

**NATIONAL CONSUMER DISPUTES REDRESSAL COMMISSION
NEW DELHI**

CONSUMER CASE NO. 172 OF 2014

1. GAGANJEET BHULLAR

S/o Shri Harbhajan Singh Bhullar, R/o C-207, Cosmos
Apartments, Palam Vihar,
GURGAON - 122017.

.....Complainant(s)

Versus

1. M/S EMIRATES AIRLINES, DELHI & ANR.,
5th Floor, DLF Centre, Parliament Street, Connaught Place,
NEW DELHI - 110001.

2. M/S EMIRATES AIRLINES, MUMBAI,
Barrister Rajni Patel Marg, Nariman Point,
MUMBAI - 400021.

.....Opp.Party(s)

BEFORE:

**HON'BLE MR. JUSTICE RAM SURAT RAM MAURYA, PRESIDING
MEMBER**

HON'BLE BHARATKUMAR PANDYA, MEMBER

FOR THE COMPLAINANT : MS. SREJAL MISHRA, ADVOCATE
MR. SATENDER PAL, ADVOCATE

FOR THE OPP. PARTY : MS. RITU SINGH MANN, ADVOCATE
MR. DHEERAJ K. GARG, ADVOCATE
MR. SANDEEP CHAUHAN, ADVOCATE

Dated : 15 September 2023

ORDER

JUDGEMENT

(PER MR. JUSTICE RAM SURAT RAM (MAURYA), PRESIDING MEMBER)

1. Heard Ms. Srejal Mishra, Advocate, for the complainant and Ms. Ritu Singh Mann, Advocate, for the opposite parties.
2. Mr. Gaganjeet Bhullar has filed above complaint for directing the opposite parties to (i) pay Rs.15000000/-, as compensation for the loss suffered by the complainant; (ii) reimburse Rs.100000/- for the loss of baggage containing his 6 boxes of golf balls (TITLIEST), golf clubs, T-shirt, caps, 4 pairs of shoes (FOOTJOY), etc.; (iii) pay Rs.200000/- as compensation for mental agony and harassment; (iv) pay litigation costs; and (v) any other relief, which is deemed fit and proper in the fact and circumstances of the case..
3. The complainant stated that he was a professional golf player and won 9 national level matches, represented India in various 'world level championship' and brought immense glory to the nation at number of 'international golf tournaments'. He played in "Eisenhower Trophy-2006 (representing India), Royal Trophy-2010 (representing Asia) and World Cup-

2013 (representing India). He won “silver medal’ in Asian Games in 2006 and “Anjun Award” in 2013. The complainant held 5th position rank in Asia and 159th position rank in the world in his game. The complainant, being a renowned sportsman, was also given various promotional contracts by the branded companies, most notably Titleist and Footjoy, wherein he was obligated to endorse, wear and use equipment and apparel of those companies,. Under the contract with above companies, the complainant was bound to use equipment and clothing of these companies, failing which, the complainant would be exposed to grave liability claims. Emirates Airlines (the opposite party) claims to be a world’s largest airline. The complainant was registered as frequent flyer with the opposite party for past 4-5 years. However, during his recent travels with the airline of the opposite party, tremendous loss occurred to the complainant due to misplacement/delay/loss of his baggage due to negligence caused by the crew of the airline. The complainant fled on 17.02.2014 from Johannesburg to Mumbai via Dubai, by Emirates Airlines on Flight No. EK 762 and Flight No. EK 504, for playing in ‘Louis Philippe Cup’ in Mumbai. The flight landed in Mumbai at 17:00 hours (IST) and the Flight Officials told that the baggage would arrive in the next flight. The complainant waited for 3 hours at the airport for the baggage but it did not arrive on that day. The complainant missed the cut on the next day due to absence of his necessary items/equipment, i.e. golf shoes, golf caps, golf wear, golf clubs, golf balls etc. which caused immense tension, anxiety and mental stress to him as winning prize money in this Mumbai Tournament was Rs.1.5 crores. The complainant also missed his practice for the next tournament in Casablanca, due to lack of his necessary equipment on subsequent following days, causing loss to his game and confidence as his baggage was delivered on 20.02.2014. The complainant again flew on 10.03.2014 from Delhi to Casablanca via Dubai, by Emirates Airlines in Flight No. EK 513 and Flight No. EK 751, for taking part in tournament ‘Trophy Hassan II’, in which winning prize money was 1.5 million Euros. At this time the complainant travelled in ‘business class’. Again his golf kit was not boarded in same flight and delivered on the next day of his arrival. In which, one baggage consisting of his clothing to be worn as per contract with Titleist and Footjoy, six boxes of golf balls (Titleist), golf clubs, T-shirts, caps, 4 pairs of shoes (Footjoy) etc. worth Rs.100000/-was lost, which again caused immense tension, anxiety and mental stress to him. Due to delay in delivery of the baggage as well as loss of the baggage, the complainant committed breach of agreement with Titleist and Footjoy. Due to anxiety and mental stress, the complainant could not concentrate in his game and his performance was also badly affected, although he had been persistently performing exceptionally well in all his previous tournaments. The opposite party committed gross deficiency in service and liable to pay damages for loss of his baggage and compensation for the loss occurred in the tournament. The complainant gave a legal notice dated 26.03.2014 to the opposite party, calling upon to pay compensation. In spite of service of the notice, the opposite party did not respond. Then this complaint was filed on 29.05.2014.

