

**M. P. STATE CONSUMER DISPUTES REDRESSAL COMMISSION, BHOPAL**

**PLOT NO.76, ARERA HILLS, BHOPAL**

**FIRST APPEAL NO. 754 OF 2012**

(Arising out of order dated 24.12.2011 passed in C.C.No.789/2009 by District Commission, Satna)

WESTERN CENTRAL RAILWAY DIVISION

JABALPUR THROUGH DIVISIONAL RAILWAY

MANAGER & ANOTHER.

... APPELLANT

Versus

RAJENDRA KUMAR AGRAWAL & ANOTHER

... RESPONDENTS.

**BEFORE:**

**HON'BLE SHRI A. K. TIWARI : PRESIDING MEMBER**

**HON'BLE DR. SRIKANT PANDEY : MEMBER**

**HON'BLE SHRI D. K. SHRIVASTAVA : MEMBER**

**ORDER**

**06.11.2023**

Shri Ajay Dubey, learned counsel for the appellants.

None for the respondents.

As per A. K. Tiwari :

This appeal by the opposite party no.1 and 2/appellants-Railways is directed against the order dated 24.12.2011 passed by the District Consumer Disputes Redressal Commission, Satna (for short 'District Commission') in C.C.No.789/2009, whereby the complaint filed by the complainant/respondent no.1 has been allowed.

2. The facts of the case in short are that the complainant along with his wife was travelling in AC-2 coach of train no.5009-Chitrakoot Express, on 11.12.2008. It is submitted that they kept their luggage beneath the berth and slept near Bhimsen station. It is alleged that at about 5am the

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complainant heard that whose suitcase is this. He found his suitcase was missing and at Satna railway station, the conductor was standing with the suitcase. It is alleged that when he saw his suitcase, he found that the articles kept in the suitcase were missing. The complainant eventually lodged FIR at GRP Police Katni. It is alleged that due to negligence of the opposite parties, the aforesaid articles was stolen. Therefore, alleging deficiency in service on part of the Railways, the complainant approached the District Commission, seeking relief.

3. The opposite parties in their reply before the District Commission raised objection that there is misjoinder of proper parties. As per the complainants, the incident occurred between Bhimsen to Satna Railway Station which comes under Northern Central Railway, Allahabad. Railway administration is not responsible for loss as per Section 100 of the Railways Act, 1989 if the luggage is not booked. If some valuable goods were kept in the bag, the complainant ought to have booked the same. It is therefore prayed that the complaint be dismissed.

4. The District Commission allowed the complaint and directed the opposite parties, jointly and severally to pay Rs.50,000/- to the complainant within a period of one month. Costs of Rs.1,000/- is also awarded.

5. Heard learned counsel for the appellant. Perused the record.

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6. Learned counsel for the Railways argued that the District Commission has not considered this important aspect that the complainant did not make any complaint to the TTE, Guard or coach attendant. The complainant should be vigilant about their belongings. The complainant has not been able to prove any negligence or deficiency in service on part of the opposite parties. He therefore, argued that the impugned order deserves to be set-aside.

7. After hearing learned counsel for the appellant and on careful perusal of the record as also the impugned order we find that the nowhere in his complaint has mentioned that from where to where he was travelling in the said train. He has only mentioned that at Bhimsen station he slept and at Satna station he found his suitcase at platform and the articles kept in his suitcase were stolen. It is also not the case of the complainant that he placed his suitcase with chained and locked beneath the berth. The complainant has not made any allegations against the railway authorities that the concerned TTE allowed unauthorized passengers in the said coach and there were no railway staff of RPF personnel. The complainant has not been able to prove any negligence or deficiency in service on part of the opposite party-railways. The complainant has alleged that goods worth Rs.2,25,000/- were stolen, but he has not been able to place authentic bills of those articles in order to substantiate his submission. We find that the

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District Commission has without any basis allowed the complaint when there was no evidence to substantiate the complainant's contention. In such circumstances, when the complainant himself was not vigilant in keeping his luggage safe, how can the Railways be held responsible?

8. Hon'ble Supreme Court in *Station Superintendent & Anr Vs Surender Bholia III (2023) CPJ 11 (SC)* has held:

*“We fail to understand as to how the theft could be said to be in any way a deficiency in service by the Railways. If the passenger is not able to protect his own belongings, the Railways cannot be held liable.”*

9. In such circumstances, when the complainant failed to prove deficiency in service against the railways, therefore, on merits as also in view of the recent pronouncement of Apex Court, we are of a considered view that the District Commission, Satna has erred in allowing the complaint filed by the complainant/respondent no.1 as the complainant has no case on merits.

10. In view of the above discussion, the impugned order cannot be sustained and is hereby set-aside. Consequently, the complaint is dismissed.

11. In the result, the appeal is hereby allowed with no order as to costs.

(A. K. Tiwari) (Dr. Srikant Pandey) (D. K. Shrivastava)

Presiding Member

Member

Member