

**STATE CONSUMER DISPUTES REDRESSAL COMMISSION,
MAHARASHTRA, MUMBAI**

Appeal No.A/18/358

**(Arisen out of order dated 13/11/2017 passed in complaint No.RBT/CC/12/183
of District Commission Additional Mumbai Suburban)**

DHL EXPRESS I PVT. LTD.,
7th Floor, HDIL Towers,
A.K. Marg, Bandra East,
Mumbai 400 051.

Now having their office at:
DHL EXPRESS (I) PVT. LTD.,
8th Floor, Silver Utopia,
Cardinal Gracias Road,
Chakala, Andheri East,
Mumbai 400 099.

..... Appellant(s)

Versus

VINOD RAO,
Residing at 8/125, Sardar Nagar No.4,
Sion Koliwada, Mumbai 400 037.

.....Respondent(s)

BEFORE:

**Justice S.P. Tavade - President
A.Z. Khwaja – Judicial Member**

For the Appellant: Advocate Bhuptani

For the Respondent: In person.

ORDER
(11/05/2023)

Per Hon'ble Justice S.P. Tavade – President:

- 1) Being aggrieved and dissatisfied with the judgment and order passed in Consumer Complaint No.RBT/CC/12/183 dated 13/11/2017 by

the District Consumer Disputes Redressal Commission, Additional Mumbai Suburban, the original opponent has preferred this appeal.

(The parties to this appeal shall be called and referred as per their status in original complaint).

- 2) Facts giving rise to prefer the present appeal can be summarised as under:

The Respondent/complainant had purchased I-phone of Rs.45,000/- for his friend who was residing at Mahe, Seychelles. The complainant wanted to send said I-phone to his friend at Seychelles. Hence, he approached the opponent. The opponent undertook to send the parcel of I-phone to Mahe, Seychelles. The opponent weighed the parcel and levied charges of Rs.3,915/- which complainant paid. Accordingly on 14/12/2010 complainant handed over packet of I-phone to opponent for dispatching it to Mahe, Seychelles on payment of Rs.3,915/-. It was assured by the opponent that the parcel would reach to Mahe, Seychelles on or before 25/12/2010, but, it was not reached to the destination. The complainant got information from his friend that he did not receive the parcel. Hence, the complainant made enquiry with the officials of the opponent. They took time for confirmation about the delivery. Ultimately the officers of opponent told that the parcel was lost in transit and they offered US\$ 100 plus shipment charges of Rs.3,915/- to the complainant, but, complainant denied the same. The complainant demanded price of the I-phone plus charges and compensation, but, the opponent denied the same. Hence, complaint came to be filed against the opponent.

- 3) Opponent appeared in the complaint and filed written version. The allegations made in the complaint were denied, but, it is admitted that the complainant had given I-phone to the opponent for delivering it to Mahe, Seychelles. It was denied that the cost of I-phone was Rs.45,000/-. It was contended that on the Airway Bill the price of I-phone was stated to be Rs.9,000/-. Hence, the opponent had agreed to pay Rs.17,145/- towards full and final settlement of the claim, but it was refused by the complainant. It was contended that the complainant did not opt for insurance. Similarly, he did not produce any document regarding the exact price of the I-phone. It was, therefore, contended that the claim is false and bogus and prayed that the complaint be dismissed.
- 4) The complainant and the opponent had filed their evidence as well as written notes of arguments.
- 5) On going through the evidence on record the District Commission allowed the complaint and directed the opponent to pay Rs.25,000/- towards compensation on account of mental agony and also Rs.8,000/- towards costs of litigation. The said order is challenged by the opponent.
- 6) Heard Advocate for the appellant/opponent and Respondent/complainant in person.
- 7) It is admitted fact that on 14/12/2010 the complainant handed over I-phone to the opponent for delivering it to Mahe, Seychelles. The opponent charged Rs.3,915/- towards delivery charges. The complainant paid the said charges. Accordingly, I-phone was

handed over to the opponent on 14/10/2012. It appears that the opponent had assured that the I-phone would be delivered to the destination on or before 25/10/2010. It is admitted fact that I-phone did not reach the destination. The opponent did not give any explanation as to what had happened to the consignment of the I-phone.

- 8) It is contended on behalf of the opponent that the complainant had given price of the I-phone as Rs.9,000/- in the voucher. The said voucher is produced on record, wherein it is mentioned that the consignment was carrying I-phone which was worth Rs.9,000/- INR. The said consignment was to be delivered at Mahe, Seychelles. So, it can be said that though the complainant had alleged that the cost of the I-phone was Rs.45,000/- but nothing is produced on record to establish that the price of the I-phone was Rs.45,000/-. In fact, in the consignment receipt the complainant himself has declared the value of the I-phone for customs Rs.9,000/-. So, it can be said that the claim of the complainant can be restricted to Rs.9,000/-. Admittedly, no insurance was taken by the complainant, but it was duty of the opponent to compensate the complainant towards the declared price of the I-phone. As the complainant failed to deliver the I-phone to its destination the opponent can be held guilty for deficiency in service.
- 9) Admittedly, the complainant had declared price of the I-phone at Rs.9,000/-. He paid Rs.3,915/- towards freight charges. Therefore, the complainant is entitled to Rs.9,000/- plus freight charges of Rs.3,915/- from the opponent.

10) The incident had taken place in the year 2010. The complainant had to run from pillar to post for about two years to get the compensation, but, the opponent did not pay the same. Therefore, the complainant is entitled for compensation and the costs of litigation. The District Forum has awarded the amount of Rs.25,000/- towards loss of article and mental agony to the complainant with interest @ 9% per annum from the date of filing of the complaint till payment and costs of Rs.8,000/-, which we find just and reasonable. Therefore, we do not find any merit in the appeal to disturb the findings and the final order passed by the District commission. Hence, we proceed to pass the following order:

ORDER

- (i) Appeal is hereby dismissed with costs of Rs.3,000/- to be paid by the Appellant to the Respondent/Complainant.
- (ii) Copies of the order be furnished to the parties.

Pronounced on 11th May, 2023.

**[Justice S.P. Tavade]
President**

**[A.Z. Khwaja]
Judicial Member**

emp