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Date of Order: 13.11.2023

BEFORE THE DISTRICT CONSUMER DISPUTES REDRESSAL
COMMISSION – I, HYDERABAD
P r e s e n t

HON'BLE MRS. B. UMA VENKATA SUBBA LAKSHMI, PRESIDENT
HON'BLE MRS. C. LAKSHMI PRASANNA, MEMBER
HON'BLE MR. B. RAJAREDDY, MEMBER

On this the Monday, the 13th day of November, 2023

C.C.No. 117/2023

Between:-

Siriki Sai Sumanth, S/o S. Sivaji
Aged about 28 years, Occ: Pvt Employee,
R/o: Flat No. 303, Sarvani Residency,
Madhura Nagar, Ameerpet, Hyderabad – 500038,
Mobile No. 9290075505.

....Complainant

AND

1. Alliance Air Aviation Limited,
Rep. by its authorized signatory,
Alliance Bhawan, Domestic Terminal -1,
I.G.I. Airport, New Delhi – 110037.
2. MakeMyTrip India Pvt Ltd,
Rep. by its authorized signatory,
DLF Building No.5, Tower B,
DLF Cybercity, DLF Phase 2,
Sector 25, Gurugram, Haryana – 122002.

....Opposite Parties

Counsel for the Complainant	: Narayanadas Sanjay
Counsel for the Opposite party No.-1	: Ex-parte
Counsel for the Opposite party No.-2	: M.A. Madhumati.

O R D E R

(By HON'BLE MRS. B. UMA VENKATA SUBBA LAKSHMI, PRESIDENT
on behalf of the bench)

1. The present complaint is filed under Section 35 of the Consumer Protection Act, 2019 alleging deficiency of service and unfair trade practice on the part of opposite parties and seeking appropriate direction to the opposite parties to
 - i) Refund the residue flight ticket amount i.e. Rs. 4,857/-
(Rupees Four Thousand Eight Hundred and Fifty Seven

Only) at the rate of interest of 18% from the date of scheduled departure of the flight i.e. 11.06.2022;

- ii)** Refund an amount of Rs. 2,000/- (Rupees Two Thousand Only) as conveyance charges to & fro (Hyderabad airport & the residence of the complainant);
- iii)** Pay to the complainant an amount of Rs. 1,00,000/- (Rupees One Lakh Only) as damages & compensation for the mental agony caused & harassment underwent at the behest of the deficient services provided by them;
- iv)** Pay to the complainant litigation costs of Rs. 15,000/- (Rupees Fifteen Thousand Only);

And the complainant also prayed to pass any other relief which this Commission may deem fit and proper in the circumstances of the case raised thus far & in the higher interests of justice.

The averments in the complaint in brief are as follows:

- 2.** The complainant, through opposite party No.2, booked flight ticket for Hyderabad to Vijayawada in the airlines of opposite party No. 1. It is averred that the opposite party No. 1 did not send the web check-in link, therefore, the complainant tried to attempt web check-in from the website of opposite party No. 1. Even after attempting umpteen number of times, the complainant could not receive check-in pass. It is further averred that the scheduled departure of the flight from Hyderabad to Vijayawada was at 08:00 hrs. on 11.06.2022 and the complainant reached the regular check-in desk at 07:00 hrs. It was informed by the officials of the opposite party No. 1 that the departure of the flight was preponed from 08:00 hrs. to 07:30 hrs. and the notice of intimation about the timings of the departure was given to the passengers through e-mails & messages. Upon checking the messages on his mobile, it was found that the opposite party No. 1 sent SMS on 11.06.2022 at 01:09 hrs. and the e-mail message was in spam section. Despite his best efforts, the staff of the opposite party did not allow the complainant to board the flight. Left with no option, the complainant cancelled the ticket and the opposite party No. 2 refunded only an amount of Rs. 728/-

