

Heading1
Heading2

Complaint Case No. CC/23/113
(Date of Filing : 01 Mar 2023)

1. Bhupender Singh
Resident of 175/7 MITC Colony Sirsa
Sirsa
Haryana

.....Complainant(s)

Versus

1. Indigo Airways Ltd
New Civil Air Terminal International Air Port Sahibzada Ajit
Singh Nagar Punjab
Mohali
Punjab
2. Indigo Airways Ltd
Gate No 2 Western Wing 124 Janpath New Delhi
Delhi
delhi

.....Opp.Party(s)

BEFORE:

Padam Singh Thakur PRESIDENT
O.P Tuteja MEMBER

PRESENT: JS Sidhu, Advocate for the Complainant 1

Dated : 28 Sep 2023

Final Order / Judgement

BEFORE DISTRICT CONSUMER DISPUTES REDRESSAL COMMISSION, SIRSA.

Complaint Case no. 113 of 2023

Date of Institution: 01.03.2023

Date of Decision: 28.09.2023.

Bhupender Singh Vinayak Advocate son of Shri Inder Singh, resident of 175/7, MITC Colony, Sirsa on behalf of Amrinder Singh, being father and natural guardian.

.....Complainant.

Versus

1. Indigo Airways Limited, through its G.M./ Authorized Person, New Civil Air Terminal, Chandigarh International, Airport, Sahibzada Ajit Singh Nagar, Punjab : 140306.

2. Indigo Airways Limited, through its authorized person/ signatory, Office: Upper Ground Floor, Thapar House, Gate no.2, Western Wing, 124 Janpath, New Delhi- 110001.

..... Opposite parties.

Complaint under Section 35 of the Consumer Protection Act, 2019.

Before: SH. PADAM SINGH THAKUR..... PRESIDENT

SH. OM PARKASH TUTEJA.....MEMBER

Present: Sh. J.S. Sidhu, Advocate for complainant.

Opposite parties already exparte.

ORDER:-

The complainant Sh. Bhupender Singh Vinayak has filed the present complaint under Section 35 of the Consumer Protection Act, 2019 against the opposite parties (hereinafter referred as Ops) on behalf of his son Amrinder Singh being father and natural guardian. It is averred that personally Amrinder Singh cannot pursue the present complaint, hence present complaint is being filed through his father who has no adverse interest against him.

2. In brief, the case of complainant is that son of complainant namely Amrinder Singh is studying MBBS at University of East Sarajevo Faculty of Medicine Foca, Bosnia & Herzegovina. The ops are running an Air Line under the name and style as Indigo Airlines and the ops are claiming themselves to be best in this field and believing upon their advertisements published by the ops in the whole world, complainant approached to one of their agent and on 17.11.2022 purchased the airline ticket against the total amount of Rs.6800/- and besides that ops have also charged Rs.2250/- on account of excess baggage charges and booked a ticket from Delhi to Mumbai by Flight No. 6EV84 dated 20.11.2022. That on 20.11.2022 the son of complainant had reached at the Delhi Airport (Domestic) on time and after depositing the luggage he got boarding pass at 7.15 p.m. It is further averred that when the son of complainant was entering into the flight he was stopped on the pretext that the flight is already full and he was stopped from boarding the flight and was asked to take the next flight. That when son of

complainant asked about the luggage he was assured that luggage will be provided to him in next flight as a result of which the son of complainant was compelled to pay Rs.2500/- as extra charges for the another flight which was landed at 12.00 p.m. at Mumbai. It is further averred that thereafter there was a flight to Bosnia which was from Mumbai via Dubai at 5.15 a.m. on 21.11.2022. That during the period 12.00 p.m. to 4.00 a.m., the son of complainant could not find his luggage and thereafter he contacted to the airport security who asked him to make a complaint in writing and after finding the luggage same will be delivered at his address. That during the above said time, the son of complainant tried his best to trace out the luggage but with no result. It is further averred that son of complainant requested the ops to find out the luggage and to deliver the same at his address upon which the ops assured him that said bag will be traced out within a very short period by their officials and stated him to contact them after 2-3 days. That on the next day the son of complainant had moved an application/ letter to find out the missing luggage but the ops failed to respond the same, hence the son of complainant believing upon their false assurances was waiting for their answer but no reply was given by the ops about the same and ops were putting off the matter with one pretext or the other and bag of son of complainant is still undelivered. That due to negligent act and conduct and deficiency in services on the part of ops, the son of complainant had suffered a great loss as the luggage/ bag was of American Tourist company which included the Ipad and other valuable articles have been misplaced, the approximate value of which was of rupees one lac and ops are liable to pay the said amount to the complainant. It is further averred that due to their above said act and conduct, the son of complainant undergone much mental tension, harassment and humiliation as the son of complainant had also to purchase the same items by paying double of the amount. That a registered legal notice dated 29.11.2022 was also served upon the ops calling upon them to return the luggage but to no effect. Hence, this complaint seeking above said amount of Rs.1,00,000/- alongwith interest besides compensation of the amount of Rs.2,50,000/- as well as litigation expenses.

