

**STATE CONSUMER DISPUTES REDRESSAL COMMISSION,  
PUNJAB, CHANDIGARH**

**1)**

**Misc. Application No.397 of 2021  
In/and  
First Appeal No.94 of 2021**

**Date of Institution : 30.03.2021**

**Date of Reserve : 17.05.2022**

**Date of Decision : 13.06.2022**

Chief Executive Officer, Corporate Office, Indigo Airlines, Level-I,  
Tower-C, Global Business Park, Mehrauli-Gurgaon Road,  
Gurgaon-122002 (Haryana)

.....Appellant/Opposite Party

**Versus**

Nirmal Kumar Bhalla, S/o Sh.Ram Sarup Bhalla, R/o House  
No.1084, Urban Estate, Phase-2, Patiala.

.....Respondent/Complainant

**2)**

**First Appeal No.279 of 2021**

**Date of Institution : 11.08.2021**

**Date of Reserve : 17.05.2022**

**Date of Decision : 13.06.2022**

Nirmal Kumar Bhalla, 67 years, S/o Sh.Ram Sarup Bhalla, r/o  
H.No.1084, Urban Estate, Phase-2, Patiala.

.....Appellant/Complainant

**Versus**

Chief Executive Officer, Corporate Office, Indigo Airlines, Level 1,  
Tower C, Global Business Park, Mehrauli-Gurgaon Road, -122002  
(Haryana)

.....Respondent/Opposite party

**First Appeals under Section 41 of the Consumer Protection Act, 2019 against the order dated 10.02.2021 of the District Consumer Disputes Redressal Commission, Patiala.**

**Quorum:-**

**Hon'ble Mrs. Justice Daya Chaudhary, President**

**Mr.Rajinder Kumar Goyal, Member**

**Mrs.Urvashi Agnihotri, Member**

**Present (FA No.94 of 2021):-**

**For the appellant : Sh.Amandeep Singh, Advocate**

**For the respondent : Sh.Sukhandeep Singh, Advocate**

**RAJINDER KUMAR GOYAL, MEMBER**

This order will dispose of two cross appeals, which have been preferred against the same order dated 10.02.2021 passed in C.C No.124 of 2018 by District Consumer Disputes Redressal Forum, (now 'Commission'), Patiala (in short, "the District Commission"), whereby the complaint filed by the complainant, under Section 12 of the Consumer Protection Act, 1986 (in short 'the Act'), was partly allowed and the opposite party was directed to pay Rs.25,000/- as compensation to the complainant for causing harassment and mental agony along with Rs.10,000/- as litigation expenses.

2. Facts are taken from F.A. No.94 of 2021. It would be apposite to mention that hereinafter the parties will be referred, as have been arrayed before the District Commission.

**M.A. No.397 of 2021 (For Addl. Documents)**

3. This application has been filed by the appellant/opposite party for placing on record the screenshots of the official record of the appellant maintained in the ordinary course of business as Annexure A-5 and A-7.

4. For the reasons stated therein, the application is allowed and the documents placed along with the application are taken on the record.

**Main Case**

5. As per averments made in the complaint, the complainant booked an online ticket from Patiala on 15.11.2017 with Indigo Airlines for travelling from Delhi to Kochi (Kerala). The Flight No.6E 315 was to take off on 10.02.2018 from Delhi at 0535 hours and from Kochi to Delhi, flight No.6E 369 was to take off on 15.02.2018 at 1200 hours- via Bengaluru reaching Delhi at 19:35 hours, vide PNR No.PFNMJQ. The complainant boarded the Flight No.6E 315 on 10.02.2018 at 0535 hours and reached Kochi. On 12.02.2018, while the complainant was at Kochi, came to know from some other person that the flight No.6E 369 for Delhi had been cancelled by the Airlines from Bangalore to Delhi. No intimation was given by the opposite party-airlines about the cancellation of flight from Bangalore to Delhi onwards. The complainant immediately contacted the airlines on the given numbers and enquired about the cancellation and came to know that the flight had been cancelled from Bangalore to Delhi. The complainant paid a sum of Rs.8,098/- to the opposite party through Credit Card on 05.11.2017