4. The opposite party filed its written version on 19.08.2014 and contested the complaint. The opposite party stated that the complainant checked in two bags total weight 42 kg. on Flight No. EK 762 at Johannesburg, which flight came to Dubai. The complainant travelled from Dubai to Mumbai on Flight No. EK 502, which was landed in Mumbai at 17:40 hours (IST) though he originally booked Flight No. EK 504, whose arrival was at 8:20 hours on 18.02.2014 at Mumbai. On arrival at Mumbai, one bag was delivered to the complainant and he complained of missing of his second bag. Then he was informed that his second bag

might have been left either at Johannesburg or at Dubai due to his last minute change of flight and it would be loaded in next flight and be delivered within 24 hours. The missing bag was received at New Delhi from Flight No. EK 500 on 18.02.2014 at 2:46 hours and was deposited with Custom Authority for clearance under AOC No. 102788. Later on, it was delivered to the complainant in Mumbai on 18.02.2014 at 10:20 hours. It has been denied that the complainant had to wait for three hours for his second bag at the airport on 17.02.2014 or he missed the cut on the next day due to absence of his necessary items/equipment, i.e. golf shoes, golf caps, golf wear, golf clubs, golf balls etc. which caused immense tension, anxiety and mental stress to him. The opposite party had no knowledge that the complainant was travelling to Mumbai for playing in Tournament 'Louis Philippe Cup' at Mumbai. The printout of press release dated 23.01.2014 from the website 'Aditya Birla Nuvo' and PTI report dated 17.02.2014 from the website of 'Times of India' show that total prize money of 'Louis Philippe Cup 2014' was Rs.1.2 crores. 'Louis Philippe Cup 2014' was a team event comprising of 3 players. One player of winning team would get Rs.12/- lacs. 9 teams had participated in this tournament. The complainant has concealed the position of his team in this tournament. Apart from the complainant, Mr. Jeev Mikha Singh and Mr. Jyoti Randhawa were playing in his team. None of the member of this team could perform well. A chart of earning of various players participating in 'Louis Philippe Cup 2014' shows that maximum earning was of Mithun Perera of Rs.484950/-. It has been denied that the complainant had also missed his practice for the next tournament in Casablanca, due to lack of his necessary equipment on subsequent following days, causing loss to his game and confidence. The complainant again flew on 10.03.2014 from Delhi to Dubai in Flight No. EK 513 and checked in two bags at New Delhi. Thereafter from Dubai to Casablanca in Flight No. EK 751. On arrival at Casablanca one bag containing golf kit was delivered to the complainant on 11.03.2014. The connecting time at Dubai was very short (one hour 10 minutes) therefore second bag of the complainant could not be loaded in Flight No. EK 751. Second bag was sent to Casablanca by the next available flight of Royal Air Maroc, which was lost. It has been denied that the opposite party had knowledge that the complainant was going there for taking part in tournament 'Trophy Hassan II', in which winning prize money was 1.5 million Euros. The reports available on internet regarding 'Trophy Hassan II' show that the complainant performed exceptionally well on first day but his performance deteriorated on later days. The complainant ended tie at 60th place in the tournament, which was spread over several days. There is no provision for separate treatment of the carriage of business class passengers. Under Rule 22(2) of Schedule-II of the Carriage by Air Act, 1972 (as amended in 2009), maximum limit of liability of airline is SDRs 1000 for loss, destruction, delay or damage of one baggage, unless special declaration of value was made at the time of booking/check in. As per provision of Rule 31, the claim for missing baggage has to be set up within 7 days and complaint within 21 days from the date of which the baggage or cargo have been placed at his disposal in writing. Otherwise the claim is barred under Rule 31(4). These conditions are also incorporated in Article 16 of the Conditions of Carriage of e-ticket issued to the passengers. The loss allegedly occurred on 17.02.2014 is barred under Rule 31(4) of Schedule-II of the Carriage by Air Act, 1972. The opposite party is ready for payment for the loss within limit of SDRs 1000, provided the complainant produced the proof of the value of lost baggage.

