

BEFORE THE DISTRICT CONSUMER DISPUTES REDRESSAL
COMMISSION, PATHANKOT.

Old Complaint No: 139 of 2022.

New Complaint No: DC/662/RBT/CC/126 of 2023.

Date of Institution: 08.07.2022.

Date of order: 30.06.2026.

1. Kalu Ram Son of Sh. Sunda Ram, Resident of Darbarpur, Ajerka, Alwar, Rajasthan – 301401, at present residing at House No. A13/2, GREF Station Pathankot, Tehsil and District Pathankot, Punjab, Pin Code – 145001.
2. Suman Yadav Wife of Kalu Ram Son of Sh. Sunda Ram, Resident of Darbarpur, Ajerka, Alwar, Rajasthan – 301401, at present residing at House No. A13/2, GREF Station Pathankot, Tehsil and District Pathankot, Punjab, Pin Code – 145001.

.... Complainants.

VERSUS

1. General Manager, Northern Railway, Baroda House, New Delhi, Pin Code – 110001.
2. Station Master / Manager, Northern Railway, Pandit Deen Dayal Upadhyay Railway Station, Pin Code – 232101.
3. Station Master / Manager, Northern Railway Station Kanpur, Uttar Pradesh, Pin Code – 208004.
4. Station Superintendent / Station Master / Manager, Railway Station Pathankot, Pin Code – 145001.

.... Opposite Parties.

Complaint Under Section 35 of The Consumer Protection Act.

Present: None for the Complainants.
None for the Opposite Parties.

Quorum: Sh. Kulwinder Singh Pannu, President.
Sh. Raj Kumar Shukla, Member.

ORDER

Raj Kumar Shukla, Member.

1. Kalu Ram and Suman Yadav, (here-in-after referred to as ‘complainants’) have filed this complaint under Section 35 of The Consumer Protection Act (here-in-after referred to as ‘Act’) against Northern Railway etc. (here-in-after referred to as ‘opposite parties’).

2. Briefly stated, the case of the complainants is that the complainant No. 1 is working in GREF and the complainant No. 1 is posted at Tinsukia (Assam). The complainants No. 1 and 2 along with their child got booked Three seats PNR No. 636-0887875 in Rajdhani Express Train No. 12423 for 14.12.2021 departure from Tinsukia JN to New Delhi and paid Rs.13,280/- for reservations of seats. The complainants along with their child started their journey from Tinsukia JN to New Delhi and they occupied their reserved seats Bearing No. 25, 26 and 27 in B7 3AC Coach. The complainants were carrying a hand bag / lady purse containing her gold ornaments like i.e. Mangal Sutra weighted 1.5 Tola or say 15 grams worth Rs.65,000/-, Original SBI Passbook in the name of Suman Yadav (Complainant No. 2) and some petty cash of about Rs.5,000/-.

It is further pleaded that the train was started from Tinsukia JN at about 9:35 P.M. and when it reached Pandit Deen Dayal Upadhyay Railway Station, the complainant No. 2 got up and found that her hand bag / lady purse was stolen by someone. The complainants were immediately tried to find out the coach attendant, but the coach attendant was not there and then the complainants informed one RPF employee and TTE in the coach of Train. Thereafter, on reaching New Delhi Railway Station, the complainants got registered FIR (Zero FIR) vide FIR No. 0403 dated 16.12.2021 and the same was sent to the concerned Police Station GRP Kanpur Central Police Station. It is further pleaded that the complainants made many requests to the opposite parties to find out her stolen articles, but all in vain. This act and conduct of the opposite parties, amounts to deficiency in service and trade mal practice, which caused harassment and financial loss to the complainants for which the complainants are entitled to compensation and litigation expenses besides main relief. The repudiation of the claim on part of the opposite parties also amounts to deficiency in service and is business malpractice which is very much prevalent in Railways such as yourself. It is further pleaded that the complainants have also suffered mental harassment, inconvenience and tension on account of illegal act on the part of the opposite parties, as the opposite parties have denied to pay the claim to which the complainants are legally and lawfully entitled and as such, the opposite parties are also liable to pay damages to the complainants to the tune of Rs.5 Lakhs on account of mental agony, tension, harassment and

in-convenience faced by the complainants at the hands of the opposite parties. Due to this illegal act and conduct of the opposite parties the complainants have suffered great loss and also suffered mental agony, Physical harassment and inconvenience. So, there is a clear-cut deficiency in service on the part of the opposite parties.