i.e. more than three months prior to the flight. Due to sudden cancellation of flight, the complainant had to face a lot of inconvenience and difficulties in making alternate arrangements for reaching to Delhi through other means of transport and also missed some important appointments and also suffered monetary loss and got mentally and physically harassment. A notice was served upon the opposite party on 05.03.2018 by claiming compensation of Rs.10,00,000/- for causing mental agony and physical harassment, health problems and loss of business due to the deficiency in service on its part but the opposite party did not responded. This act and conduct of the opposite party amounted deficiency in service and unfair trade practice. Accordingly, the complainant filed the complaint before the District Commission by seeking the following reliefs against the opposite party:

- i) to pay Rs.10,00,000/- as compensation for inconvenience, mental agony and harassment; and
- ii) to pay financial losses suffered by the complainant.

6. The opposite party contested the complaint by filing its reply by raising certain preliminary objections that the complaint was not maintainable in its present form as the complaint was not supported by affidavit. The complaint was bad in law for misjoinder and non-joinder of the necessary parties. The complainant has not made any direct allegations against InterGlobe Aviation Limited. It was submitted that the airline industry in India is a highly regulated

one with the Ministry of Civil Aviation at the helm of its administration operating with its other arms including the Director General of Civil Aviation, the Airports Authority of India and Airport Economic Regulatory Authority. Further submitted that the bookings made by the complainant are governed by certain terms and conditions of air travel known as the "*Indigo Conditions of Carriage- Domestic*" – the said CoC have been framed in compliance with the air carriage related laws and rules as well as in consonance with the relevant CARs issued by the DGCA from time to time. As per Articles of Indigo CoC, owing to the cancellation of his flight, the complainant had the right to choose either a refund, or re-booking on an alternate Indigo flight at no additional cost or credit for future travel. The flight from Kochi to Delhi was cancelled on account of operational reasons beyond the control of InterGlobe Aviation Limited. The said change was notified to all the passengers by InterGlobe Aviation Limited through SMS and manual calls on their respective registered mobile numbers provided to InterGlobe Aviation Limited at the time of making the booking. A call was made to the complainant, which he did not reply and another call was failed due to some other error. The opposite party took all the necessary and reasonable measures to inform the complainant about the cancellation of the flight. On 12.02.2018, the complainant called call centre of InterGlobe Aviation Limited, the executive informed to the complainant that the Indigo Flight has been cancelled. On this call, the complainant voluntarily opted for a refund of the ticket amount of his booking in

the cancelled Indigo Flight. The said fact was not disclosed by the complainant in his complaint. The complainant had failed to prove any deficiency in service on the part of the opposite party. On merits, all the contentions have been reiterated as detailed in preliminary objections. Rest all the averments as averred by the complainant in his complaint were denied and prayed for dismissal of the complaint with exemplary costs as there is no deficiency in service committed on the part of the opposite party.

7. The parties produced evidence in support of their respective averments before the District Commission, which after going through the same and on hearing learned counsel appearing on their behalf passed the order whereby the complaint filed by the complainant was partly allowed against the opposite party as above.

8. Aggrieved by the impugned order dated 10.02.2021 passed by the District Commission, the appellant/opposite party has filed the present appeal, by raising various arguments.

