

No.N/29/11

**BEFORE THE KARNATAKA ELECTRICITY REGULATORY COMMISSION
BANGALORE**

Dated 22nd December 2011

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|-------------------------------|----------|
| 1. Sri M.R. Sreenivasa Murthy | Chairman |
| 2. Sri Vishvanath Hiremath | Member |
| 3. Sri K. Srinivasa Rao | Member |

Complaint No. 01/2011

BETWEEN

Wing Commander G.B. Athri (Retired)
No.52, 'Dhatri', Saraswathipuram New Layout
Near Hulimavu, Banneraghatta Road
BANGALORE – 560 076

(Represented by Shridhar Prabhu Associates)

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Petitioner

AND

Bangalore Electricity Supply Company Limited
K.R. Circle
BANGALORE – 560 001

(Represented by Just Law Advocates)

...

Respondent

1. This is a complaint filed by the petitioner consumer under Section 57(2) of the Electricity Act, 2003 that on account of a sudden surge in voltage on 7.4.2010, there was a fire accident in his house at No.52, Saraswathipuram New Layout, Banneraghatta Road, Bangalore, which has resulted in loss calculated as depicted in Annexure P 13. According to him since the accident took place on account of the commissions and omissions on the part of the respondent supplier company it shall be directed to pay compensation as sought by the petitioner.

2. The respondent has put in appearance through its counsel and has also filed the statement of objections. It is contended on behalf of the respondent that though it has admitted the fire accident in the house of the petitioner on account of voltage surge, it has not happened on account of any commission or omission on its part. Therefore the respondent is not liable to pay the compensation sought. It is further contended that the accident has occurred for the reason that the complainant did not comply with the requirements of Condition No.13 of the Conditions of Supply of Electricity of Distribution Licensee such as providing proper switches and fuses, etc. It is also contended that according to Clause 21 of the Conditions of Supply of Electricity, the respondent is not liable to make good any loss for variation in supply, as there is no proved lapse on the part of the officers of the respondent company.

3. We have considered the complaint and the documents produced in support of the same and also the contentions raised by the respondents.

4. It is contended vehemently by the petitioner's counsel that there is no dispute that there was an electrical fire accident and the complainant has suffered loss. The reports of the Deputy Chief Electrical Inspector dated 16.8.2010 as well as that of the Executive Engineer, BESCO dated

30.8.2010 confirm the fact of the accident and the loss caused. Further, when the complainant has given all the material details for payment of compensation and the respondent had agreed to consider the same. The respondent is under an obligation to pay the compensation more so when the same is covered by an insurance cover and the company will recover the compensation paid to the complainant through its ARR from the consumers.

5. The respondent in its objections has denied that the accident has taken place on account of its officers' negligence. Respondent has not admitted the claim of the complainant and according to it a mere statement to consider the claim does not amount to acceptance of the claim. It is also contended that the claim is not substantiated by the Complainant by producing any material / document, or other evidence. Further, it is contended that the accident has occurred on account of the complainant's failure in providing suitable capacity Earth Leakage Circuit Breaker (ELCB). According to the respondent, it is not liable to pay any compensation even if any there is variation in supply as Clause 21 of the Conditions of Supply specifically exempts the licensee from incurring any liability arising on account of failure or variation in supply.

6. From the material placed before the Commission including the report of the Electrical Inspectorate, there is no doubt that there was a fire

accident in the house of the complainant on account of a sudden voltage surge in the supply and that the complainant has suffered loss due to damage to some of the household articles such as TV, refrigerator, etc.

7. The question that arises for consideration and decision by this Commission is on whether the complainant has made out a case under Section 57(2) of the Electricity Act, 2003 to claim compensation.

8. As the complainant has based his claim entirely on Section 57(2) of the Electricity Act, 2003 it is desirable to look into Section 57(2) of the Electricity Act, 2003, which is as follows :

Section 57(2):

If a licensee fails to meet the standards specified under subsection (1), without prejudice to any penalty which may be imposed or prosecution be initiated, he shall be liable to pay such compensation to the person affected as may be determined by the Appropriate Commission:

Provided that before determination of compensation, the concerned licensee shall be given a reasonable opportunity of being heard.

9. As per the above provision, a person who claims compensation has to establish that –

(i) licensee has failed to meet the standards specified by the Commission under Sub Section (1) of Section 57 of the Electricity Act, 2003; and

- (ii) on account of such failure he has suffered loss which needs to be compensated.

10. The complainant in his complaint has not brought out which of the standard of performance which has not been met by BESCO. Unless the complainant makes out that a particular standard of performance specified by this Commission has not been met by BESCO no compensation can be claimed. Further, the complainant, except for listing out items damaged and making a general claim that he has suffered a loss of Rs.10,36,900/-, has not produced any material evidence such as purchase vouchers / repair vouchers, etc., of the goods damaged in support of the amount claimed. In our view the complaint filed in the present form cannot be accepted and payment of compensation cannot be ordered by this Commission which can only look into cases of failure to comply with standards of performance under Section 57(2) and not go into claims arising out of variation or disruption in supply.

11. Our not entertaining the complaint, however, shall not prejudice the right of the complainant to approach an appropriate forum such as Consumer Grievance Redressal Forum for claiming compensation by producing proper and material evidence. CGRF under the provisions of the Electricity Act, 2003, is sufficiently empowered to verify the documents

of the complainant and after hearing both the parties order payment of compensation in accordance with law. In the alternative, the complainant may also lay his claim before the consumer courts established under the Consumer's Protection Act as Section 173 of the Electricity Act, 2003 specifically protects the right of the consumer under the Consumer Protection Act 1986. With the above observations, this complaint stands disposed off.

Sd/-	Sd/-	Sd/-
(M.R. SREENIVASA MURTHY)	(VISHVANATH HIREMATH)	(K.SRINIVASA RAO)
CHAIRMAN	MEMBER	MEMBER