(Rupees Seven Hundred and Twenty Eight Only) that was received by them from opposite party No. 1. It is stated that the act of opposite party No. 1 in not providing the web check-in link option was in violation of circular No. 4/1/2020-IR dated 22.05.2020 issued by the Director General of Civil Aviation. It is further stated that, had the opposite party No. 1 provided the web check-in link, he would have finished the web check-in process to go directly to the security check. It is contended that, as the check-in of the complainant was pending, he was not allowed to board the flight. It is further contended that, when the flight ticket was booked through opposite party No. 2, it was their bounden duty to inform the passengers about the change in timings of the flight departure. Thus, both opposite parties No. 1 & 2 were negligent & deficient in rendering proper service to the complainant. Hence, alleging deficiency of service on the part of both opposite parties, the complainant filed the present complaint and prayed the Commission to grant the reliefs as stated supra.

- 3.** The complaint was contested by opposite party No. 2 by filing their written version. While denying the allegations made in the complaint except those which were specifically admitted in the written version, the answering opposite party had raised preliminary objections of lack of jurisdiction (territorial) by this Commission, the dispute not being a consumer dispute etc. It is contended that the complaint is not maintainable either on merits or as per law and is liable to be dismissed. It is further contended that the complaint is liable to be dismissed as the complainant has failed to prove deficiency of service or unfair trade practice on the part of answering opposite party. It is stated that the answering opposite party is engaged in the business of e-commerce travel organizer by providing an online platform to book tickets, accommodation, holiday packages etc. When the complainant booked tickets through the answering opposite party platform, the booking was confirmed and the tickets were duly sent to the complainant. It is further stated that, when the issue of denial of check-in of the complainant was brought to the notice of the answering opposite party, they took necessary steps to assist the complainant in obtaining his refund. It is averred that the opposite party was only an intermediary between the end

users and the amounts paid by the complainant was transferred to the respective airlines. It is submitted that the answering opposite party refunded the amount received from the opposite party No. 1 to the complainant. It is further submitted that the answering opposite party, being merely a service provider, acted with utmost care and diligence. Hence, denying the allegations of deficiency of service and unfair trade practice on their part, the answering opposite party prayed the Commission to dismiss the complaint with exemplary costs.

4. Despite receipt of notice by opposite party No. 1, none appeared on behalf of them for filing written version within the statutory period. Hence opposite party No. 1 was set ex-parte vide docket proceedings dated 19.05.2023.

5. In the enquiry, the complainant (PW-1) filed evidence affidavit supported by documents at Ex A1 to Ex A7. Mr. Puneet Chawla, Deputy Manager-Legal (RW-1), filed evidence affidavit on behalf of opposite party No. 2 and marked their documents at Ex B1 to Ex B3. Thereafter, complainant and opposite party No. 2 filed written arguments and the learned counsel of the complainant advanced oral submissions. Learned counsel of opposite party No. 2 filed memo to treat written arguments as oral submissions and the matter was reserved for orders on 13.10.2023.

6. Based on the facts and material brought on record and written / oral arguments of both parties (complainant and opposite party No. 2), the following points have emerged for consideration:

a) Whether the complainant could make out the case of deficiency of service and unfair trade practice on the part of opposite parties No. 1 & 2?

b) Whether the complainant is entitled for the claim / compensation made in the complaint? To what relief?

7. Point 'a':

7.1. The purchasing of ticket from Hyderabad to Vijayawada in the airlines of opposite party No. 1 through opposite party

No. 2-online platform, receipt of e-ticket (Ex.A1) and refund of an amount of Rs. 728/- (Rupees Seven Hundred and Twenty Eight Only) through opposite party No. 2 (Ex A3-Ex.B3) are not disputed.