On this backdrop of facts, the complainants have alleged deficiency and negligence in service and unfair trade practice on the part of the opposite parties and prayed that necessary directions may kindly be issued to the opposite parties to pay Rs.70,000/- on account of stolen hand bag in which Gold Mangal Sutra worth of Rs.65,000/- and cash of Rs.5,000/- from the running train and the opposite parties No. 1, 2, 3 and 4 are also liable to pay the same along with interest @ 24% per annum and the claim damages as referred above on account of mental agony, tension, harassment and in-convenience faced by the complainants at the hands of the opposite parties No. 1, 2, 3 and 4 along with litigation expenses, in the ends of justice and pass any other order/orders which this Hon'ble Commission may deem fit in the facts and circumstances of the case.

3. Upon notice, the opposite parties No. 1, 2, 3 and 4 appeared through counsel and contested the complaint and filed their written reply, stating therein that the complainant No. 1 is working in GREF and the complainant No. 1 is posted at Tinsukia, Assam. It is admitted by the answering opposite parties that the complainant was travelling with his family in Train No. 12423 from

Tinsukia (Assam) to New Delhi on dated 14.12.2021. But it is incorrect and denied that when the wife of the complainant was got up at Pandit Deen Dayal Upadhyay, Railway Station and found that her hand bag having one Mangal Sutra weighing 1.5 Tolas and say 15 grams worth Rs.65,000/- was stolen by someone. But the answering opposite parties wants to mention here that this incident was not in the notice of on duty station master of said station. The answering opposite parties also wants to intimate that as per the order of **Hon'ble Supreme Court** dated 02.07.2013 in court case titled as **Vijay Kumar Jain V/s. Union of India and others** received through Deputy GM Law Northern Railway, Head Quarter Office, Baroda, New Delhi Letter No. NR/HQ/LIT/COMML/CDRF/GSP/11-2005 dated 29.07.2013. According to this judgment, Railway cannot be held responsible for un-booked luggage. It is further pleaded that no such complaint was lodged with SHO GRP Pandit Deen Dayal Upadhyay, Railway Station as stated by Sr. Divisional Operation Manager, East Central Railway Pandit Deen Dayal Upadhyay. Hence, there is no any kind of deficiency in service and unfair trade practice on the part of the answering opposite parties. As such, the present complaint of the complainant is liable to be dismissed with costs.

On merits, the answering opposite parties No. 1, 2, 3 and 4 have denied all the averments of the complaint and there is no deficiency in service on the part of the answering opposite parties. In the end, the answering opposite parties prayed for dismissal of complaint with costs.

4. Learned counsel for the complainants has placed on file an Affidavit of Kalu Ram and Suman Yadav, (Complainants) which is exhibited as Ex.C-1 along with other documents which are exhibited as Ex.C-2 to Ex.C-8 along with the complaint.

5. Learned counsel for the opposite parties has placed on file an Affidavit of Sh. Sudeep Singh, (Senior Divisional Commercial Manager, Northern Railway, Firozpur) along with other documents as Annexure – A and Annexure – B along with the reply.

6. Rejoinder filed by the complainants.

7. Written arguments filed by both the parties.

8. After going through the complaint along with exhibits filed by the complainants, written statement along with annexures filed by the opposite parties, rejoinder filed by the complainants and written arguments filed by the complainants and opposite parties, it transpires that the complainant No. 1 Kalu Ram travelled in a reserved 3 AC coach along with his wife namely Suman Yadav i.e. complainant No. 2 and their son in Rajdhani Express, Train No. 12423 on dated 14.12.2021 from Tinsukia JN to New Delhi. The Train departed from Tinsukia JN at about 09:35 P.M. The complainants were travelling in Coach No. B7 and their seats number were 25, 26 and 27. Copy of Railway Ticket which is exhibited as Ex.C-2. During the journey while asleep, the hand bag of the complainant No. 2 was found stolen. The hand bag was containing gold ornaments weighing 15 grams worth of Rs.65,000/- and cash Rs.5,000/-

