

Date of Filing: 16.11.2022

Date of Order: 08.08.2023

BEFORE THE DISTRICT CONSUMER DISPUTES REDRESSAL
COMMISSION – II, HYDERABAD

P r e s e n t

SRI VAKKANTI NARASIMHA RAO ... PRESIDENT
SRI P.V.T.R JAWAHAR BABU ... MEMBER
SMT. MADHAVI SASANAKOTA ... MEMBER

Tuesday, the 8th day of August, 2023

Consumer Case No.728/2022

BETWEEN:

Sri Vishwanath Tiwari, S/o A.N. Tiwari, and Aged about 54 years,
Occ: Service, correspondence address: Flat No.407, Legend Arora
Habitat, S.D.Road, Secunderabad... Telangana 500003, Mobile &
whats app No.7042342346 Email id: vishytiwari@yahoo.com

Present Address:

Sri Vishwanath Tiwari, Tower A-3, Flat 1701, Cleo Country,
Sector 121 and Noida 201 301 Mobile No 9059901186

...Complainant

AND

DRS Dilip Roadlines Ltd. Brand of: Agarwal Packers & Movers
Regd. Office: 306, 3rd Floor, Kabra Complex, 61 M.G.Road,
Secunderabad, Telangana 500003

Represented by its Directors

- 1) Anjani Kumar Agarwal
- 2) Sanjay Agarwal
- 3) Sugan Chand Sharma

...Opposite Party

This complaint is coming before us on this the 04th day of July,
2023 in the presence of Learned Counsel M/s. Cosmic Lawyer
Associates, Advocate, appearing for the complainant and opposite
party called absent and set ex-parte and on perusal of material
papers available on record, having stood over for consideration till
this day, the Commission passed the following:

O R D E R

(BY SMT MADHAVI SASANAKOTA, HON'BLE MEMBER

ON BEHALF OF THE BENCH)

This complaint is filed on 16th November, 2022 by the complainant
under Section 35 of Consumer Protection Act, 2019 with a prayer
to direct the opposite party to:

1. Provide the compensation for damaged goods to an amount of Rs.10,00,000/- (Rupees Ten Lakhs Only) together with costs and interest @ 12% p.a. from the date of claim on 23.09.2021 to till the completion of the case.
2. Pay a sum of Rs.5,00,000/- (Rupees Five Lakhs Only) towards damages and for mental agony sustained by the Complainant and her family to undergo mental agony,
3. Award costs of this Complaint, and
4. Pass such other relief or reliefs as this Hon'ble Commission deems fit and proper in the interest of justice.

BRIEF FACTS OF THE COMPLAINT:

1. Complainant had approached the opposite party for shifting of his household belongings from Hyderabad to his new residence at Noida, Uttar Pradesh. The opposite party had agreed for packaging, transportation, storage, and delivery of personal belongings and charged Rs.80,500/- including 3% insurance charges and charged Rs.3,000/- per month for storage of the personal belongings in opposite party warehouse from May 2021 to mid-September 2021. Opposite party has estimated the value of the personal belongings as more than Rs.10,00,000/- (Rupees Ten Lakhs only) and agreed to deliver the personal belongings as per the complainant requirements.
2. It is submitted that the complainant's personal belongings were packed by the opposite party on 9th April 2021 and started on 10th April 2021 from Hyderabad to Noida vide GC No.4751346 & M.R. No.4771680. The Complainant in all sincerity and in all reliance on opposite party services and in good faith, had permitted for packing and dispatch of goods worth more than Rs 10,00,000/- (Rupees Ten Lakhs only) that includes 3% transit insurance.
3. It is submitted that the complainant requested for delivery of the Goods, after paying the applicable storage charges of Rs.12,000/- (Rupees Twelve Thousand only) on 31st August, 2021 Rs.1,600/- (Rupees One Thousand Six Hundred only) on 16th September, 2021. To the utter shock of the Complainant, most of the items were partially or fully damaged and were not in usable

condition. The complainant had lodged a complaint on WhatsApp number provided by the opposite party and the opposite party agreed to send their surveyor on 18.9.2021 and surveyor had identified the damages of only those items which were completely damaged.

4. It is submitted that on 23.09.2021 the complainant had received the email from the opposite party and as per the email the opposite party offered to settle the value of damages for an amount of Rs.8,000/- which is not even the cost of single item among the total items that were got damaged by the opposite party and as per the real cost of items below mentioned.

S. No.	Descriptions items	Cost of items
1	Show rack	1,87,000/-
2	Mattress-5	1,00,000/-
3	Dining Table and chair-8	1,60,000/-
4	Refrigerator	85,000/-
5	Sofa set	80,000/-
6	Central table drawing	23,000/-
7	Chairs 2	10,000/-
8	Marble flower port	32,000/-
9	King Size Bed	75,000/-
10	Microwave	38,000/-
11	Drawing table glass	35,000/-
12	Crockery bonces not open	92,000/-
13	Bar unit	83,000/-
	Total damaged	10,00,000/-

II. WRITTEN VERSION OF THE OPPOSITE PARTY :

Despite service of notice, Opposite Party failed to appear before the commission. Hence, Opposite party is Set ex-parte.

III. Evidence Affidavit of the complainant is filed by reiterating the contentions as PW-1. Ex.A1 to Ex.A9 were marked for the complainant. Opposite Party failed to appear and hence, set ex-

parte. Complainant filed a memo requesting to treat his Evidence affidavit as Written arguments.

