

Post Master and Others Vs. Chukka Appa Rao

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Court : Andhra Pradesh State Consumer Disputes Redressal Commission
SCDRC Hyderabad

Decided On : Dec-23-2008

Judge : D. Appa Rao, President & the Honourable Mrs. M. Shreesha,
Member

Appeal No. : F.A. No. 877 of 2007

Appellant : Post Master and Others

Respondent : Chukka Appa Rao

Judgement :

Mrs. M. Shreesha, Member:

1. Aggrieved by the order in C.D. No. 926/2005 on the file of District Forum-I, Visakhapatnam, opposite parties preferred this appeal.

2. The brief facts as set out in the complaint are that the complainants son was doing his M.Sc. in United Kingdom, State Bank of India, MVP Colony, Visakhapatnam and he was sanctioned an Educational loan. The said bank released Rs. 1,99,053 towards second instalment of the loan and issued a Demand Draft for which SBI Overseas Branch, Visakhapatnam issued a foreign currency draft and the same was sent on 28.3.2005 by registered post from the Post Office of 1st opposite party to the complainants son. The complainant lodged a complaint with 1st opposite party on 12.4.2005 and since the said letter did not

reach the destination, on 15.4.2005, the complainant booked two addressee telegrams to 1st and 2nd opposite parties. On 25.4.2005, the complainant booked two separate phonograms to opposite parties 3 and 4 requesting for immediate delivery but opposite parties were negligent and did not take any action. The complainants son was warned and threatened with legal action due to non-payment of fees, because of non-delivery of registered letter containing foreign currency draft. The complainant submitted that he and his son were put to a lot of tension and mental agony. The complainant submitted that having no other go, he sought for cancellation of the earlier cheque and sought for a new one and the procedure involved was cumbersome and laborious and he had to furnish two sureties of persons, who had account with State Bank of India and also submitted a letter of indemnity as per bank instructions and incurred an expenditure of Rs. 2,855 towards charges for bankers draft and exchange charges and Rs. 800 towards PandT charges. On 17.5.2005 a foreign currency draft was issued and then sent to Drawer Bank at London by wire transfer. The complainant got issued a legal notice to all the opposite parties and filed the complaint for a direction to the opposite parties to pay Rs. 1,00,000 towards compensation on account of constant tension, hardship and mental agony, to pay Rs. 50,000 towards exemplary damages towards mental agony faced by the son of the complainant, to pay Rs. 250 towards compensation of the amount paid to SBI, OB Visakhapatnam towards commission for converting rupees into GBPS, to pay Rs. 30 which was paid towards registration charges, to pay Rs. 47 which was incurred for addressing two telegrams issued to opposite parties 1 and 2, to pay Rs. 81 being the expenses incurred for issuing two phonograms, to pay Rs. 2,863 being interest paid to SBI, MVP Colony during the period from 28.3.2005 to 17.5.2005 on Rs. 1,99,053 @ 10.5% , to pay Rs. 2,855 towards bankers and exchange charges, to pay Rs. 1,000 being the Bankers commission and charges of P and T, to pay Rs. 84 being the amount paid by complainants son towards postal charges, to pay Rs. 100 being cost of non-judicial stamp and costs.

3. Opposite party No. 2 filed counter which was adopted by opposite parties 1, 3 and 4. Opposite party No. 2 admitted of sending the complainants registered letter dated 28.3.2005 to his son Ch. Subash Chandra at United Kindgon and denied the rest of the allegations. It was contended that on receipt of telegraphic complaint

dated 15.4.2005, inquiries were made and the inquiries revealed that the said registered letter was despatched to United Kingdom in Mail No. 83 dated 1.4.2005 by AIR foreign-II. The Chennai airmail sorting division remanded the international mail records, vide letter dated 11.5.2005. The registered letter was consigned by Air Mail Sorting Division, Chennai on 1.4.2005 to the destination country and that there is no information from the international mail record-London and submitted that there is no deficiency in service in despatching the letter from Visakhapatnam to United Kingdom so as to pay damages or value of article lost in that country. The complaint is not maintainable for non-joinder of United Kingdom Postal Services and that as per Article 34 of Post Article-XIX the Postal authorities of United Kingdom of Great Britain have a right not to pay compensation for uninsured parcels loss. Pursuant to Section 6 of Indian Post Offices Act, 1898, the Government is not liable to pay compensation for loss of any postal article in course of transmission except which liability is expressly undertaken. That as per Article 37 of UPU convention, the liability is only to the extent of refund of charge and fee paid at the time of booking the article and that the complainant is not entitled to the relief prayed and prayed for dismissal of the complaint with costs.

