

**DISTRICT CONSUMER DISPUTES REDRESSAL COMMISSION-VI
(NEW DELHI), 'M' BLOCK, 1STFLOOR, VIKAS BHAWAN,
I.P.ESTATE, NEW DELHI-110002.**

Case No.CC/196/2016

IN THE MATTER OF:

- 1. Sh. Ashok Goel, Advocate**
S/o Late Sh. B.R. Goel
- 2. Smt. Nirmal Goel**
W/o Sh. Ashok Goel
Both R/o - 8, Central Lane,
Bengali Market, Connaught Place,
New Delhi – 110001.

... Complainants

Versus

Air India Limited
Airlines House,
113, Gurudwara Rakabganj Road,
New Delhi – 110001.

... Opposite Party

Quorum:

Ms. Poonam Chaudhry, President
Mr. Bariq Ahmed, Member
Mr. Shekhar Chandra, Member

Date of Institution: 18.03.2016
Date of Order : 20.02.2024

ORDER

SHEKHAR CHANDRA, MEMBER

1. The present complaint has been filed under Section 12 of the Consumer Protection Act, 1986 (in short CP Act) against Opposite Party (in short OP) alleging deficiency of services.

2. The facts in brief as borne out from the record of this complaint case are that the complainant No.1 is an advocate running a law firm. The Complainant No.2 is wife of the Complainant No.1.
3. The Complainants booked tickets of the OP's airlines for their journey on 18.12.2015 from Delhi to New York (EWR) through website www.makemytrip.com of which the PNR Number was Z4WR6. The Complainants had also booked tickets of the OP's airlines for their return journey on 02.01.2016 from New York (EWR) to Delhi through website www.makemytrip.com.
4. The Complainants checked in four bags (each bag containing luggage about 24 kg.) at the OP's counter at Indira Gandhi International Airport New Delhi on 18.12.2015 and the OP issued four Luggage receipts along with the boarding pass. On 18.12.2015, the Complainants boarded the OP's Flight bearing no. AI 602 for their aforesaid journey as per the OP's instructions. The said flight left the Complainants at Mumbai Airport from where the Complainants boarded the OP's Flight bearing No. AI 191 to New York(EWR) as per the OP's instructions.
5. On 19.12.2015 the Complainants reached Newark Liberty International Airport, Newark, NJ-07114 and waited for about 5 hours for their luggage. When after waiting so long, they did not receive their luggage at the baggage receiving point as designated by the OP, they repeatedly

requested to the OP's officials at the aforesaid Airport for their luggage who did not respond properly later informed that the Complainants luggage had not reached at aforesaid Airport and that it would take about 6 more days for the baggage to reach the aforesaid airport. It is not out of place to mention here that the Complainants had even called the Air India helpline number from aforesaid Airport and the Complainants' son had also called Air India helpline from Delhi but no satisfactory reply was given by the OP's representatives in either case.

6. Thereafter after some more time, the OP's official at Newark Liberty International Airport, Newark, NJ-07114 gave Property Irregularity Report bearing complaint no. EWRA118178 after taking Boarding Pass and Luggage receipts from the Complainants. The said indifferent and harassing attitude of the OP's official caused great mental pain and agony to the Complainants. As per advice of the OP's official, the Complainants gave an address of their relative at Exton, U.S.A. where the Complainant's luggage could be delivered as the Complainants had no fixed address in U.S.A.
7. The Complainants had to stay for about 15 days in U.S.A. and had to attend meetings in New York and Washington and as such they had kept various clothes which were needed as proper formal attire in the

meetings. The Complainant No.1 had also kept some necessary medicines in the luggage as he is suffering from High Blood pressure and diabetes.

8. The complainants submit that the complainants booked tickets of the OP's airlines under the representation of the OP of safe passage and simultaneous delivery of their baggage at the pre-decided destination. It is further submitted by the complainants that after their flight bookings they undertook various expenses to finalize their further itinerary including hotel stay and further travel arrangements which is entirely dependent on the flight timings and under the presumption that they will receive their baggage containing essentials at the time of landing when such huge delay of multiple (5-6) days takes place before the Complainants got access to their baggage containing essentials, many thousand miles away from home, it caused them great inconvenience, harassment, pain, agony along with unforeseen financial loss at no fault of theirs. The complainants state that baggage transportation charges were also charged by the OP implicitly in the ticket cost.
9. The OP did not deliver the various luggage of the Complainants on time, therefore, the Complainants in such compelling and emergency circumstances were forced to purchase clothes of value around 2000 U.S. dollars for normal wearing, and also those necessary for their planned meetings. The Complainant No.1 was compelled to consult a doctor for

prescription of medicines as in U.S.A. medicines are not given without prescription. It is pertinent to mention that he was suffering from high blood sugar, diabetes and high blood pressure, all of which can have disastrous and deleterious effect on one's health if not treated for a period of time, especially in this case where he had a 15 day trip in a foreign land. Thus, the Complainant No.1 spent around 300 U.S. dollars on medicines and 200 U.S. dollars on doctor consultation fee only because of delay in receipt of baggage which contained the medicines that he had packed from India.

