

# The courier company will have to pay compensation if the item is damaged | रसरंग में आपके अधिकार: वस्तु के खराब होने पर कुरियर कंपनी को देना होगा मुआवजा

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## Your rights in Rasrang: The courier company will have to pay compensation if the item is damaged

Gaurav Pathak 12 days ago



Recently, many people exchanged gifts on the occasion of Diwali. Since most friends and family reside in different cities, a large part of the exchange of gifts happened through courier companies. However, what happens if a courier company fails to deliver your parcel on time or loses it completely? Let us know what rights consumers have against such service providers and see how the relevant laws work.

**When is a case of deficiency in service?** Non-delivery or delay in delivery of a parcel is considered a case of deficiency in service on the part of the concerned courier company. Accordingly, it falls under the definition of deficiency in service under Section 2(11) of the

Consumer Protection Act, 2019. Consequently, any consumer who has suffered deficiency in service can file a complaint and seek refund and compensation as per Section 2(6)(iii) of the Act.

**To understand what happens when goods are damaged**, let us take the case of Prabha Shah, a reputed painter. Prabha Shah sent her painting from India to the United Kingdom. However, when it reached the buyer in the United Kingdom, it was in a damaged condition. Prabha filed a claim before the consumer forum. Under this, she claimed Rs 50,000 for the price of the painting, Rs 6,000 as courier charges and Rs 40,000 as compensation for mental agony. However, the condition on the receipt issued by the courier company read, "The liability of the courier company/franchisee in case of loss, theft, damage, mishandling and/or misuse of the booked goods shall not exceed an amount equal to four times the courier charges paid to it."

In this case, the Delhi State Commission held that "if the terms of the courier company's liability are in very small and fine print, they will not be binding on the other party." However, Prabha failed to produce any proof of the price of her painting. Therefore, in the absence of such proof, the Commission ruled that the courier company should pay damages up to four times the courier charges. Accordingly, the Commission ordered the courier company to pay a sum of Rs 24,000 as per the terms mentioned on the receipt. It also ordered an additional compensation of Rs 30,000 for mental agony.

**What is the responsibility of the courier company?** If there is no prior agreement between the consumer and the courier agency, the consumer cannot generally demand compensation equivalent to the cost of the goods or items, especially when the courier agency is not informed about the price of the item. In the case of Shrinath Travel Agency vs Ved Prakash Mishra, the Delhi State Commission said that the purpose of consumer law is not to put the courier company in an 'extremely disadvantageous and unfair position and to present the consumer as exploitative. This is neither prudent nor a fair or logical interpretation of the purpose of the law.' Similarly, courier companies should not leave the space for the description of the item blank in the courier receipt issued to the consumer. In the case of Traken vs Surgitech, the National Consumer Commission said that the consumer should clearly disclose the items and their price to the courier company. Only then will the consumer's claim be clearly made. ----- (The author is also the Secretary of CASC.)

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