Act, 1987 - jurisdiction of Consumer Forum barred.**  
**(ii) Section 3 of the Consumer Protection Act - does not override other provisions of law. (in the main order wrongly typed Contract Act)**

For the petitioner : Mr. N.K. Singh, Advocate

For respondent No.1 : Ms. G.K. Kumar, Advocate

For respondent No.2 : Mr. Datta, Advocate,  
for M/s. Datta Mennon & Co., Advocates.

ORDER

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Dated the 26<sup>th</sup> September, 2001

PER JUSTICE D.P. WADHWA (PRESIDENT)

Appellants are aggrieved of the order of the State Commission Tamil Nadu. State Commission had given an award over a sum of Rs.13.75 lakhs with interest @ 18% per annum and also cost of Rs.3000/- on alleged ground of deficiency of service by the Railways, a Department of Union of India in the Ministry of Railways.

Complaint of the respondent No.1-complainant was based on the allegation that charcoal was loaded in railway wagons. There was no weighing bridge at Koodal Nagar Railway Station where the consignment of charcoal was loaded. Railway receipts were issued quoting minimum charges payable by the complainant and directing

Railway Station Therubali to weigh the consignment and to collect the under charges if any. It was the allegation of the complainant that the charcoal was 850 metric tonnes . It is stated that the Station Master at Therubali did not weigh the consignment and allowed the consignment to be unloaded and taken to the factory premises of M/s. Indian Metals & Ferrow Alloys Ltd., one of the opposite parties in the complaint. Further allegation is that there was loss of 264 metric tonnes of charcoal amounting to Rs.13.75 lakhs. Alleging deficiency in service the complaint was filed in the State Commission on 9.2.1995. Complaint was allowed as mentioned above. It is submitted before us that State Commission could not have taken cognizance of the complaint as it was barred by the provisions of Railway Claims Tribunal Act, 1987. This Act came into force on 8.11.1989. Reference has been made by Mr. Singh, learned counsel for the appellant, to Section 13, 15 and 28 of the said Act. These Sections we quote:

**“13. Jurisdiction, powers and authority of Claims Tribunal.-** (1) The Claims Tribunal shall exercise, on and from the appointed day, all such jurisdiction, powers and authority as were exercisable immediately before that day by any civil court or a Claims Commissioner appointed under the provisions of the Railways Act,-

(a) relating to the responsibility of the railway administrations as carriers under Chapter VII of the Railways Act in respect of claims for -

(i) compensation for loss, destruction, damage, deterioration or non-delivery of animals or goods entrusted to a railway administration for carriage by railway;

(ii) compensation payable under section 82A of the Railways Act or the rules made thereunder; and

(b) in respect of the claims for refund of fares or part thereof or for refund of any freight paid in respect of animals or goods entrusted to a railway administration to be carried by railway.

[(1A) The Claims Tribunal shall also exercise, on and from the date of commencement of the provisions of Section 124A of the Railways Act, 1989 (24 of 1989), all such jurisdiction, powers and authority as were exercisable immediately before that date by any civil court in respect of claims for compensation now payable by the railway administration under section 124A of the said Act or the rules made thereunder.]

(2) The provisions of the [Railways Act 1989 (24 of 1989)] and the rules made thereunder shall, so far as may be, be applicable to the inquiring into or determining, any claims by the claims Tribunal under this Act.

15. **Bar of jurisdiction.**- On or from the appointed day, no court or other authority shall have, or be entitled to, exercise any jurisdiction, powers or authority in relation to the matters referred to in [sub-sections (1) and (1A)] of section 13.

28. **Act to have overriding effect.**- The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or in any instrument having effect by virtue of any law other than this Act”.

It was submitted that the Railway Claims Tribunal Act, 1987 is subsequent to the Consumer Protection Act, 1986 and Section 28 shall have overriding effect. In the complaint claim was regarding short supply of charcoal of a particular value. It was submitted by Ms. Kumar, learned counsel for the first respondent that under Section 3 of the Consumer Protection Act, State Commission could take cognizance of the complaint. It is difficult to agree with this proposition. No doubt Section 3 says that the provision of the Consumer Protection Act shall be in addition and not in derogation of the provisions of any law for the time being in force, yet when a particular enactment bars the jurisdiction of the State Commission under this Act, State Commission could not nevertheless assume jurisdiction. In Marine Container Services South Pvt. Ltd. Vs. Go Go Garments- (1998) 3 Supreme Court Cases 247, Supreme Court said with reference to Section 3 that Contract Act would nevertheless apply to the complaints filed under the Act, and that therefore, Section 3 cannot mean to say that it overrides other provisions of law. Railway Claims Tribunal could certainly have entertained the claim which was subject matter of the complaint before the State Commission. In these

circumstances, we are of the view that the State Commission had no jurisdiction in the matter. The appeal is allowed and the order of the State Commission is set aside. There shall, however, be no award of cost.

.....J.  
(D.P. WADHWA)  
PRESIDENT

.....J.  
(C.L. CHAUDHRY)  
MEMBER

.....J.  
(J.K. MEHRA)  
MEMBER

.....  
(RAJYALAKSHMI RAO)  
MEMBER

.....  
( B.K. TAIMNI)  
MEMBER