- 7.2.** It is evident from Ex.A2 that, on 11.06.2022 at 01:09 hrs., the opposite party No. 1 sent the intimation of change in timings of the departure of Alliance Air flight 91-888 from Hyderabad to Vijayawada.
- 7.3.** It is the case of the complainant that he did not receive the web check-in link from the airlines i.e. opposite party No. 1 and the information with regard to change in timings of the departure of the flight was sent very late. It is also the case of the complainant that it was the bounden duty of the opposite party No. 2 to send the intimation of change in flight departure timings as the complainant booked the tickets through opposite party No. 2
- 7.4.** It is the version of opposite party No. 2 that MMT merely acts as a facilitator to enable the user to book flight ticket and the contract of service for utilization of the flight is always between the user and the concerned airline. It is also the version of the opposite party No. 2 that, as per the airline, the complainant did not show up for the flight on the scheduled time, therefore, the ticket was cancelled by the airlines and the onus of refund would lie with the airlines. Further, the opposite party No. 2, being merely an intermediary between the complainant and opposite party No. 1 took necessary steps to assist the complainant in obtaining his refund.
- 7.5.** The communication between the complainant and the opposite party No. 1 (e-mails at Ex.A6 & Ex.A7) indicated that the complainant raised the issue of not receiving the web check-in link to the airlines.
- 7.6.** On perusal of document at Ex.B2, it is very much clear that MMT will send booking confirmation, schedule change or any such other information relevant for the transaction or booking made by the User.

- 7.7.** In the case at hand, the opposite party No. 2 did not submit any documentary evidence to prove that the information with regard to change in timings of the flight was given to the complainant.
- 7.8.** It is the duty of airlines to provide web check-in link (Ex.A4 & Ex.A5). In the present case, the opposite party No. 1 neither responded to the e-mails sent by the complainant nor appeared before the Commission to dispute or deny the allegations. Thus, the documentary evidence at Ex.A6 & Ex.A7 remained unchallenged and unrebutted.
- 7.9.** In the present case, both opposite parties are deficient in rendering proper service to their customer / complainant. Thus, commission of deficiency in service by the opposite parties is proved. Hence, part of point 'a' is answered in favour of the complainant.

8. Point 'b':

- 8.1.** In the case at hand, the complainant did not submit cogent documentary evidence with regard to pleadings made in para I of the complaint. Therefore, looking to the facts and circumstances of the case, we are of the considered view that compensation of Rs. 5,000/- (Rupees Five Thousand Only) will meet the ends of justice.
- 8.2.** In view of the above discussion, the complaint is allowed in part and the opposite parties No. 1 & 2 will pay Rs. 2,500/- (Rupees Two Thousand Five Hundred Only) each to the complainant.

Time for compliance: 45 days from the date of receipt of the order. In case of non-compliance, the amount mentioned above shall attract an interest @6% p.a. (over & above the interest awarded above) from the date of the order till its actual payment.

Dictated to steno, transcribed and typed by him, pronounced by us on this the 13th day of November, 2023.

MEMBER
PRESIDENT

MEMBER

APPENDIX OF EVIDENCE

WITNESS EXAMINED FOR THE COMPLAINANT:

(PW1) Siriki Sai Sumanth.

WITNESS EXAMINED FOR THE OPPOSITE PARTY No.2

(DW1) Puneet Chawla.

EXHIBITS FILED ON BEHALF OF THE COMPLAINANT:

- Ex.A1 Copy of Complainant's Flight ticket.
- Ex.A2 Copy of Screenshot of the message received at 01:09 Hrs intimating early departure of the flight.
- Ex.A3 Copy of screenshot of partial refund of flight ticket amount.
- Ex.A4 Copy of Circular No. 4/1/2020-IR dated 22/05/2020.
- Ex.A5 Copy of Circular No. 4/1/2020-IR, dated 08-06-2022.
- Ex.A6 Copy of representation mail to the airlines ombudsman.
- Ex.A7 Copy of Mail to the Opposite party No.1 by the complainant.

EXHIBITS FILED ON BEHALF OF THE OPPOSITE PARTY

- Ex.B1 Copy of External email.
- Ex.B2 Copy of Terms and conditions (Agreement between user and the MakeMyTrip)
- Ex.B3 Copy of refund details.

MEMBER

MEMBER

PRESIDENT

PSK
READ BY:-
COMPARED BY :-