
(1999) 08 NCDRC CK 0049

In the National Consumer Disputes Redressal Commission

SECRETARY, CENTRAL INDIAN POST AND TELEGRAPH
DEPARTMENT

APPELLANT

Vs

FIRM GORELAL PHOOLCHAND JAIN

RESPONDENT

Date of Decision : 09-08-1999

Acts Referred:

Citation : 1999 3 CPJ 275 : 1999 3 CPR 293 : 2000 1 CLT 40

Hon'ble Judges : S.K.Dubey , Saroj Rajwade J.

Final Decision : Appeal dismissed

Judgement

1. THIS is an appeal filed by the opposite party against the order dated 12.3.1999 passed in Case No. 24/ 96 by the District Consumer Disputes Redressal Forum, Guna (for short the "District Forum").

2. THE complainant deals in sale of chanderi sari who sent saries by registered parcel Nos. 875, 876 and 877 on 12.9.1995 worth Rs. 35,500/- to Ingle Sari House, Kolhapur, Maharashtra State showing its insured value of Rs. 23,000/-. THE parcels delivered to the addressee were found in damaged condition, therefore, the addressee insisted for open delivery. In parcel No. 875 two saries worth Rs. 425/- were found with old books and one old trouser, in parcel No. 876, 8 saries worth Rs. 210/ - each were found with old books and in parcel No. 877, three saries worth Rs. 1,125/- were found with old books, therefore, the addressee refused to take delivery of the parcels which were returned on 29.9.1995. THE complainant filed a complaint before the District Forum for deficiency in service and claimed the amount of Rs. 35,500/-. THE complaint was resisted that the postal authorities can be made liable in accordance with Rule 175 of Post Office Guide- Part I. THE complainant has played fraud by declaring the value of the saries of Rs. 23,000/- while the value of the saries according to complainant was Rs. 35,500/- which resulted in loss to the postal authorities in charging the actual amount for the insured parcel, therefore the complaint ought to have been dismissed. In the present case, the contents of the parcel value may be of Rs. 35,500/- but the postal articles were insured for Rs. 23,000/- of

which the charges were paid. It cannot be a case of playing fraud by not showing the correct value as from the Rule 175 it is clear that the liability of compensation will be of the postal article not exceeding the amount for which the article has been insured. The position could have been different when the postal article of lesser value would have been insured of higher value, which is not the case here. Therefore, the District Forum rightly directed the payment of Rs. 23,000/- for which the parcels were insured and postal charges of Rs. 662/- total Rs.23,662/- with interest thereon at the rate of 12% p.a. from 12.9.1995 till payment and cost of proceedings Rs. 500/-.

The only question for our consideration is : Whether in view of Rule 175 whether the appellant can avoid its liability ? Rule 175 reads thus : "175. Responsibility of the Post Office-There will be payable to the sender of an insured postal article compensation not exceeding the amount for which the article has been insured for the loss of the postal article, or any of its contents, or for any damage caused to it in course of transmission by post; provided that the compensation in no case exceeds the value of the article or any of its contents lost or the amount of the damage caused and provided that, in the case of loss, the sender furnishes full particulars of the contents of the postal article and their values; provided also that no compensation will be payable- (a) where there has been misdelivery arising out of incorrectness or incompleteness of the address written by the sender; (b) where there has been fraud on the part of the sender or addressee; (c) where the insured article has been delivered to the addressee, and he has signed and returned the receipt therefor; (d) where the sender has not given intimation of the loss within three months from the date of posting; (e) where the loss or damage was due to improper or insecure packing; (f) where there is no visible damage to the cover or seals, it being understood that the sender must so pack the letter or parcel that its contents cannot be touched without visible damage as aforesaid being caused; (g) where the insured article contains gold coin or bullion or both and has not been insured for the actual value of the contents; (h) in the case of the loss of halves of currency notes; (i) in the case of damage arising from the nature of the article insured; or (J) where the insured article contained anything the transmission of which by post is prohibited.

3. THE contention of the appellant is based on Clause (b) of the Rule 175 because of the less value of the articles declared the postal authorities suffered loss. If correct value had been declared for the insured parcel, the complainant would have paid charges leviable according to value of the insured postal article that having not been correctly declared caused loss to postal authorities amounts to playing fraud by the complainant. We are not impressed with the submission merely showing the lesser value of the articles sent by parcel cannot be considered as a case of fraud as postal authorities in case of mis-delivery, loss would be liable to the extent of the amount of sum insured and not more than that. THE position certainly would have been different where the contents of postal article of lesser value would have been insured of higher value, with a view to claim the amount of higher value than its real value which is not the case

here. The case in hand is squarely covered by the decision of this Commission in Appeal No. 582/95, Indian Post and Telegraph Department through Senior Post Master v. Rajendra Kumar Bhansali, decided on 23.11.1998 wherein after considering the question in para 6 it was observed thus : "6. The contention that the complainant played fraud by showing value of insured articles of Rs. 10,000/- inspite of Rs. 15,419/- therefore, there is no liability and the complainant ought to have been directed to take resort to the proceedings in the Civil Court, is devoid of merit. Though, the value of contents was more than Rs. 10,000/- but the complainant got the insured parcel value of Rs. 10,000/-for the loss and damage. Therefore, the liability of the Postal Department was to that extent only.

4. IN view of the above as no case under Clause (b) of Rule 175 is made out, the order of the District Forum cannot be faulted with. In the result, the appeal fails and is dismissed with no order as to costs. Appeal dismissed.