along with Bank Passbook of Suman Yadav i.e. complainant No. 2. Copy of Mangal Sutra purchased Bill which is exhibited as Ex.C-4. The complainants immediately tried to find out the coach attendant, but the coach attendant was not there and then the complainants informed one RPF employee and TTE in the coach of the Train. Thereafter, on reaching New Delhi Railway Station, the complainants got registered FIR (Zero FIR) vide FIR No. 0403 dated 16.12.2021 and the same was sent to the concerned Police Station. Copy of the FIR (Zero FIR) which is exhibited as Ex.C-3. The complainants made many requests to the Railway Authorities, but got no relief. As such, the complainants have prayed for a relief of Rs.70,000/- on account of stolen hand bag in which Gold Mangal Sutra worth of Rs.65,000/- and cash of Rs.5,000/- from the running train along with interest and also pay litigation expenses, in the ends of justice and pass any other order/orders which this Hon'ble Commission may deem fit in the facts and circumstances of the case.

On the other hand, the opposite parties filed their written statement in which the opposite parties denied all the allegations made by the complainants in their complaint and contended that there is no information regarding the theft was in the notice of on duty station master of the said station. The opposite parties also relied on the order of the **Hon'ble Supreme Court** dated 02.07.2013 in court case titled as **Vijay Kumar Jain V/s. Union of India and others** received through Deputy GM Law Northern Railway, Head Quarter Office, Baroda, New Delhi Letter No. NR/HQ/LIT/COMML/CDRF/GSP/11-

2005 dated 29.07.2013. According to this judgment, Railway cannot be held responsible for un-booked luggage. In the written statement, the opposite parties also submitted that no such complaint was lodged with SHO GRP Pandit Deen Dayal Upadhyay, Railway Station. Copy of the same which are exhibited as Annexure - A and Annexure - B.

It is observed by this Commission that **Annexure – A** which is submitted by the opposite parties that **Info at the time of Complaint Registration (16.12.2021 at 05:27 hours)**, in **History Column** it is mentioned that **Action taken by RPF 16.12.2021 at 5:27 hours – Registered**, and in the **Remarks column** it has been mentioned in **Hindi Language, English Translation** reproduced that “in the said Train RPF Escort party Head Constable Muhammad Hakim Khan along with staff attended the complainants and the complainants informed him that upto 12:00 hours he was awoken. Afterwards, the train arrived at DDU, Railway Station and the purse of the complainant No.2 was found stolen. The purse was containing a Mangal Sutra and a Bank Passbook. When asked about FIR, the complainants said that they would lodge an FIR on reaching ndls. Place of incident is your jurisdiction so you please see the matter”.

In **Annexure – B** which is also submitted by the opposite parties, the SHO RPF has submitted in his letter written in **Hindi Language** and reproduced in **English Language** that “on dated 16.12.2021 in reference to Railway Helpline No. 2021121600251 they contacted passenger Kalu Ram on

mentioned Mobile No. 9571108580. The complainant and her wife informed that they were travelling in Train No. 12423 (Dibrugarh – New Delhi) Rajdhani Express from Tinsukia to New Delhi vide PNR No. 6360887875. During journey, the complainant No. 1 Kalu Ram slept at about 10:00 P.M. and her wife was awoken upto 12:00 hours on talking to his wife she informed that at about 12:00 hours and she hanged her purse on the hanger and slept. When she arose at about 04:30 A.M., she found her purse missing. There was a Mangal Sutra and a Bank Passbook and one or two silver coins. The SHO RPF further submitted that the Train arrived at DDU, Railway Station at about 00:40 hours and left for her destination at about 01:05 hours. During this time, the officers and staff of RPF / Post / DDU has escorted the train safely. CCTV footage was checked from the arrival upto the departure of train from DDU, Railway Station but no suspicious person was found boarding and leaving the Train”.

