

**STATE CONSUMER DISPUTES REDRESSAL COMMISSION,
UTTAR PRADESH, LUCKNOW**

APPEAL NO.458 OF 2006

(Against the judgment/order dated 25-01-2006 in Complaint
Case No.199/2003 of the District Consumer Forum, Aligarh)

Sri Yogendra Singh

.....Appellant

Vs.

Proprietor of M/s Dev Motors, Banno Devi,
Aligarh and others

.....Respondents

BEFORE:

**HON'BLE MR. JUSTICE BHANWAR SINGH, PRESIDENT
HON'BLE MR. SYED ALI AZHAR RIZVI, MEMBER
HON'BLE MR. RAMPAL SINGH, MEMBER**

For the Appellant

:Sri Vishvesh Pratap Singh holding brief for
Sri M P Verma, Advocate.

For the Respondents

:Sri Ashok Mehrotra, Advocate for the
respondent no.2 and Sri Anil Kumar
Chaubey, Advocate for the respondent no.1

Dated : 28-01-2010

JUDGMENT

MR. JUSTICE BHANWAR SINGH, PRESIDENT (ORAL)

Heard Sri Vishvesh Pratap Singh holding brief for Sri M P Verma,
learned Counsel for the appellant, Sri Ashok Mehrotra, learned Counsel
for the Bajaj Allianz General Insurance Company Limited and Sri Anil
Kumar Chaubey, learned Counsel for the Dev Motors Pvt. Ltd. ^{also} and/_{te}
perused the record.


The instant appeal has been filed against the judgment and order
dated 25-01-2006 of the District Consumer Forum, Aligarh whereby the
complaint of the appellant for recovery of the insurance claim was
dismissed on the ground that such a case was cognizable by a Civil Court
of competent jurisdiction. We find ourselves unable to agree with this
decision. We fail to appreciate the finding of the Forum below that large
number of witnesses including expert would be required to lead the
evidence. It was a simple claim for insurance amount to the extent of the
expenditures the complainant had incurred in getting his accidental car
repaired in the garage of Dev Motors Pvt. Ltd.


A perusal of the written statement filed on behalf of the Dev
Motors appears to indicate that a cheque for Rs.35,794/- issued by the

Standard Chartered Bank, Delhi under the instructions of the Insurance Company was deposited with the District Consumer Forum, Aligarh because the complainant had paid to the aforesaid garage the repair charges amounting to Rs.44,055/-. M/s. Dev Motors have now no claim over the amount of the cheque but as per practice of the Insurance Company it was issued in their name. It would emerge out of these admitted facts that the appellant Sri Yogendra Singh would be entitled to claim the amount of the cheque i.e. Rs.35,794/-. However, since the cheque was issued in the name of Dev Motors, the District Consumer Forum had to get it issued in the name of the appellant. The appellant is prepared to accept the amount of Rs.35,794/- in full and final satisfaction of his claim. The District Consumer Forum is, therefore, directed to get a fresh cheque issued from the Insurance Company. The appellant can now pursue his claim by way of the execution proceedings to be initiated before the Forum below.

The appeal is allowed in terms of above. The impugned judgment is set aside. The complaint of the appellant is allowed in part and he is held to be entitled to claim Rs.35,794/- from Bajaj Allianz General Insurance Company Limited in full and final satisfaction of his claim.

The appeal is disposed of accordingly with there being no order as to costs.


(JUSTICE BHANWAR SINGH)
PRESIDENT


(SYED ALI AZHAR RIZVI)
MEMBER


(RAMPAL SINGH)
MEMBER