

**The Postmaster General Vs. K. Christopher and Others**

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**Court :** Kerala State Consumer Disputes Redressal Commission SCDRC  
Thiruvananthapuram

**Decided On :** May-31-2011

**Judge :** The Honourable Shri. Justice K.R. Udayabhanu President & the Honourable Mr. S. Chandramohan Nair Member

**Appeal No. :** First Appeal No. A/08/118 (Arisen out of Order Dated 12/05/2008 in Case No. CC 105/05 of District Kasaragod)

**Appellant :** The Postmaster General

**Respondent :** K. Christopher and Others

**Judgement :**

SHRI.S.CHANDRAMOHAN NAIR, MEMBER

This appeal is preferred by the opposite party against the order dated 31.3.08 of CDRF, Kozhikode in CC.395/06 Wherein and whereby HE IS under directions to pay to the complainant a sum of Rs.2,000/- as compensation and a sum of Rs.425/- being the value of postal charges and Rs.500/- as costs.

2. The complainants case before the Forum below was that he had sent two documents by speed post on 1.12.05 to his son at CaymanIsland and that the postal articles did not reach him. Though the opposite party promised to conduct a detailed enquiry, the same was not done and that the articles sent were lost. It is also alleged that the Superintendent of Post office, Kozhikode Division sent a letter

to the petitioner stating their willing to compensate the petitioner by giving the speed post charges of Rs.850/-. Alleging deficiency in service, the complaint was filed praying for directions to the opposite party to pay a sum of Rs.10,000/- as compensation and costs.

3. The opposite party entered appearance and filed version admitting the entrustment of the articles and further submitting that the articles were handed over to Air France on 2.12.05 itself and it was from that point that the articles were lost. It was also contended that as per clause 84 of the Post Office Guide Part I, the opposite party is exempted by law from all responsibility in the case of loss, mis-delivery, delay or damage to any postal article in course of transmission by post. They were ready and willing to pay the amount of Rs.850/- being double the amount of the charges collected from the complainant.

4. The evidence consisted of the complainant as PW1 and Exts. A1 to A4 on his side. On the side of the opposite party, Exts.B1 to B9 were marked.

5. Heard the representative of the appellant/opposite party and the amicus curiae appointed by this Commission for the respondent/complainant.

6. The main contention that is raised by the representative of the appellant is that the Post offices is exempted from the responsibility in case of loss, mis-delivery etc; as per clause 84 of the Post Office Act and in the instant case also compensation shall be double the charges paid by the complainant. He has also relied on the decision of the Hon. Supreme Court in Post and Telegraph Department, Trivandrum V. A Sarada (AIR 2002 Kerala 78) wherein it is held that the Government is liable to compensate for the loss sustained by a party only if there is willful default or negligence on the part of the employees concerned. He has also submitted before us that in the instant case, there is no allegation by the complainant that it was a willful act on the part of a particular employee which resulted in the loss of the articles entrusted to the Department. He has also submitted before us that the order of the Forum below is liable to be set aside. It is his further case that Section 6 of the Indian Post office Act is applicable in the instant case also.

7. The amicus curiae appointed by this Commission submitted that the complainant had entrusted the articles to be sent to a foreign island and Section 6 of the Indian Post Office Act is applicable only to the entrustment of articles sent inland. He has also submitted that it was only when the complainant made a complaint before the opposite party that the opposite party conducted an enquiry and expressed their helplessness with regard to the matter. He has also submitted that the order of the Forum below is liable to be upheld.

8. On hearing both sides we find that the admitted case of both parties is that the complainant had entrusted 2 documents to be sent to his son at CaymanIslandand the same were admittedly not delivered to the addressee. Section 6 is applicable only if articles are sent and undelivered only inside India and regarding the conditions applicable to the articles received to be sent outside India, the appellant has not produced anything to show that it is sufficient that double the postal charges only to be paid to the sender if an article is lost. The appellant has argued before us that the Indian Postal Department is not responsible for the manner in which an article is delivered or returned undelivered and it is governed by the internal regulations of the country of destination. In the instant case, the complainant has sent two valuable documents and if the appellant/agency was not in a position to deliver the same to the addressee they ought not have taken receipt of the articles to be sent outside India. We also find that the appellant has not produced anything to show that it is only double the amount that is payable in cases where the articles are lost during transit that were entrusted for sending outside India. We find that the Forum below has ordered only a reasonable amount as compensation. We do not find any cogent grounds to interfere with the said directions. In the facts and circumstances, we find that the appeal is devoid on merits and is liable to be dismissed. In the facts and circumstances, we find that the appeal is devoid of merits and is liable to be dismissed.

9. In the result, the appeal is dismissed. The order dated 31.3.07 of CDRF, Kozhikode in CC.395/06 is confirmed. In the facts and circumstances of the present appeal, the parties are directed to suffer their respective costs.

The office is directed to return the LCR along with the copy of this order to the Forum urgently.

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