

(1993) 12 NCDRC CK 0040

In the National Consumer Disputes Redressal Commission

SENIOR SUPDT. OF POST OFFICES, MYSORE DIVISION

APPELLANT

Vs

G.A.K. SWAMY

RESPONDENT

Date of Decision : 06-12-1993

Acts Referred:

Citation : 1994 2 CPC 222 : 1994 2 CPJ 151

Hon'ble Judges : D.R.Vithal Rao , K.R.Ramaswamy Iyengar , Susheela Cheluvaraju J.

Final Decision : Appeal allowed in part

Judgement

1. THIS appeal, by the opposite party, is directed against the order dated 23.12.1992, passed by the District Forum, Mysore, in Complaint No. CPA/1190/90-91, directing the opposite party to pay a sum of Rs. 4,000/- with interest thereon to the complainant. The facts, briefly stated, are as follows : 1. The complainant despatched a pair of golden ear-rings and a finger ring to his son at Balconagar, Korba, through the Sub-Post Office, Krishnamurthyipuram, Mysore, on 30-11-1990. The said parcel was insured for a sum of Rs. 4,000/- The said parcel was delivered to his son in a broken condition. He did not receive the golden ornaments. The Post Office, Balconagar, Korba, summoned the son of the complainant and inventory was drawn, as per Ex.R-1. Only the packing material was found except the golden articles. The said packing material and the letter weighed 14 grams.

2. THE complainant, on receipt of the message from his son, made a complaint to the postal authorities at Mysore. When he did not receive any proper response from the authorities, filed the complaint seeking the payment of the insured amount of Rs.4,000/- with compensation. The opposite party filed its version and admitted the fact of "dispatch of a parcel weighing 20 grams insured for a sum of Rs.4,000/- by the complainant from the Sub-Post Office, at Mysore. It also admitted that the golden articles, while under postal transit were found missing and only a packing material with a letter weighing 14 grams was found in a broken condition while delivery of the parcel to the son of the complainant at

Korba. It further averred that the complainant has made the complaint while the matter was still under investigation and so, the complaint was pre-mature and untenable.

During enquiry, the complainant has examined himself as P.W. 1. The opposite party got Ex.R -1, marked in evidence.

3. THE District Forum, considering this material placed on record by the parties directed the opposite party to pay a sum of Rs.4,000/-, the insured amount, with interest @12% p.a. thereon, to the complainant. We have called for the records and received. We have perused the records and the impugned order and also heard the learned Counsel for the appellant and the respondent- complainant.

4. AS referred above, the material fact of dispatch of a parcel, insured for a sum of Rs. 4,000/- by the complainant from Sub-Post Office at Mysore to Korba, is admitted. It is also an admitted fact that the said parcel was found in a broken condition while delivering the same to the son of the complainant at Korba. The Inventory, as per Ex. R-1, was recorded and the packing material weighed only 14 grams. The golden earrings and a finger ring were found missing. It is also not in dispute that the parcel, at the time of dispatch at Mysore, weighed 20 grams. The complainant, in his evidence, has in this regard, averred thus : "I packed the envelope before entrusting it for delivery to the Post Office. I have packed the golden articles in a cotton and a plastic cover. The Post Master, who weighed the packet, found that its weight was 20 grams."

This fact would clearly go to show that the golden articles that were found missing weighed six grams.

5. THE fact that the packing material weighed 14 grams is evident from the recitals in the inventory at Ex. R-1.

6. THE complainant, has in this regard, stated in his evidence thus : "I now see copy of the Mahazar. I can identify the signature of my son. THE mahazar is at Ex. R-1 and the signature of my son is at Ex. R-1 (a)." Therefore, it is clear from the recitals from Ex. R-1, the packing material weighed 14 grams, while the parcel weighed 20 grams and, therefore, the golden articles would be only of six grams weight.

The complainant has admitted that the opposite party-appellant offered him a sum of Rs. 2,056/- which he did not accept. The complainant has in this regard, stated thus : "It is true that the opposite party expressed its willingness to pay me in the cost of difference in the weight amounting to Rs. 2,056/-. Since this complaint was pending, I did not accept the offer."

7. THE provisions of Section 33 of the Indian Post Office Act, 1898, read as under : "33. Liability in respect of postal articles insured : Subject to such conditions and restrictions as the Central Government may, by rule, prescribe, the Central Government shall be liable to pay compensation, not exceeding the amount for which a postal article has been insured, to the sender thereof for the

loss of the postal article or its contents, or for any damage caused to it in course of transmission by post : Provided that the compensation so payable shall in no case exceed the value of the article lost or the amount of the damage caused."

This would go to show that the compensation payable shall in no case exceed the value of the article lost or the amount of damage caused.

8. IN the present case, as narrated above, at one stage, the complainant was even ready to accept a sum of Rs.2,056/- towards compensation. But as per the provisions of Section 33, of INdian Post Office Act, 1898, the complainant is entitled to the value of the article lost. The complainant has lost six grams of golden ornaments and so he is entitled to the value of the articles lost. The price of one gram of an ornamental gold is about Rs. 450/-, the value of six grams would be Rs.2,700/ -. In our opinion, the complainant is entitled to this sum of Rs. 2,700/- only and not the insured amount of Rs.4000/-. The order of the District Forum, is modified to this extent. ORDER In the result, therefore, this appeal is allowed in part. The order of the District Forum, directing the opposite party to pay a sum of Rs.4,000/- is modified. The opposite party the appellant, is directed to pay a sum of Rs.2,700/- with interest @ 12% p.a. from the date of its despatch, that is, 30-11-1990, till the date of its payment to the complainant. The District Forum has awarded a cost of Rs.250/- towards the costs of the proceedings to the complainant. We direct the payment of the said amount of Rs.250/- (Rupees Two Hundred and Fifty only) by the opposite party-appellant to the complainant. The parties shall bear and pay their own costs in this appeal. The opposite party-the appellant shall pay the sums so awarded to the complainant within a period of 30 days from the date of this order. Appeal allowed in part.