

**Complaint filed on: 04/03/2022**  
**Complaint disposed on :11/ 10 /2023**

**BEFORE THE DISTRICT CONSUMER DISPUTES REDRESSAL  
COMMISSION, SOUTH GOA AT MARGAO**

**Coram: Mr. Sanjay M. Chodankar, President**  
**Ms. Nelly H. Pereira e D'Silva, Member**

**Complaint No. 19/2022**

1. Dr. Belinda Viegas Mueller,  
Aged 60 years,  
Medical Practitioner,  
F-1 Churchview Complex, Varca,  
Salcete Goa 403 721

2. Ms. Juanita Maria Viegas,  
c/o. Dr. Belinda Viegas Mueller,  
aged 81 years,  
residing at 9 YashwantVihar Colony,  
Nanawadi, Belgaum,  
Karnataka 590 009

3. Markus Wolfertshofer,  
Aged 37, German OCI,  
Married and his wife

4. Ayesha Mueller Wolfertshofer,  
d/o. Dr. BelindaViegas Mueller,  
aged 29 years, German OCI,  
both resident of Jakoberstr 16, 86152,  
Augsburg, Germany

Complainant Nos. 2 to 4 are represented  
by their duly constituted Attorney,  
the Complainant No.1

..... Complainants

V/s.

1. The Managing Director,  
MakeMyTrip India Pvt. Ltd.,  
18<sup>th</sup> Floor-Tower A, B &  
19<sup>th</sup> Floor-Tower A,B,C,  
Building No.5, DLF Cyber City,  
DLF Phase III Gurgaon-122 002,  
Haryana India

2. MakeMyTrip India Pvt. Ltd.,  
 Represented by Regional Manager,  
 Unit No. 104/D, 1<sup>st</sup> Floor, Corporate Avenue,  
 AndheriGhatkopar Link Road,  
 Andheri (East),  
 Opp. Skoda Showroom,  
 Mumbai 400 099

3. MakeMyTrip India Pvt. Ltd.,  
 Represented by its Branch Manager,  
 Ground Floor, H.No. 422 Kalika,  
 Next to Chaska Restaurant,  
 Alto-Porvorim,  
 North-Goa 403 521 (India)

..... Opposite Parties

Adv. (Ms) S. Borkar present for the Complainants at the time of hearings, arguments . Complainant present in person at the time of Judgment.

Adv. Vedraj Toraskar present for the Opposite Parties at the time of hearings, arguments. None present for OPs at the time of Judgment.

## **J U D G M E N T**

**( Per Ms. Nelly H. Pereira e D'Silva, Member)**

1. This Judgment and Order shall dispose of the Complaint filed under Section 35 of the Consumer Protection Act, 2019 (for short "The C.P. Act).

The brief facts of the case are as under:

2. The Complainant No.1 along with other two family members and two friends were desirous to go on a vacation in the month of February 2020. Upon making inquiry with the travel agency, she found some suitable packages on the online portal of Opposite Party No.1(OP1). After viewing the packages offered by OP1, the Complainant No.1 found the packages which were most suitable and desirable to the Complainants and therefore planned to apply the services of OP1.

3. The Complainant No.1 started negotiations with the Customer Care Executive of OP1 and specifications for the packages which were given to the Complainants.

4. The initial communication between the Complainant No.1 and the Customer Care Representative of OP1 took place via emails exchanged and WhatsApp messages in respect of the itinerary and net cost of the package. The first email was received on 30.11.2019 from the OP1 to the Complainant No.1, which stated the details of the package and the hotel included. The quotation given based on the itinerary was Rs. 1,32,352/-.

5. The Complainant No.1 wished to make some changes with regard to the hotel provided by the OP1 and after conversation with the concerned representative/executive of the OP1, the OP1 included the change in the hotel via an email dated 4.12.2019. This email shows the updated itinerary which include breakfast, hotel, check-ins-, check-outs from hotels, visits to various landmarks as well a travel arrangements within the desired destinations, hotel stays and other site seeing attractions.

6. On 05.12.2019 another email was addressed to the Complainant No.1 with another quotation of Rs. 1,42,912/- showing increase in the amount of Rs. 7,392/- after incorporating the change in hotels.

