

Date of Filing:12.05.2013**Date of Disposal:16.11.2023****BEFORE THE IV ADDL DISTRICT CONSUMER DISPUTES
REDRESSAL COMMISSION BENGALURU****1ST FLOOR, BMTc, B-BLOCK, TTMC BUILDING, K.H ROAD,
SHANTHINAGAR, BENGALURU - 560 027.****PRESENT:-****Hon'ble Sri.Ramachandra M.S., B.A., LL.B., President
Sri H.N.Shrinidhi, B.com, LL.B., Member
Smt.Nandini H Kumbhar, B.A., LL.B., LL.M., Member****ORDER****C.C.No.127/2023****Order dated this the 16th day of November 2023**

Ms.Anita Kachroo,
D/o Motilal Kachroo,
Aged about 59 years,
R/a No.31, Panchvati,
20th cross, 3rd Main road,
Hoysalanagar, Hormavu,
Bengaluru-560016
(Sri M.R.Manoj Kumar, Adv.)

COMPLAINANT/S**- V/S -**

1. MAKEMYTRIP (India) Pvt.
Ltd.,
Rep. by its Authorized
Representative,
Regional office at:
19th floor, Epitome Building
No.5, DLF Cyber City,
DLF Phase-III,



<p>Gurugram-122002, Haryana (Sri Rishabha Raj Thakur, Adv.)</p> <p>2. MAKEMYTRIP (India) Pvt. Ltd., Rep. by its Authorized Representative, Branch office at: 2nd floor, The Centrum Infantry road, OPP. Prestige Cooper Arch, Bengaluru-560025 (Sri Rishabha Raj Thakur, Adv.)</p>	<p>OPPOSITE PARTY/S</p>
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ORDER

SMT.NANDINI.H.KUMBHAR, MEMBER

1. This complaint is filed by the complainant under section 35 of the C.P.Act, 2019 against the OP alleging deficiency of service, to direct the OP to return amount of Rs.44,086/- along with interest at 18% p.a. from the date of payment, to direct the OP to pay compensation of Rs.50,000/- and Rs.25,000/- towards expenses incurred and Rs.10,000/- towards cost of litigation and such other reliefs.
2. The brief facts of the case is as follows:



This is the case of the complainant that on 09.11.2022 the complainant booked travel journey of Air India through OP-1 & 2 for their parents from Bengaluru to Jammu to attend the marriage of their relatives and accordingly both for onward journey on 30.11.2022 and return journey on 05.12.2022 were booked by paying Rs.44,086/- through ICICI Bank credit card of complainant, but the complainant not received ID for booking nor e-ticket nor SMS for the above said booking and immediately the complainant contacted the customer service and they have informed the complainant that the transaction failed and amount of Rs.44,086/- debited from ICICI Bank credit card will be refunded within 15 days. Further, the complainant booked air ticket for same persons on same day with OP-1 & 2 by paying Rs.41,622/-, for that the complainant got message, ID for booking and E-ticket and also received invoice on same day.

The complainant submits that after lapse of 15 days from the date of 1st booking the complainant has not received refund of Rs.44,086/- and contacted



through telephone and sought certain information from the complainant and subsequently complainant forwarded the information sought by the OPs, then after the OPs have informed the complainant that **“We would like to inform you that we have not receive any amount regarding your booking, hence kindly connect with your bank for the deduction of amount from your account”** . The complainant then contacted the ICICI Bank and service provider of OPs regarding the disputes, but the dispute remained unsolved. After making communications on 07th January 2023 the service support of OP-1 & 2 had so thus confirmed as to having received an amount of Rs.44,086/- had so come out with a false statement, but failed to refund the amount even after repeated requests and communications. Due to the act of the OPs, the complainant got issued legal notice calling upon the OPs to refund Rs.44,086/-, but even after notice the OPs have failed to refund the booking amount. Aggrieved by the act of the OPs, the complainant preferred to file the



present complaint seeking relief as prayed in the complaint.

3. Notice to the OP-1 & 2 duly served, represented by counsel filed written version and affidavit along with relevant documents in support of their defence.
4. Complainant filed chief examination affidavit along with relevant documents in support of their contentions.
5. Heard arguments and matter is reserved for orders.

6. The points that arise for our consideration are;

1) Whether the Complainant prove that there is deficiency of service on the part of the OP as alleged in the complaint and thereby prove that she is entitled for the relief sought?

2) What order?

7. The findings on the above points are as under:

Point No.1 : Partly Affirmative.

Point No.2 : As per final order.



REASONS

8. POINT NO.1:- OPs represented by counsel and filed their written version, wherein the OP denied entire complaint allegations as there is no deficiency of service on their part. The OP had confirmed the ticket and duly sent to the complainant, which was duly validated by Air India since passengers were no-show on Bengaluru to Delhi flight, onwards segment of Delhi to Jammu got cancelled. Hence, there is no deficiency of service on their part and prays for dismissal of the complaint for the above reasons.