10. On 24.12.2015 the OP delivered 3 bags at the address of the Complainants' relative in Exton, U.S.A. and one bag on 26.12.2015 at same address. The Complainants travelled to the house of their relative at Exton by car from Washington to collect their bags and had spent around 500 U.S. dollars on conveyance only for this purpose of retrieving their baggage. It is also pertinent to mention that the bags were delivered in distorted condition. Thus, in total, around 3000 U.S. dollars were spent by the Complainants due to late delivery of luggage of the Complainants by the OP.
11. Thereafter the Complainant called at Air India helpline number, both from US and through their son from India, for providing information about lodging complaint for compensation against monetary loss caused

to the Complainants due to late delivery of luggage. Upon enquiry, it was informed by the OP's official that the Complainants would have to collect compensation form from Newark Liberty International Airport, Newark, NJ-07114 itself and to submit there. Surprisingly when the Complainants went at the OP's counter at the aforesaid Airport the OP's official refused to give the Complainants any compensation form and stated that the compensation form will be provided at Delhi Airport.

12. On 03.01.2016 the Complainants returned at Delhi Airport and contacted the OP's official at Airport and asked for compensation form but the OP's official refused to give the same and as such the Complainants could not file any compensation form, if any required.
13. The complainants submit that the above said inaction, indifferent and harassing attitude of the OP's official and late delivery of luggage of the Complainants amounts to negligence and deficiency in service on part of the OP which has caused monetary loss of about 3000 U.S. dollars and great mental pain, stress and agony to the Complainants. Thus, the OP is liable to pay compensation to the Complainant for the same.
14. The Complainants through advocate issued a legal notice dated 16.01.2016 to the OP inter-alia calling upon them to pay Rupees equivalent to 3000 U.S. dollars to the Complainants as compensation amount against monetary loss caused to the Complainants due to late

delivery of their luggage but instead of complying the aforesaid legal notice, the OP sent a reply dated 10.02.2016 whereby refused to pay any amount to the Complainants. Hence filing of the present complaint has become necessary.

15. It is argued that the Complainants have made claim in present complaint against the OP for less than Rs.20 lakhs and thus this Forum has pecuniary jurisdiction to decide the present complaint. The OP has its office in New Delhi within territorial jurisdiction of this Forum and therefore, this Forum has territorial jurisdiction to decide the present complaint.
16. As regard the cause of action to file the present complaint, it is submitted that it arose in December, 2016 when the OP gave late delivery of the luggage. The cause of action further arose in January, 2016 when the OP refused to give the compensation form to the Complainants on their returning from U.S.A. The cause of action also arose when the Complainants through advocate issued a legal notice dated 16.01.2016 to the OP inter-alia calling upon them to pay Rupees equivalent to 3000 U.S. dollars to the Complainants as compensation amount against monetary loss caused to the Complainants due to late delivery of their luggage. The cause of action also arose when the OP sent a reply dated

10.02.2016 whereby refused to pay any amount to the Complainants.

Thus the present complaint is within limitation.

17. Failing to get their grievances resolved, the complainants have filed the present complaint with the following reliefs:-

(i) OP be directed to pay Rs.2,00,000 (i.e. about equivalent to 3000 U.S. dollars as on date 14.03.2016) to the Complainants as compensation against monetary loss caused to the Complainants due to late delivery of their luggage by the OP along with interest @ 18% P.A. from January 2016 till the date of the realization of the aforesaid amount.

(ii) Award a compensation of Rs.5,00,000/- (Rupees Five Lakhs only) to the Complainants against harassment, mental pain and agony due to deficiency in service and negligence of the OP.

(iii) Award a cost of Rs.1,00,000/- (One lakh only) towards legal expenses.