5. The complainant filed Rejoinder reply, Affidavit of Evidence of Gaganjeet Bhullar and documentary evidence. The opposite party filed Affidavit of Evidence of Tarun Sharma and

documentary evidence. Both the parties have filed their short synopsis of arguments.

6. We have considered the arguments of the counsel for the parties and examined the record. The opposite party stated that the complainant had travelled from Dubai to Mumbai on Flight No. EK 502, which was landed in Mumbai at 17:40 hours (IST) though he originally booked Flight No. EK 504, whose arrival was at 8:20 hours on 18.02.2014 at Mumbai. On arrival at Mumbai, one bag was delivered to the complainant and he complained of missing of his second bag. Then he was informed that his second bag might have been left either at Johannesburg or at Dubai due to his last minute change of flight and it would be loaded in next flight and be delivered within 24 hours. The missing bag was received at New Delhi from Flight No. EK 500 on 18.02.2014 at 2:46 hours and was deposited with Custom Authority for clearance under AOC No. 102788. Later on, it was delivered to the complainant in Mumbai on 18.02.2014 at 10:20 hours. The opposite party has produced Bag Delivery Receipt dated 18.02.2014, which contained signature of the complainant. The opposite party also produced Photo shoot of the complainant dated 18.02.2014, bearing cap of Titleist. The complainant has also filed Air Ticket of Flight No. EK 504, whose arrival at Mumbai was 18.02.2014 at 08:20 hours. As per provisions of the Carriage by Air Act, 1972, the missing baggage was delivered to the complainant within 24 hours of his arrivals at Mumbai as such there was no deficiency in service on the part of the opposite party in respect of journey dated 17.02.2014.

7. The complainant again flew on 10.03.2014 from Delhi to Dubai in Flight No. EK 513, thereafter from Dubai to Casablanca in Flight No. EK 751 and checked in two bags at New Delhi. On arrival at Casablanca one bag containing golf kit was delivered to him on 11.03.2014. Time of connecting flight at Dubai was very short (one hour 10 minutes) therefore the bags of the complainant could not be loaded in Flight No. EK 751. The bags were sent to Casablanca by the next available flight of Royal Air Maroc, in which one bag was lost. The complainant admitted that his golf kit was delivered on the next day. The opposite party is ready to give damages for the lost bag on furnishing of proof of its valuation within limit of SDRs1000.

8. So far as the claim of compensation by the complainant for not winning the trophy in two tournaments are concerned, it has been alleged that as the golf kit of the complainant was not delivered to him on 17.02.2014, at Mumbai, he missed the cut on the next day due to absence of his necessary items/equipment, i.e. golf shoes, golf caps, golf wear, golf clubs, golf balls etc. which caused immense tension, anxiety and mental stress to him. The complainant also missed his practice for the next tournament in Casablanca, due to lack of his necessary equipment on subsequent following days, causing loss to his game and confidence as his baggage was delivered on 20.02.2014. These allegations are false. Second bag of the complainant was delivered to him on 18.02.2014 at 10:20 hours. From his Photo-shoot it is proved that he had participated in his game on 18.02.2014, in his branded clothes. So far as his performance in Casablanca, is concerned, his first day performance was better, which ruled out any mental stress. He has not produced any document to prove that his contracting companies Titleist and Footjoy had ever set up any claim against him for violation of the agreement. No compensation can be awarded in this head.

ORDER

In view of the aforesaid discussion, the complaint is partly allowed. The complainant will submit proof of value of the lost baggage, before opposite party-1, within one month from this judgement who shall make payment within limit of SDRs 1000, with interest @9% per annum from April, 2014 till the date of payment, within two months thereafter.

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RAM SURAT RAM MAURYA
PRESIDING MEMBER

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BHARATKUMAR PANDYA
MEMBER