7. The Complainants upon being satisfied by the itinerary, booked their flights from Goa to New Delhi for 12.02.2020 through Air Asia Airline and return tickets of Complainants No. 1 and 2 and co-traveller Rohan Mueller from New Delhi to Goa for 19.02.2020 as the same was not included in the package. The other 5 travellers were scheduled to fly out of New Delhi on 21.02.2020 upon conclusion of the trip. This entire additional cost was borne by the Complainant No.1 amounting to Rs. 39,706/-.

8. On 06.12.2019 the Complainants immediately booked the package as per the rates reflected in the Holiday Voucher, itinerary and payment details under MMT Booking ID NL2101652204744 as per the payment link shared by the OP1 which shows the package price as Rs. 1,42,909/-.

9. This package so booked was for 8 days and 7 nights on MakeMyTrip App for 8 persons i.e. Dr. Belinda Viegas Mueller, aged 58 years, Mr. Markus Wolfershofer, aged 35 years, Ms. Ayesha Mueller, aged 27 years, Ms. Eleonore Fackler, aged 73 years, Ms. Joanita Maria Viegas, aged 79 years, Ms. Sara

Malyszova, aged 28 years, Mr. Phillip Seitz, aged 28 years and Rohan Mueller, aged 25 years departing Delhi on 12<sup>th</sup> Feb. 2020 and returning to Delhi on 19<sup>th</sup> Feb. 2020 covering Agra, Jaipur, Udaipur, Jodhpur and Jaisalmer.

10. The entire transaction was done by the Complainant No.1 on behalf of all the Complainants under their instructions and consent. Accordingly, the first payment installment of Rs. 48,000/- as per the payment policy of the OP1 was made by the Complainant No.1. The second payment installment of Rs. 23,455/- and the third payment installment of 71,455/- were required to be made by the Complainants by 27<sup>th</sup> January and 2<sup>nd</sup> February 2020 respectively. As per the policy the above referred payments were non-refundable.

11. On 06.12.2019 the Complainant No.1 received booking confirmation voucher which displayed the passenger details, booking details, activities and transfers, hotels, flight details upon making the partial payment of Rs. 48,000/- out of the total amount of Rs. 1,42,912/-. The email also stated that e-ticket would be emailed to the Complainant No.1 and that email would consist of hotel details, itinerary, contact numbers of all support staff including the numbers of cab drivers, emergency number and details itinerary and destinations. The said email also had a PDF version attachment stating out itemized details of the package.

12. On 06.12.2019 itself another email was received by the Complainant No.1 which included hotel voucher, itinerary and payment details and the details of the travelers. The total package price reflected was Rs. 1,42,909/- and pending amount was shown as Rs. 94,909/-.

13. No emails were exchanged between the Complainants and the OP1 for the period of one month from 7<sup>th</sup> December 2019 to 8<sup>th</sup> January 2020.

14. On 09.01.2020 after one month the Complainant No.1 received an email from one Ms. Rupini M. having mobile No. 8448087405 and email id: rupini.m@makemytrip.in. This email displayed the payment schedule which utterly and completely shocked the Complainants as the final, selling price of the package was reflected as Rs. 2,14,723/- and the Complainants were required to pay Rs. 73,453/- by 24<sup>th</sup> January 2020 and remaining amount of 93,267/- by 2<sup>nd</sup>

February 2020. The email also stated that if the payments are not made according to the schedule then the booking may be cancelled and refund amount would be forfeited according to the cancellation policy and any delay in making the payment would lead to an auto-cancellation of the booking.

15. The Complainant No.1 immediately communicated on 09.01.2020 through telephonic call to Ms. Rupini M about the discrepancy and the Complainant No.1 was assured that the same would be resolved at the earliest.

16. By email dated 10.01.2020 the Complainant No.1 brought to the notice of Ms. Rupini M. that the discrepancy in the package sent to her on 09.01.2020 and the original final package sent to her on email dated 06.12.2019.