9. Sh.Amandeep Singh, Advocate, learned counsel for the appellant argued the case at length stating that the District Commission has committed a grave error and illegality by misreading the contents of documents submitted by the appellant as Annexure D, E & F, which has established that the respondent/complainant on 12.02.2018 himself called the Customer Care Centre and willingly and voluntarily requested for the refund of the fare amount applicable to the return journey on

board Indigo Flight No.6E-3988. The District Commission has also overlooked the admitted fact that on the cancellation of flight under question, SMS was sent and calls were made to the respondent. Moreover, it also ignored the statutory prescription with regard to flight cancellation and its consequence provided under the applicable CAR. Under para 1.5 of the applicable CAR, the airlines are exempted from the claim of compensation in case flight is cancelled for any cause beyond the control of the airlines which affects the ability to operate flights on schedule. The appellant could not operate the Indigo Flight No.6E-3988 on 15.02.2018 due to operational reasons beyond its control on the schedule and this fact was not only brought to the attention of the respondent through SMS and calls but also during the conversation, when he called on two occasions on 12.02.2018. The District Commission did not consider the material aspects of Applicable CAR at all in its impugned order. It was also failed to appreciate the admitted fact that once the option of refund was chosen and consequent refund was accepted then no cause of action survived against the appellant. It is not the case of the respondents that InterGlobe Aviation Limited had failed to provide its services rather; the complainant is seeking arbitrary damages without so much proving any of the alleged damages. There is no deficiency in service or unfair trade practice committed by the appellant/opposite party. Finally, it is prayed to allow the appeal and set aside the impugned order.

10. Respondent/complainant has also challenged the impugned order by way of his First Appeal No. 279 of 2021 and Sh. Sukhandeep Singh, Advocate, learned counsel for him argued that the District Commission has ignored the vital fact while granting relief to the complainant that the opposite party has given no details of the refund amount for the cancelled ticket and rather refunded only Rs.3,334/- on its own whims and fancies. After cancellation of the flight, the Indigo was duty bound to board the passenger to some other flight from Bangalore to Delhi on their own expenses but this was not done by the opposite party. The compensation granted by the District Commission is on lower side since due to cancellation of the flight, in question, the complainant had to suffer immense mental and physical harassment as the opposite party had made no alternate arrangement for return journey and no compensation was also offered for the return journey. Finally prayed that the appeal filed by the appellant/opposite party be dismissed and the order of the District Commission be modified and compensation be enhanced.

11. Heard arguments of Ld. Counsel for the parties. We have also carefully perused the impugned order passed by the District Commission, written arguments submitted on behalf of the parties and other documents available on the file.

12. Brief facts of the case as per the documents on record are that the respondent/complainant on 05.11.2017 booked a return flight ticket with the appellant/opposite party in flight No.6E 315 dated 10.02.2018 from Delhi to Kochi leaving Delhi at 0535 hrs &



6E 369 dated 15.02.2018 from Kochi to Bangalore and flight No.6E 3988 Bangalore to New Delhi, vide PNR No.PFNMJQ, Ex.C-3 and paid Rs.8,098/-. On 12.02.2018 while being at Kochi, the respondent/complainant came to know from other person staying in the same hotel where the respondent/complainant was lodged that flight No.6E-3988 from Bangalore to Delhi had been cancelled. The complainant averred in his complaint that he contacted Airline on Phone No.092127-83838 and cancellation of flight was confirmed but no reason of cancellation was stated. Due to the cancellation of flight, the respondent/complainant had to face lot of inconvenience in making alternate arrangements for reaching Delhi and missed some business opportunities resulting loss to the respondent/complainant.

13. Now the issue is to decide as to whether the appellant/opposite party was deficient in service or not?

14. As per DGCA Circular dated 06.08.2010 (Annexure A-9) placed in appeal, regarding facilities to be provided to the passengers by Airlines due to denied boarding, cancellation of flights and delays in flights. Para 3.3.1 of the said Circular states as under:

***“3.3 Cancellation of Flight***

*3.3.1 In order to reduce inconvenience caused to the passengers as a result of the cancellations of the flights on which they are booked to travel, airline shall inform the passenger of the cancellation at least two weeks before the scheduled time of departure and*