IV. On perusal of material available on record the points to be answered for determination are:

1. Whether any deficiency of service is there on the part of the opposite parties as claimed under the complaint?
2. Whether the complainant is entitled for the relief sought?
3. To what relief?

POINT NO.1 & 2:

1. Complainant had approached the opposite party for shifting of his household belongings from Hyderabad to his new residence at Noida, Uttar Pradesh and the opposite party had agreed for packaging, transportation, storage, and delivery of personal belongings by charging Rs.80,500/- including 3% insurance charges along with storage charge of Rs.3,000/- per month from May 2021 to mid-September 2021. Opposite party has estimated the value of the Complainant's personal belongings as Rs.3,00,000/- (Rupees Three Lakhs only) which is endorsed in Consigner Copy also and entered Insurance contract vide Special Contract Form dated 09.04.2021 (Ex.A1) by charging Rs.9,000/- (Rupees Nine thousand only) premium @ 3% (inclusive of service charges) on the written value of Rs.3,00,000/- opting for Clause B: At Carrier Risk for All Risk which states *"Covers comprehensive and claim will be settled by carrier under your regular arrangement. The premium @ 3% (inclusive of service charges). While no separate receipt/policy from insurance company will be given as claim. If any will be settled by carrier."*
2. The consignment reached the destination and the goods were delivered at Complainant's place in the due course. From the exhibits in A3 Pg.4-9, it is evident that the household belongings of the complainant got severely damaged in transit. Subsequently, the surveyor appointed by the

opposite party has submitted Survey Report on 18.09.2021 (Ex.A4) with details of 12 items that got damaged in the transit and most of the items in the said list are matching with those that the complainant has mentioned on the Consignment receipt on 17.09.2021 (Ex.A2) as damaged, proving the damage of multiple items while transporting them from Hyderabad to Noida.

3. The Opposite party through email dated 23.09.2021 (Ex.A5) offered Rs.8,000/- to the complainant towards Full & Final settlement vide GC No.4751346 which is not at all in equation with the value of the household items that got damaged. However, with the said offer and through their WhatsApp conversation with complainant (Ex.A6 pg14) the opposite party admitted that there is damage of household items of complainant that they have transported from Hyderabad to Noida. This negligent act of the opposite party is nothing but deficiency in service as the complainant has paid a consolidated amount of Rs.80,500/- towards safe and careful transportation of his household articles.
4. As there are no documents placed on record by the complainant to verify the date of purchase and actual value of the goods that got damaged in order to assess the present value of the same, 40% of the stated value is taken into consideration deducting 60% as depreciation. Moreover, as the consignment is covered under insurance (Ex.A1) where the carrier has taken the responsibility of settling the issues, if any, the opposite party is liable to pay the said insured value of the goods.
5. With the given observations, we are of considered opinion that the opposite party failed to protect the household belongings of the complainant booked for transportation with a substantial charge of Rs.80,500/- towards freight charges along with insurance and committed severe deficiency in service. Hence, Point no. 1 & 2 are answered in favour of the complainant.

POINT NO.3:

In the result, the complaint is allowed in part directing the opposite party to pay

1. Rs.3,00,000/- (Rupees Three Lakhs only) towards insurance coverage
 2. Rs.4,00,000/- (Rupees Four Lakhs only) towards compensation for damaged goods, less depreciation and
 3. Rs.5,000/- (Rupees Five thousand only) towards costs.
 4. In case of non-compliance, interest @ 8% p.a. will be charged on compensation amount from the date of this order till realisation.
 5. Rest of the claims made by the complainant are dismissed.
 6. Time for compliance is 45 days from the date of receipt of this order.
- Applications pending if any, stand disposed of in terms of the aforesaid order.
 - A copy of this judgment be provided to all parties free of cost as mandated by the Consumer Protection Act, 2019.
 - The judgment be uploaded forthwith on the website of this commission for the perusal of the parties.
 - File be consigned to record room along with copy of this judgment.

Dictated to Stenographer, typed by her, corrected and pronounced by us in the open Commission today the 8th day of August, 2023.

MEMBER

MEMBER

PRESIDENT

APPENDIX OF EVIDENCEWitnesses examined for Complainant:-

Sri. Vishwanath Tiwari (PW1)

Witnesses examined for Opposite party:-

Set ex-parte

Exhibits marked on behalf of the Complainant:-

Ex.A1: is the copy of Special Contract Form dated: 09.04.2021.

Ex.A2: is the copy of Copy of Report of Damaged goods, dated:
17.09.2021.

Ex.A3: is the copy of Photo picture of Damaged goods, dated:
17.09.2021.

Ex.A4: is the copy of Survey report of opposite party, dated
18.09.2021.

Ex.A5: is the copy of Email communication about damaged of
goods, dated: 23.09.2021.

Ex.A6: is the copy of Whatsup chat between complainant &
Opposite Party, dated: 25.09.2021.

Ex.A7: is the copy of Legal notice to the Opposite Party, dated:
25.02.2022.

Ex.A8: is the copy of dispatch of legal notice.

Ex.A9: is the copy of Aadhar card, dated: 25.03.2022.

Exhibits marked on behalf of the Opposite party:-

--Nil--

MEMBER

MEMBER

PRESIDENT