17. Upon non-receiving any reply/clarification from the OP1, another email was addressed by the Complainant No.1 on 21.01.2020 for clarification about the 2<sup>nd</sup> payment which was R. 23,455/- as per email dated 06.12.2019. The said email was replied by the representative of OP1 on 21.01.2020 stating that they would check the issue and get back to the Complainant No.1. On 23.01.2020 the Complainant No.1 requested that the error may be corrected so that she could make the next payment, to which Ms. Rupini M., Relationship Officer of the OP1 replied that the online payment links sometimes shows the incorrect amount and assured that the issue would be looked into on priority basis.

18. Accordingly, on 23.01.2020 the Complainant No.1 sent another email to the complaint section of OP1 requesting them to look into the matter, to which she was assured by the representative of OP1 that the matter would be looked into on top priority. However, the said representative did not revert back at all.

19. Another email was addressed by the Complainant No.1 on 24.01.2020 for resolving the issue, to which a reply was received on the same day requesting the Complainant No.1 to pay the balance amount of Rs. 59,362/- as second installment. This clearly distressed the Complainant No.1 since as per the original package she was required to pay the second installment of only Rs. 23,455/-.

20. On 26.01.2020 yet another email-was received from OP1 requesting to pay an exorbitant amount of Rs. 1,66,724/- by 2<sup>nd</sup> February 2020 with a clear threat of releasing service which were blocked for the trip in the event of non payment. At this juncture the OP1 showed no interest in resolving the matter amicably.

21. On 27.01.2020 another email was sent by Complainant No.1 to OP1 with regard to resolving of the issue of the inflated rates. The Complainant No.1 also communicated to OP1 that she would be out of station and out of mobile network coverage areas from January 30<sup>th</sup> to February 2<sup>nd</sup> 2020 and would not be able to make any payments until February 3<sup>rd</sup>, 2020. The Complainant No.1 agreed to pay balance amount of Rs. 94,909/-in two equal instalments as her debit card does not allow a payment of more than Rs. 50,000/- per day, but no reply was received from OP1.

22. On 04.02.2020 The Complainant No.1 called the Customer Care of OP1 and was told that it was a technical glitch which would be resolved within 24 hours. Again on 05.02.2020 the Complainant No.1 was told to wait for 24 hours. On 07.02.2020 i.e. 5 days before the departure, the OP1 for the first time sent an email stating that the cab fees had not been added and demanded an amount of Rs.2,14,352/- by 11.59 pm for the following day. It was further stated that it was a customized package and once the transportation was added in the booking , the same resulted an increase of Rs. 71,811/- which was on account of inclusion of cab fees. The Complainants were not informed earlier that the package does not include cab fees and no clarification was given to the Complainant No.1 in spite of repeated appeals. Even though the Complainant No.1 had under protest have agreed to pay the increased rate of Rs. 2,14,352/-, there was no clarification received from OP1. Accordingly, the OP1 proceeded with the cancellation of the booking 3 days before the booked tour stating that the Complainant No.1 would not be entitled to any refund as she has not done the balance payment.

23. Since the other travelers had made arrangements to travel from Germany to India only for the purpose of said trip, the Complainants has reluctantly decided to go on the trip in spite not having any travel arrangements such as hotel booking and a scheduled itinerary as they would suffer heavy monetary loss if air travel bookings were cancelled at the last minute .The Complainant

No.2 who was 80 years old during the time of travel had to endure a long and uncomfortable train journey owing to unreasonable cancellation by OP1 of the trip booked. This led to the Complainants a further incurred expenses of Rs. 9082.27 for the train travel on account of no fault on their part.

24. The OPs are not agents of booking air tickets or booking hotels but they are a company that provides services by giving complete package tour programme for visiting different places which includes transportation, accommodations, sightseeing, etc. The OPs cannot claim that the tour package did not include cabs when a specific and detailed itinerary was provided to the Complainant No.1. The price of Rs. 2,14,723/- was never agreed by the Complainants. Any contract needs offer and acceptance to be a valid contract and there was no acceptance on the part of the Complainants at any point of time. This act of OPs amounts to unfair trade practices and deficiency in service which put the Complainants in a disadvantageous position.