21. Notice of the complaint was issued to OP, upon which OP entered appearance and filed written statement contesting the case on various grounds inter alia that the complaint is belated, sham, bogus, afterthought as Complainants fully well knew that they had got absolutely no case against OP, which is clearly apparent, evident and crystal clear from OP's Reply dated 10th February, 2016. Even after having received reply

from OP, complainants kept mum and slept over the matter and have now fictitiously filed vexatious and frivolous complaint as an after-thought, which evidently is devoid of any merits, basis, justification or cause of action whatsoever.

22. The complaints have not disclosed any cause of action in their favour nor have Complainants proved any loss having been suffered by them. Documents relied upon by them are manipulated besides being irrelevant. Complainants cannot take benefit of their own wrongs and acts of omission and commission. No liability can be fastened on to accused, as delay in delivery of baggage was beyond the power and control of OP who not only made best possible endeavors but actually and admittedly delivered baggage to complainants without an iota of protest or objection. Complainants are guilty of fabricating and giving false evidence in present proceedings, therefore also complaint and reliefs as prayed for are neither tenable in law nor can be awarded to Complainants.
23. It is further submitted by the OP that the Complaint is vague, sham, bogus, manipulated based on surmises, conjectures and devoid of any merits, basis or justification and is otherwise totally bereft of any details, and therefore, does not shed any light on the controversy. The aforesaid also shows that intentions behind apparently and evidently filing vexatious complaint are to illegally extract money by harassing and

pressurizing OP by filing vexatious and ambiguous complaint. Facts in their true perspective are that complainants traveled DEL/BOM/EWR on board A1602/18Dec15/ A1191/19Dec15 with checked in four piece of baggage under original tag numbers A1247386/37/38/39 weighing 91 kg. On arrival at Newark Airport complainants reported missing their 04pcs of checked-in baggage and consequently report was duly raised under reference No. AHL EWRA118178/19 Dec 15 for tracing the same. As per BRS Delhi all 05 pieces of baggage loaded on board AI602/18Dec.15. Bags were off-loaded at Mumbai airport due to space and payload restrictions (as RL26) on A1191/19Dec.15 BOM/EWR beyond the power and control of OP. As per file/record, all the four MHB were received at Newark Airport on 21Dec and same were duly delivered on 22 Dec.15 without an iota of protest or objection by complainants on any account whatsoever.

24. It is argued by the OP that the Complainants have not suffered any loss on account of OP and accepted delivery of entire baggage/checked in four pieces of baggage intact without an iota of protest. In view of this, it is apparent, evident and crystal clear that the matter stood closed and OP is in no manner liable to pay anything on any account whatsoever to complainants.

25. It is alleged by the OP that the present action of the complainants by filing this complaint case is an after-thought, suffers from inordinate delay and latches, is sham, and illegal, without any cause of action and is devoid of any merits, basis or justification whatsoever and is illegally and wrongfully made to extract money. It nowhere states that complainants suffered any actual loss on account of OP. It is thus apparent that the complaint is devoid of any merits and is malicious and concocted. Complainants are not at all entitled to anything for the sole reason that there has been no deficiency or negligence on the part of OP. OP has not at all been negligent in providing the services expected of it & has been diligent in performing the duties cast upon it. Complaint is wholly uncalled for and unwarranted. OP has acted in discharge of its official duties in accordance with and strictly adhering to Rules & Regulations.
26. After hearing the parties at length and perusing the record, we find that the OP has not denied that numerous calls were made by the complainants and their son from different places to enquire about their luggage. It is a common knowledge that when a person moves to abroad, he/she carries clothes and other basic needs such a medicines etc. The arguments of the OP that the complainants have not suffered any mental or monetary loss cannot be accepted.

27. We are of the view that there is deficiency in service on the part of the OP. The OP is liable to compensate the complainants. We, therefore, direct the OP to pay Rs. 2,00,000/- (Rupees One Lakh only) as compensation to the complainants for causing mental agony, harassment and monetary loss as they were compelled to purchase clothes and medicines and had to meet with other miscellaneous expenses such as local transport expenses. The complainants shall also be entitled to litigation expenses which are assessed to Rs. 25,000/-. The amount as indicated above must be paid within six weeks from the date of receipt of this order, failing which the OP shall be liable to pay interest @ 7% per annum over the awarded amount from the date of booking of air tickets till payment/realization.

A copy of order be sent to all the parties free of cost.

The order be also uploaded in the website of the Commission.

File be consigned to the record room along with a copy of the order.

[Poonam Chaudhry]
President

[Bariq Ahmad]
Member

[Shekhar Chandra]
Member