*arrange alternate flight/ refund as acceptable to the passenger. In case of passengers are informed of the cancellation less than two weeks before and upto 24 hours of the scheduled time of departure, the airline shall offer alternate flight allowing them to depart within two hours of their booked scheduled time of departure or refund the ticket, as acceptable to the passenger.”*

15. In the instant case, the connecting flight No.6E-3988 from Bangalore to Delhi was cancelled by the appellant/opposite party, however, there is no evidence that any SMS to this effect was sent to the respondent/complainant intimating the cancellation of flight. When the respondent/complainant called the Call Centre of the appellant/opposite party on 12.02.2018, he was informed of cancellation of flight and was also given option to choose an alternative flight and seek refund of booking amount of cancelled sector. The respondent/complainant opted for refund and the appellant/opposite party refunded an amount of Rs.3,334/- being the total fare for the cancelled sector (Kochi to Delhi via Bangaluru) on 13.02.2018.

16. In view of the above, there is deficiency in service on the part of the appellant/opposite party for not informing the cancellation of flight along with details of alternate flights through SMS on mobile phone of respondent/complainant as calls to the said phone were unattended as alleged by the appellant/opposite

party. The appellant/opposite party received a sum of Rs.8,098/- for the entire journey and refunded only Rs.3,334/- without any calculations for the return journey, which is not justified as it must not be less than 50% of the amount paid as return journey had two flights i.e. flight No.6E-369 from Kochi to Bangaluru and flight No.6E 3988 from Bangaluru to Delhi.

17. The District Commission has rightly held that the appellant/opposite party is deficient in rendering the service. The order passed by the District Commission is a well reasoned and justified order and there is no need of interference in it.

18. Sequel to the above discussions, **the appeal filed by the appellant/opposite party is hereby dismissed being devoid of merits and the order of the District Commission is upheld.**

19. The appellant/opposite party had deposited a sum of Rs.17,500/- at the time of filing of the appeal. It deposited another sum of Rs.17,500/- in compliance of the order dated 28.07.2021 passed by this Commission. Both these sums, along with interest which has accrued thereon, if any, shall be remitted by the Registry of this Commission to the District Commission, after the expiry of 45 days of the sending of certified copy of the order to them. The concerned party may approach the District Commission for the release of the above amount to the extent of his/its entitlement and the District Commission may pass the appropriate order in this regard, in accordance with law.

**First Appeal No.279 of 2021**

20. This appeal has been filed by the appellant/complainant for modifying the order dated 10.02.2021 passed by the District Commission with the prayer to enhance the compensation amount.

21. From the perusal of the record before us, the complainant alleged that due to cancellation of flight, the complainant had to face lot of inconvenience and difficulties in making alternate arrangements for reaching Delhi through other means of transport and missed some important appointments and suffered business monetary loss and got mentally and physically harassment.

22. The District Commission has rightly observed that the appellant/complainant has not placed any evidence that he lost business of Rs.2,20,000/-, so the complainant is not entitled to any amount due to loss of business. Also, the appellant/complainant has not disclosed the mode of return journey from Kochi to New Delhi after the cancellation of flight from Kochi to Delhi via Bangaluru on 15.02.2018 to assess the financial loss suffered on account of arranging new mode of journey.

23. In the absence of such evidences, it would not be possible to adjudge as to whether the complainant actually faced the monetary loss or faced other difficulties. The District Commission has awarded a reasonable compensation to the appellant/complainant. There is no reason/justification to enhance the same.

24. We are of the view that there is no necessity/justification to modify the order passed by the District Commission. **Accordingly,**

**the appeal filed by the appellant/complainant is dismissed and the order of the District Commission is upheld.**

25. The appeal could not be decided within the statutory period due to heavy pendency of court cases.

**(JUSTICE DAYA CHAUDHARY)  
PRESIDENT**

**(RAJINDER KUMAR GOYAL)  
MEMBER**

**(URVASHI AGNIHOTRI)  
MEMBER**

**June 13, 2022**

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