25. This practice on the part of OPs to induce the Complainants to pay additional and unreasonable charges is a provisional one ad later on arbitrarily, unilaterally and completely changing the said itinerary and supplying a totally different itinerary after receiving the deposit leaving the Complainants no option for cancellation of the tour and threatening the Complainants with forfeiture of the amount, amounts to deceptive, restrictive and unfair trade practices.

26. With these allegations the Complainants pray for the following reliefs:

a. Direct the Opposite Parties to jointly and severally pay to the Complainant No.1, the first installment of Rs. 48,000/- @ 18% interest from the date of payment till realization.

b. Award a compensation of Rs. 3,00,000/- each to the Complainants on account of mental agony, physical harassment and financial loss suffered by the Complainants on account of the deficiency of service on the part of the Opposite Parties.

c. Direct the Opposite Parties jointly and severally to pay to the Complainant No.3 an amount of Rs. 1,544.38 being equivalent approximately Rs. 1,30,000/- along with interest @ 18% p.a. till date of actual payment.

- d. Direct the Opposite Parties to partly, jointly and severally to pay to the Complainant No.1, a sum of Rs.9,082.27 incurred as expenses of train travel from Jaisalmer to New Delhi.
- e. Direct the Opposite Parties jointly and severally to pay to the Complainant No.1, Rs. 39,706/- along with interest @ 18% p.a. till date of actual payment, incurred as expenses of air travel from Goa to New Delhi and return to Goa.
- f. Allow the cost of this litigation of the complaint Rs. 75,000/-.
- g. Saddle the Opposite Parties with special and extra-ordinary costs as deemed fit so as to deter them from adopting such malpractice in future.
- h. Pass such other orders in favour of the Complainants as deemed fit and proper in the facts and circumstances of the case.

27. The Opposite Parties have resisted the complaint by filing written version. The case of the Opposite Parties No. 1- 3 in defence is as under:

28. Preliminary objections are as follows:

1. The OP is a Private Limited Company duly incorporated under the Companies Act, 1956.
2. The jurisdiction of this Ld. Commission is barred under the terms of User Agreement and only the Court of NCR, Delhi has territorial jurisdiction to entertain the disputes arising out of bookings.
3. The present complaint is barred by limitation as the cause of action arises from the date when the package was booked by the Complainants for the travel between 12.02.2020 to 19.02.2020. Thus the cause of action arose on 19.02.2020. Therefore, the Complainants ought to have approached this Hon'ble Commission within two years from 19.02.2020, however since they have approached after two years from the date of cause of action, the present complaint is barred by limitation as no justification for the delay has been explained nor any application for condonation of delay has been preferred by the

Complainants. Therefore, this complaint is liable to be dismissed on this ground alone.

29. On merits the OPs have stated that the Complainants chose a five-city holiday tour package scheduled on 12.02.2020 worth Rs. 2,14,352/-.

30. On 04.12.2019 the Complainant contacted the Customer Care of OP and demanded a change of hotels in the tour package and the same was arranged by the OP.

31. On 05.12.2019 the OP duly informed the Complainants regarding the final tour package cost of Rs. 2,14,352/- via email. Knowing fully well the total cost of tour booked on 06.12.2019 the Complainants booked the tour package and paid the amount of Rs. 48,000/- as initial instalment and booking fee. The Complainant was already made aware of the cancellation due to the on-gong pandemic. Subsequently, no more payments were made by the Complainants due to reasons best known to them.

32. The first instalment received by the OP was utilized to effectuate the booking of hotels and other facilities and hence it is non-refundable as per the policy of the OP. In spite of reminder of the amount the Complainants failed to pay even being promising to pay the same. In view of the non-payment the OP cancelled the tour in February 2020 as per its policy as the due amount was over Rs. 1.5 lakh. This was done to reduce its business risk as the Complainant was not paying the whole amount. The Complainant was well aware of the cancellation policy which was shared by the OP. The tour booking was cancelled only after repeated requests to pay the remainder of the amounts that was not done by the Complainant.

33. There is no deficiency in service as made out against the OP as the OP acted as per the terms and the conditions of the Agreement. No loss has been suffered by the Complainants on account of the OP. There has been no quantified loss in the present complaint.