9. After going through the relevant record of the case provided by the complainants as well as the opposite parties, it is very much clear from the documents of the opposite parties i.e. Annexure – A and Annexure – B that the incident of theft was brough in the notice of RPF during the journey. The complainants also lodged FIR (Zero FIR) vide FIR No. 0403 dated 16.12.2021 (Ex.C-3) after reaching the destination at about 11:55 hours. The counsel for the complainants has relied on the Judgment of the **National Consumer Disputed Redressal Commission, New Delhi** in **Revision Petition No. 1099 of 2020** in the case titled as **Indian Railway & 2 ORS. V/s. Uma**

Aggarwal, decided on dated 25.07.2023 in which it had been held in Para No.11 and Railway office Letter bearing No. 98/TG-V/12/3 dated 11.09.1998, which prescribed certain duties of train conductor in 1st AC, 2nd AC, 3rd AC and 1st class coaches, some of which are listed below: -

- He shall check the tickets of the passengers in the coach and guide the passengers in occupying their accommodation. He prevents illegal/unauthorized entry in the coach including the platform ticket holders.
- He shall ensure that the doors of the coaches are kept latched during run of the train and open them as and when required by the passengers.
- He shall keep the end doors of the vestibule coach locked during 22:00 hrs. to 06:00 hrs. to prevent unauthorized entry.
- He shall remain vigilant particularly during the night time and prevent entry of unauthorized persons/beggars/intruders in the coach.
- He shall be present in the allotted coach during duty hours and if more than one coach is to be manned, give frequent visits to all the coaches to be manned.
- He shall attend to any complaint of theft/loss of passenger belongings and lodge the first information report with the GRP in the prescribed format to enable the passenger to continue the journey.

- He shall carry blank FIR forms for making them available to the passengers in case of any incident of theft of luggage etc. Such forms duly filled in the handed over to the next GRP Post at the scheduled stoppage for further action in the matter.

“Relying on above, the respondent contended that the railways personnel who were supposed to be in the coach have violated several of their duties which have been prescribed by the Railways Board by not closing the gates at night, not being present in the coach, allowing intruders in the coach, not aiding the respondent in filling the FIR among others. Hence, as they have failed in their duty, they were negligent in providing the requisite service to their consumers and the respondent herein. Thus, the Railway is liable for deficiency of service on account of negligence off its employees”.

In the case titled as **Union of India V/s. Ajay Kumar Agarwalla (supra)**, this Commission held that “TTE of coach was negligent in performance of his duties by not keeping the doors of the coach latched when the train was on the move and by not keeping the vestibules doors of coach locked from 10:00 P.M. to 6:00 P.M”. Relying on this case, the opposite parties contends that present case also warrants of the same circumstances where the doors of the coach were left open. Hence, it was a negligent act on the part of the TTE and the revisionists are liable to pay the compensation.

In the case titled as **General Manager, South Central Railways V/s. Jagannath Mohan Shinde (supra)**, this Commission held that “If any

unauthorized person is permitted to be present on the reserved compartment of a train, then Section 100 of the Indian Railways Act would not be of any help to the Railways in absolving them from any liability since anyways the Railways is responsible as a carrier of luggage, if it is proved that there was negligence on its part". Relying on this judgment, the opposite parties argued that the contention of the revisionists that the Ld. Consumer Commissions do not have jurisdiction in matters covered Section 100 of the Act, stands invalidated.

In the case titled as **General Manager, South Central Railways V/s. R.V. Kumar 2005 SCC Online NCDRC 222**, this Commission observed that "A passenger travelling by a train is entitled to carry certain baggage or luggage within permissible limits of weights, free of cost. There is no question of entrusting such baggage/luggage to the Railways and getting a receipt thereof. If a loss takes place of such a luggage, Railways can be held responsible provided that there is negligence on the part of the Railways or any of servants, provided, of course, that the passenger himself has taken responsible care of his personal baggage as expected of a prudent person". The opposite parties argued in the present case that the opposite parties have taken more than reasonable care by keeping the purse beneath her pillow while sleeping. Moreover, she tried her best to stop the snatching of her belongings and despite being a female bravely tried to catch hold of the intruder herself, but was stopped by person who was supposedly railway staff as appeared from his uniform/appearance. Railway officials by keeping the doors of the coach open and by allowing an

unauthorized person to enter the coach have failed to perform their duty which point towards their negligence thus causing a deficiency in service.