9. From the perusal of complaint averments and also documents produced, it is crystal clear that the complainant had booked onward journey to be schedule on 30.11.2022 and also return journey on 05.12.2022, accordingly she had paid an amount of Rs.44,086/- through credit card, but the complainant had not received ticket ID booking nor SMS from the OP. On the assurance as the booking made being a failed transaction from OP-1 &2 having contacted customer



service was informed that the amount will be refunded within 15 days, but the complainant have not received the refund amount of Rs.44,086/-, the complainant sent a mail and had forwarded information sought by the OP-1 &2, thereafter the service provider of OP-1&2 informed the complainant that they have not received any amount. After having confirmed about receiving amount of Rs.44,046/- from the complainant's ICICI credit card till date the OP-1 &2 failed to refund the amount to the complainant. Due to the act and omission of the OPs, the complainant suffered from mental agony, loss of money and caused inconvenience. The complainant made best efforts for refund of the said amount from the OPs. When all the efforts yield no fruits to the complainant. The complainant has made email communication to the OPs in order to get refund of the said amount, but as per contentions taken by the OPs that they had sent a ticket voucher as well as check-in message to the complainant which was duly validated by Air India since passenger was no-show against non-refundable confirmed booking. But the OPs have failed to produce any documents as



stated in their version, only submitted screenshots without having date and timing that the ticket was confirmed and check-in message sent to the complainant on same day. To substantiate their claim the complainant has filed documents to show that she had paid Rs.44,086/- to OPs which clearly established that the complainant has paid said amount to the OP through website for booking of flight from Bengaluru to Jammu. The documents produced in the complaint shows that inspite of efforts when the complainant failed to get the refund of the amount and the complainant sent mail dt.07.01.2023 and as well being constant exchange of mail correspondence since 25.11.2022, but OP come out with false statement and failed to refund the said amount to the complainant. It is apparent from the facts of the case that, though the OPs despite payment of the flight booking amount being reimbursed accordingly, the complainant had not received ID booking nor e-ticket for the aforesaid booking of passengers. It is the duty of the OPs to refund the said amount to the complainant. During the course of the



service, they have rendered negligent service to the complainant. The transaction between the complainant and the OP established that the OP has rendered deficient service to the complainant and it is also observed from the conduct of the OP that they have negligent and careless in service and thereby caused hardship, mental agony to the complainant. For which the OP-1 & 2 are bound to refund the entire booking amount received from the complainant.

10. In view of the above discussion and on perusal of complaint averments and documents produced by the complainant, it is held that the OP-1 & 2 are jointly and severally liable to refund a sum of Rs.44,086/- to the complainant along with other reliefs as granted in the complaint. Accordingly, we answer **Point No.1** in **Partly affirmative**.

11. **POINT NO.2:-** In the result, for the forgoing reasons, we passed the following:



ORDER

1. The complaint is hereby allowed.
2. The OP-1 & 2 are jointly and severally directed refund a sum of Rs.44,086/- along with interest at 6% P.A. from the date of payment i.e. 09.11.2022 till refund is made.
3. The OP-1 & 2 are further jointly and severally directed to pay a compensation of Rs.10,000/- towards deficiency and Rs.5,000/- towards cost of litigation. The OPs shall comply the above order within 45 days from the date receipt of this order, failing which the above said amount shall carry interest at 6% P.A.
4. Furnish free copy of this order to both the parties.

(Dictated to the Stenographer, got it transcribed, typed by him and corrected by me, then pronounced in the Open Commission on 16th November 2023)


(RAMACHANDRA M.S.)
PRESIDENT


(NANDINI H KUMBHAR)
MEMBER


(SHRINIDHI.H.N)
MEMBER

Witness examined on behalf of the complainant by way of affidavit:

Ms.Anita Kachroo.- Who being the complainant.

Documents produced by the complainant:

1	C1: Copy of ICICI Bank Credit card statement
2	C2&C3: Copy of email dt.09.11.2022
3	C4 to C10: Copy of email communications
4	C11: Copy of Twitter.com message
5	C12: Copy of Legal notice
6	C13: Copy of Postal Tracking
7	C14: Returned Postal cover.

Witness examined on behalf of the OPs by way of affidavit: Sri Nadim Hasmi-Who being process Specialist-ORM & Authorised officer of OP-1 &2.

Documents produced by the OPs:

1	R1: Copy of Authorization
2	R2: Copy of Air tickets
3	R3: Copy of Agreement between User & MakeMyTrip
4	R4: Copy of Confirmation of flight


(RAMACHANDRA M.S.)
PRESIDENT


(NANDINI H KUMBHAR)
MEMBER


(SHRINIDHI.H.N)
MEMBER