34. The rest of the paras of the complaint are of denials with the prayer to dismiss the complaint with exemplary costs.

35. The Complainant No.1 examined herself by filing an Affidavit-in-evidence. She has produced following documents:

Power of Attorney dated 10-12-21 and 2 Power of Attorneys dated 17-02-22 at Exhibit '3'(colly), email dated 30.11.2019 from OP at Exhibit '4', email dated 4.12.2019 with itinerary at Exhibit '5', holiday package costing 135,520/- vide email dated 4.12.2019 at Exhibit '6', holiday package costing Rs. 142,912 with itinerary sent by Email dated 5.12.2019 at Exhibit '7', Air-tickets of Air Asia Airlines from New Delhi to Goa for Feb. 19, 2020 and return tickets to Goa on 19-2-2020 at Exhibit '8' (colly-1), Bank statement of Complainant at Exhibit '8' (colly-2), booking confirmation voucher with itinerary and payment details sent vide email dated 6.12.2019 at Exhibit '9'; email dated 6.12.2019 from OP at Exhibit '10', emails dated 10.01.2020 and 09-01-2020 at Exhibit '11', Emails exchanged from 9<sup>th</sup> January to 27<sup>th</sup> January, 2020 at Exhibit 12(colly), Electronic air ticket of Complainant No.4 from Munich to Goa at Exhibit "13' (colly-1), Bank statement of Complainant No.3 at Exhibit '13'(colly-2), emails exchanged from Jan. 28, to Feb. 8, 2020 at Exhibit '14'(colly), train ticket of Feb. 18, 2020 of all the 8 travellers at Exhibit '15', copy of complaint at Exhibit '16'(colly-1) and copy of failure report at Exhibit '16'(colly-2).

36. Mr. Puneet Chawla, Deputy Manager-Legal of OPs examined himself by filing an Affidavit-in-evidence. He has produced following documents:

Email dated 5<sup>th</sup> December to Complainant at Exhibit '21'(colly-1) and User Agreement at Exhibit '21'(colly-2).

37. Arguments have been heard. Ld. Adv.(Ms) S. Borkar argued on behalf of the Complainants and Ld. Adv. Vedraj Toraskar argued on behalf of the Opposite Parties.

38. Points that arise for our determination and our findings on them are as under:

**POINTS****FINDINGS**

- |  |             |
|--|-------------|
| 1. Whether there is any deficiency in service on the part of the Opposite Party? | Affirmative |
| II. Whether the Complainants are entitled to any relief?                         | Affirmative |

**REASONING:****POINT NO :1**

39. It is the case of the Complainants that they along with two other family members and two friends were desirous to go on a vacation in the month of February 2020, and hence made inquiries with travel agencies. They found some packages on the online portal of the OP1 which were desirable and suitable and hence decided to avail their services. After negotiations with the customer care executive of OP1, suitable holiday packages were offered, changes were suggested and finally vide email dated 05-12-2019 another quotation of Rs.142,912/- with payment link was sent to the Complainant no.1 after incorporating the change in hotels. The Complainant no.1 upon being satisfied by the itinerary provided therein, immediately on 06-12-2019 paid Rs. 48,000/- towards booking the said holiday package under MMT booking id NL2101652204744. This booking was done by Complainant no.1 for herself and on behalf of other Complainants with their consent.

40. It is not disputed that the Complainant no.1 made part payment of Rs.48,000/- towards the holiday package offered by OP1. It is also not in dispute that the said holiday package was for 8 days 7 nights i.e from 12-02-2020 to 19-02-2020 to visit the 5 cities: Agra, Jaipur, Udaipur, Jodhpur and Jaisalmer. It is also not disputed that vide email dated 06-12-2019 ( Exhibit 9 ) the OP sent the confirmation voucher and base booking details to the Complainant no.1.

41. We have perused the said email dated 06-12-2019 at Exhibit 9, it clearly establishes that the Complainant no.1 had chosen holiday package costing Rs. Rs.142,912/-., the email states that since part payment of Rs.48,000/- was made , the Complainant was required to pay balance amount of Rs.94,012/- , which was to be paid in 2 installments i.e at least Rs.23,456/- by 27-Jan-2020 and remaining Rs.71,456/- by 02-Feb-2020. The fact that the Complainant no.1 was

always ready and willing to pay the balance amount is proved from her emails at Exhibits 12 colly.