4. Based on the evidence adduced i.e. Exs.A1 to A34 and B1 to B3 and the pleadings put forward, the District Forum allowed the complaint and directed the opposite parties to pay Rs. 35,000 towards compensation together with costs of Rs. 5,000.

5. Aggrieved by the said order, opposite parties preferred this appeal.

6. The learned Counsel for the appellants submitted that as per Article 34 of Post Article-XIX, the Postal authorities of United Kingdom of Great Britain has a right not to pay compensation for uninsured registered letters. He also relied on Section 6 of Indian Post Offices Act, 1898 and submitted that the Government is not liable to pay compensation for loss of any article in course of transmission except when liability is expressly undertaken. He further contended that as per Clause 107(C) of Post Office Guide Part II, the delivery of foreign letters/parcels in the country of destination is governed by the internal regulations of that country. The registered letter sent by the complainant was not insured and the liability of the Postal

Department is only to the extent of refund of charges and fees paid at the time of booking of the article by the complainant. The responsibility of the Indian Postal Department was discharged as soon as Chennai Air Foreign/II duly sent the registered letter on 1.4.2005 and submitted that there is no deficiency of service on their behalf.

7. The facts not in dispute are that the complainant sent a registered letter from one of the Post Office of the second opposite party for serving on the complainants son who was studying in United Kingdom. The complainant had booked a registered letter on 28.3.2005 and lodged a complaint with the first opposite party on 12.4.2005 since the letter did not reach its destination. It is the complainants case that the said registered letter contained a demand draft for Rs. 1,99,053 for his sons fees to be paid at United Kingdom and because of non-delivery of the said registered letter, the complainants son had to undergo lot of tension and mental agony. The complainant also had to furnish two sureties of customers, who had accounts with S.B.I. and also had to submit an indemnity letter as per the bank instructions. It is the complainants case that he incurred Rs. 2,855 towards charges for bankers draft and also the exchange charges and Rs. 800 towards P and T charges. On 17.5.2005 a foreign currency draft was issued and he sent to the drawer bank at London by wire transfer to enable his son to pay the required fees on time. The contention of the opposite parties that the complaint is bad for non-joinder of United Kingdom Post Authorities is unsustainable on the ground that the complainant had booked a registered letter with the opposite parties and paid the money to them and any link whatsoever which the opposite parties have with the United Kingdom Postal Services is of no concern to the complainant. It is opposite parties, who promised delivery of the said registered cover within a specified period of time and it is they who should shoulder the responsibility to see that the registered cover reaches the destination as per the time promised by them. In the instant case when the D.D. was sent on 28.3.2005 and even after the complainant made repeated inquiries about the non-delivery of the cover, even on 12.5.2005 and 15.4.2005 there was no information. The contention of the opposite parties that they are not liable for deficiency of service on behalf of the United Kingdom Postal Authorities is unsustainable since there is no privity of contract between the complainant the United Kingdom Postal

Authorities and the nexus is only between the appellant/opposite parties and the Postal Department of United Kingdom and the complainant cannot be made to suffer.

8. The learned Counsel for the appellant also relied on the decision of the National Commission reported in I (2000) CPJ 28 (NC) in which the National Commission held that the Postal Authorities are exempted from liability for loss, mis-delivery, delay or damage.

9. The National Commission in a judgment reported in Landmark Judgments on Consumer Protection by Honble Justice D.P. Wadhwa in Post Master, Ranipet Ho and Anr. v. Shri N.B. Janakiraman, it was held that:

We have to see from a consumer point of view as to what is wilful or default when interpreting a particular provision. A telegraphic money order was meant for his son, who was studying at a far of place and no circumstance has been brought on record by the Postal Authorities to show that there has not been any wilful or default on the part of any of its officers.

The facts in the instant case are similar in the sense that here also a father had sent a D.D. to his son in United Kingdom for an amount of Rs. 1,99,053 to pay for his sons education and the non-receipt of that by the son, on time, led to lot of mental agony. The complainant had to run from pillar to post in making alternate arrangements. The Postal Department cannot take umbrage of Section 6 of Indian Post Offices Act, 1898 that they are not liable to pay compensation unless the article is lost due to the wilful default or negligence of any of its officers.

10. Therefore, we do not see any reason to interfere with the well considered order of the District Forum with respect to its finding about the deficiency of service of the appellants/opposite parties. However, with regard to awarding of compensation of Rs. 35,000, we are of the considered view that it is on the high side and we reduce it to Rs. 25,000 while confirming the other aspects of the order of the District Forum.

11. In the result, this appeal is allowed in part and the order of the District Forum is modified by reducing the compensation to Rs. 25,000 from Rs. 35,000 while confirming the other aspects of the order of the District Forum. Time for compliance four weeks.

Appeal partly allowed.

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