3. On notice, initially ops appeared through counsel and sought adjournments for filing written statement alongwith power of attorney but did not file any written statement and power of attorney and thereafter none appeared on behalf of ops and as such ops were proceeded against exparte vide order dated 11.08.2023.

4. The complainant Sh. Bhupender Singh in evidence has tendered his affidavit Ex.CW1/A and documents Ex.C1 to Ex.C14.

5. We have heard learned counsel for complainant and have gone through the case file.

6. The complainant in order to prove his complaint has furnished his affidavit Ex. CW1/A in which he has reiterated all the above said averments of the complaint. The complainant has also placed on file supporting documents i.e copy of Airline ticket Ex.C1, copies of boarding passes Ex.C2 and Ex.C3, copy of passport of Amrinder Singh Ex.C5, copy of luggage Ex.C6 and airline ticket Ex.C7. The complainant has also placed on file again copy of passport of his son Ex.C8 and copies of Visa Ex.C9 and Ex.C10. The complainant has also placed on file Ex.C11 list of items which were in the bag which has been lost by the ops. The complainant has alleged that the bag of his son which has been lost by the ops was containing expensive I-Pad including his other personal items and the value of the same was of Rs.one lac and they have also suffered financial loss and has claimed this amount of Rs.1,00,000/- alongwith compensation from the ops. In this regard list of items which were in the bag has been placed on file by complainant as Ex.C11 in which it is mentioned that bag of son of complainant was of American Tourist company and was having I-pad, three pair of socks, seven underwears, vests, four jeans, eight

shirts, perfume worth Rs.2000/-, Masala, Imli, Combo, Serum, nine lowers, eleven T-shirts, eight hoodies, five sweaters, two loyis, two coat pants of Raymond company, five kurta pajamas, stationer worth Rs.5000/-, five shoes worth Rs.18,000/- and two slippers worth Rs.3000/- and total weight of the bag was 30 Kgs. The ops despite appearance have failed to file any written version despite seeking adjournments and ultimately opted to be proceeded against exparte. and as such the pleadings as well as evidence of complainant remained unrebutted and unchallenged. The ops despite service of legal notice, the copy of which is placed on file as Ex. C12 and despite reminder (copy Ex.C14) have failed to redress the grievance of the complainant and have failed to trace out and return the missing bag of the son of the complainant. So, it is proved on record that despite appearance, the ops were not having anything to say in the matter and were not having any defence plea rather were at fault and as such they opted to be proceeded against exparte. However, in so far as claim of complainant is concerned, as per the provisions of Carriage by Air Act, 1972 and as per terms and conditions of the air tickets, the complainant is entitled to compensation for the loss of bag at the rate of 20 US Dollars per kilogram and since the weight of the bag was 30 Kgs., therefore, complainant is entitled to 600 (Six hundred) US Dollars and according to Indian Currency, one US dollar is equal to about Rs.84/- and as such complainant is entitled to lump sum amount of Rs.50,000/- for the missing of their bag from the ops. The complainant is also entitled to interest on the said amount of Rs.50,000/- from ops for the delay on behalf of ops. Besides, this the complainant is also entitled to compensation for harassment from the ops because there was deficiency in service on the part of ops in losing and mishandling the luggage which caused harassment, agony, mental tension to the son of the complainant. Moreover, the Hon'ble State Commission Delhi in case titled as **British Airways Versus Stefano Pelle & anr. Appeal No. A-1036/2004** decided on 15.11.2007 relied upon by learned counsel for complainant has held that *"It appears that this figure was arrived at by the District Forum on production of receipts produced by the respondent. Even if the receipts were not produced still the passenger was entitled to such an expenditure which on the face of it appears to be reasonable for a man handling at foreign land would incur. In our view this expenditure incurred was in terms of the rule 31(3). The passenger is also entitled for adequate compensation arising out of the miseries and emotional sufferings and physical discomfort he encounters in such a situation when everything which was required on the day and for the subsequent days was lost. Any person who is stranded in such a situation in foreign land suffers immensely."* The above said case law relied upon by learned counsel for complainant is also applicable in this case as son of complainant also suffered immensely in foreign land at the hands of ops and as such complainant is also entitled to another amount of Rs.50,000/- as compensation for harassment etc.

7. In view of our above discussion, we allow the present complaint and direct the opposite parties to pay an amount of Rs.50,000/- on account of loss of bag of the son of complainant alongwith interest @6% per annum from the date of missing of bag in question i.e. 21.11.2022 till actual realization within a period of 45 days from the date of receipt of copy of this order, failing which ops shall pay the interest at the rate of @9% on the above said principle amount of Rs.50,000/- for the default period. We also direct the ops to further pay a sum of Rs.50,000/- as compensation for harassment to the complainant within above said stipulated period. A copy of this order be supplied to the parties as per rules. File be consigned to the record room.

Announced:
28.09.2023

Member

President

Dt.

Disputes

District Consumer

Redressal Commission, Sirsa.

[Padam Singh Thakur]
PRESIDENT

[O.P Tuteja]
MEMBER