42. It is the Complainant's case that, a month after booking the holiday package, she received an email on 09-01-2020 from one Rupini, representative of OP, stating that that the booking was confirmed and the final selling price of the package was Rs.2,14,723/- and accordingly the Complainants would now have to pay additional amount of Rs.73,453/- by 24<sup>th</sup> January 2020 and Rs.93,267/- by 2<sup>nd</sup> February 2020. It was also mentioned in the said email that if the installments are not paid as per the schedule, then the booking would be cancelled and refund amount would be forfeited according to the cancellation policy and delay in making the payment would lead to auto cancellation of the policy.

43. The Complainant no.1 was shocked to know about the inflated rate and called up the OPs to check into the matter, also sent an email to the OP on 10-01-2020 to clear the confusion, however she did not receive prompt reply. Vide email dated 24-01-2020 the OP replied that the cost of the package would be as per increased rates. The Complainant no.1 tried to seek explanation but no prompt replies were given and she was finally informed that in the earlier package the transportation rates were not included. The increased rates was not acceptable to the Complainant no.1. On 09-02-2020 the holiday package was cancelled by the OPs, as the balance amount towards the increased rate was not paid. Admittedly, the booking amount paid by the Complainant no.1 was not refunded.

44. The term service and deficiency is defined in the Consumer Protection Act 2019 under section 2(42) and 2(11) respectively, as under:

**Section 2(42)** “service means service of any description which is made available to potential users and includes, but not limited to, the provision of facilities in connection with banking, financing insurance, transport, processing, supply of electrical or other energy, boarding or lodging or both, housing construction, entertainment, amusement or the purveying of news or other information, but does not include the rendering of any service free of charge or under a contract of personal service;”

Section 2(11) "*deficiency*" means any fault, imperfection, shortcoming or inadequacy in the quality, nature and manner of performance which is required to be maintained by or under any law for the time being in force or has been undertaken to be performed by a person in pursuance of a contract or otherwise in relation to any service and includes- (i) any act of negligence or omission by such person which causes loss or injury the consumer; and (ii) deliberate withholding of relevant information by such person to the consumer;"

45. In our considered opinion, the act and conduct of the OPs in inflating the rate of the holiday package a month after part payment was made, and thereafter cancelling the holiday package for non payment of enhanced rate and further retaining the part payment made by the Complainant no.1, amounts to unfair trade practice and deficiency in service.

46. The OPs have also raised preliminary objections that the present complaint is barred by law of limitation as it is filed after 2 years. According to the OPs the cause of action if any arises from the date the package was booked for travel i.e 12-2-2020 -19-02-2020 , but complaint is filed after 2 years. Here we find that the Complainants have specifically pleaded at para 76 and 77 that the cause of action arose on February 8<sup>th</sup> 2020 when the holiday package was cancelled. We place reliance on the order of the Hon'ble Supreme Court in suo motu writ petition no. 3/2020, in Re: Cognizance for extension of limitation . As per this order while calculating the period of limitation the period from 15.03.2020 to 28.02.2022 has to be excluded and all persons shall have limitation period of 90 days from 01.03.2022. In view of the same the objection that the complaint being barred by limitation is rejected as without any merit.

47. Another preliminary objection raised by the OP is that this Commission has no territorial jurisdiction to entertain this complaint as the jurisdiction clause of the terms and conditions of the User Agreement states that only court of NCR Delhi has the territorial jurisdiction to entertain the disputes if any arising out of the bookings. Here we would like to state that the new Consumer Protection Act, 2019, [section 11(2)] now gives flexibility to the consumers in filing consumer complaints where the Complainant resides or personally work for

gains. The booking for the holiday package was made by the Complainant no.1 online and the Complainant no.1 resides at Varca, Salcete Goa. This District Commission therefore has jurisdiction to decide this consumer complaint. We further add that as per Section 100 of the Consumer Protection Act, 2019, the remedy under the Consumer Protection Act is in addition to any other remedy available under any law for the time being in force. Therefore, this objection raised by the OP is also rejected as without merit.