In the case titled as **Station Master, Indian Railways V/s. Sunil Kumar (supra)**, this Commission observed that “We further note that the complainant was travelling with ladies (mother and wife) and children on reserved berths in a reserved coach after paying the fares and purchasing the tickets. He was right in agitating that the railway was responsible for safety and security of person and hand-held baggage, including from unknown persons who gained entry unauthorizedly and committed theft (the railways was undoubtedly responsible for theft of hand-held baggage from running train)”. The opposite parties argued in the present case that the theft occurred under similar circumstances as the opposite parties’ belongings were stolen by unauthorized persons in a reserved coach, therefore, the Railways are liable to pay compensation to the respondents.

(14) Petitioner argued that jurisdiction of Consumer Fora is barred because matters pertaining to the theft is specifically barred by Section 97 and Section 100 of the Railways Act, extract of which is reproduced below: -

“Section 97 Goods carried at owner's risk rate - Notwithstanding anything contained in Section 93, a railway administration shall not be responsible for any loss, destruction, damages, deterioration or non-delivery in transit, of any consignment carried at owner's risk rate, from whatever cause arising except upon proof, that such loss, destruction, damage, deterioration or

non-delivery was due to negligence or misconduct on its part or on the part of any of its servants”.

“Section 100 Responsibility as carrier of Luggage - A railway administration shall not be responsible for the loss, destruction, damage, deterioration or non-delivery of any luggage unless a railway servant has booked the luggage and given a receipt therefore and in the case of luggage which is carried by the passenger in his charge, unless it is also proved that the loss, destruction, damage or deterioration was due to the negligence or misconduct on its part or on the part of any of its servant”. A bare perusal of above provisions shows that under Section 100, if it is proved that loss, destruction, damage or deterioration was due to negligence or misconduct on the part of railways or on the part of any of its servant, the railways administration will be held responsible. In this case both the fora below have given concurrent findings regarding negligence/deficiency of service on the part of petitioner railways/its officials. Hence, agreeing with the contentions of the respondent, we do not find any infirmity or illegality material irregularity or jurisdictional error in the order of the State Commission, hence the same is upheld.

10. We have carefully considered the pleading and evidence. The Railway’s own documents annexed with the written statement of the opposite parties disclosed the name of RPF official to whom the complainants reported the theft. It completely contradicts with the written statement of the opposite parties that

the station master of Pandit Deen Dayal Upadhyay, Railway Station had no information about the theft. Once, the railway admits that its RPF Escort received the complaint it cannot simultaneously contend that no information was available with the railway administration. It is further clear that the complainants lodged a FIR (Zero FIR) at the destination which is exhibited as Ex.C-3. It is also an admitted position that the incident occurred in a reserved 3 AC coach. The complainants have specifically pleaded that no coach attendant was available at the relevant time. The opposite parties have never rebutted the absence of coach attendant and neither produced the duty roster of the coach attendant to establish that the coach attendant was present at that time and performing his duties. The opposite parties withhold the best available evidence available only with them giving an adverse inference. The complainants also produced bill of the lost ornaments which is exhibited as Ex.C-4 kept in the lost hand bag. On the basis of cumulative circumstances namely Immediate report to the RPF, Contradicting stands by the Railway, Failure the presence of coach attendant and Failure to produce relevant records despite their being in the Railway's exclusive possession indicates that the opposite parties were deficient in rendering services to the complainants.

11. In view of the above, the present complaint of the complainants is Partly Allowed and on account of deficiency in service on the part of the opposite parties, the opposite parties are directed to pay an amount of Rs.70,000/- to the complainants along with interest @ 6% per annum from the date of filing of the

present complaint till its actual realization. The opposite parties are further directed to pay an amount of Rs.10,000/- on account of mental harassment and agony to the complainants. This amount be paid within one month from the date of receiving the certified copy of this order, failing which the complainants are entitled to interest @ 12% per annum on the whole payment from the date of filing of the present complaint till its actual realization.

12. Case could not be disposed off within the stipulated period being a newly established Commission not having adequate infrastructure. Copies of the order be furnished to the parties free of cost. File is ordered to be consigned to the record room.

(Kulwinder Singh Pannu)
President

(Raj Kumar Shukla)
Member

Announced in Open Commission
Dated: 30th June, 2026.

Written By: -
Arun Kumar
(Jr. Scale Stenographer).