This point is therefore answered in the affirmative

## **POINT NO. II**

48. Since the holiday package was cancelled by the OPs, the amount of Rs.48,000/- paid to the OPs by the Complainant no.1, should have been refunded. No evidence is produced before this Commission to show that the part payment made by the Complainant no.1 was utilized by the OPs for hotel booking/airfare. In the absence of any evidence, the amount forfeited is liable to be refunded to the Complainant no.1.

49. The Complainants trusted the OPs with the bookings and never imagined that the rates could be increased after part payment. The OPs are reputed company involved in the business for long time. It is unprofessional conduct on their part to increase the rate of holiday package on the ground that they had not included the transport fare in the earlier package. Due to their negligence, the Complainants were unnecessarily made to go into this uncalled-for litigation. Due to the cancellation of the holiday package, having no other alternative as the air tickets to Delhi were already booked, the Complainants had to make last minute bookings for alternate holiday.

50. The Complainants have sought compensation of Rs.3,00,000/- each on account of mental agony, physical harassment and financial loss on account of deficiency in service by OPs. We find that the said amount claimed by them is exorbitant. The Complainants have not shown what was the loss caused to them. Except for train tickets produced on record, No evidence is produced when the last minute alternate hotel bookings were done and what was the cost of transport/hotel bookings. No doubt the Complainants were disappointed and

inconvenienced as their queries regarding the inflated rates were not promptly answered and bookings were cancelled at the last minute. However, the Complainants themselves claim that they planned alternate holiday through last minute bookings. We therefore fix the compensation at Rs.25,000/-.

51. The Complainants have claimed refund of air tickets from Germany to Goa and back of Complainant nos. 3 and 4. The Complainants have also claimed refund of air tickets from Goa to Delhi on 12-02-20 and return tickets from Delhi to Goa on 19-04-20. According to the Complainants, the Complainant nos. 3 and 4 had come to Goa, India, especially to go for the holiday booked with the OP's, and since the OP's cancelled the holiday package few days before the scheduled date, the Complainants have prayed for refund of 1,544.30 euros i.e Rs. 1,30,000/- towards the flight tickets to Goa, India.

52. We have perused copy of the bank statement of account of Complainant no. 3 and also perused the tickets produced by the Complainants from Germany to Goa, India and back to Germany. We find that the tickets were booked in October 2019, i.e much before the said holiday package was booked with the OP1. The holiday package was booked from 12-02-2020 to 19-02-2020, and the Complainant nos.3 and 4 arrived in India on 27-01-2020 and return ticket was only on 22-03-2020, so it cannot be said that the Complainant nos.3 and 4 came to India only for the said holiday. Moreover, it is the Complainants own case that since the OP's cancelled the holiday package, in order to prevent jeopardizing the holiday plans, and since the tickets from Goa to Delhi and back were already booked, the Complainants made last minute bookings for alternate holiday. Therefore since the air tickets were utilized for the alternate holiday, we do not find that the Complainants are entitled for refund of the same.

This point is answered in the affirmative.

In view of the peculiar facts and circumstances of the case we pass the following order:

### **ORDER**

The Complaint is partly allowed.

The Opposite Parties are jointly and severally directed to refund the amount of Rs.48,000/-(Rupees Forty-Eight Thousand Only) to the Complainant

no.1 with 12% interest from the date of cancellation of the holiday package i.e 08-02-20 till the date of payment.

The Opposite Parties are also directed to pay to the Complainants Rs.25,000/- (Rupees Twenty Five Thousand Only) as compensation for mental agony and inconvenience.

The Opposite Parties are further directed to pay to the Complainants Rs.25,000/- (Rupees Twenty Five Thousand Only) as litigation expenses.

The above amounts are to be paid jointly and severally by the Opposite Parties within a period of 2 months from the date of receipt of this order , failing which the compensation and the Litigation amounts awarded above , shall attract interest @ 12% p.a. till the date of payment.

(Mr. Sanjay M. Chodankar)  
President

( Ms. Nelly H. Pereira e D'Silva)  
Member

