

BEFORE THE DISTRICT CONSUMER DISPUTES REDRESSAL COMMISSION – I,  
HYDERABAD

PRESENT

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

Tuesday, the 12<sup>th</sup> day of December, 2023

Consumer Case No.125 OF 2023

Between:-

Rashida Rampurawala  
Resident of D/o. Yunus Rampurawala,  
R/o. 1-33-248, Trimulghery, Burhani Housing Society,  
Near Jayalaxmi Garden, Trimulghery, Hyderabad,  
Telangana – 500 015, Mobile No. 73583 13997,  
Email: [rashida.yunus@gmail.com](mailto:rashida.yunus@gmail.com) .....Complainant

AND

The Authorized Signatory  
Gulf Air India, Having registered address at  
711, 7<sup>th</sup> Floor, Ansal Bhawan,  
16 Kasturba Gandhi Marg,  
New Delhi – 110 001. ....Opposite Party

Counsel for the Complainant : Party-in-Person  
Counsel for the Opposite Party : Ritu Singh Mann

O R D E R

(By Hon'ble Mr.B.Raja Reddy, Member  
on Behalf of the Bench)

1. The present complaint is filed under Sec. 35 of the Consumer Protection Act, 2019, praying this Commission to direct the Opposite Party,
  - a) to duly look into this matter with foremost importance to take necessary steps to render the proper service to the complainant and provide to the complainant with refund of Rs. 3,40,000/- (Rupees Three Lakh Forty Thousand Only) which is paid to the respondent concern along with interest @ 12% p.a.;
  - b) to provide Rs. 5,00,000/- (Rupees Five Lakhs Only) as compensation to the Complainant for the deficiency in service and mental harassment and agony;
  - c) to pay costs of litigation; and
  - d) pass such other/further order/orders as this Hon'ble Commission may deem fit and proper in the interest of justice, equity and good conscience.

2. The brief facts of the case are that the Complainant purchased two economy-class tickets of Gulf Air Lines i.e. of Opposite Party for Rs. 1,40,000/- (Rupees One Lakh Forty Thousand Only) and boarded on 22.10.2022 from Rajiv Gandhi Airport to Bahrain International Airport with two bags. The Complainant averred that the lock of one of her bag was broken and a pair of diamond gold earrings, one diamond ring, one silver ruby ring, one silver diamond Pandora ring, one smart watch, one silver emerald ring, two pairs of silver earrings and one silver necklace worth of Rs. 2,00,000/- approximately was stolen and as per rules of airlines for every missing item, the service provider must compensate but the opposite party employees are adamant and they are not resolving the issue though reference ticket no. 0732021291003 and ticket no. 0721021291004 are raised but they are acting like a flogging of a dead horse in lieu of providing the proper services to complainant. Hence, alleging deficiency of service on the part of opposite party, the complainant filed the present complaint and prayed this Commission to grant the above reliefs.
3. Upon receipt of the notice from this Commission, the Opposite Party filed written version denying the allegations except those which are specifically admitted, it is contended that the consumer complaint is not maintainable and the same is liable to be dismissed. It is further contended as the complainant was not made any special declaration at the time of check-in at airport as the checked in bag is containing jewellery, it is further contended as the conditions of carriage of opposite party is printed on the ticket and also available on the carriers website at [www.gulfair.com](http://www.gulfair.com) and it forms a condition between the airline and passenger and the passenger is subject to bound by the same. Article 8.3 of the conditions of carriage clearly mentions what should not be carried in the checked in bag and article 15.4 clearly mentions of no liability for damage to articles not permitted to be carried in checked in bag. That the Opposite Party submitted as complainant claims to have lodged a police complaint but on perusal of complaint, it is without any acknowledgment from police and the complainant failed to prove her case as there is no

deficiency of service on the part of the Opposite Party and the present complaint is filed for unlawful gain. Hence, denying the allegations of deficiency of service on the part of opposite party and prayed the commission to dismiss the complaint.

4. During the course of enquiry, the Complainant was given adequate opportunities for filing of evidence affidavit and for marking of documents but the complainant did not turn-back towards this Commission to lead evidence whereas the Opposite Party filed evidence affidavit and got marked documents as Ex.B1 to B3. The Learned Counsel for Opposite Party filed written arguments and the matter was reserved for orders.
5. Heard the Learned Counsel for Opposite Party. Based on the facts and material available on the record, the following points came up for consideration.
  - a) Whether the Opposite Party has been deficient in service and adopted any unfair trade practice?
  - b) Whether the Complainant is entitled for the reliefs as claimed in the Complaint?
  - c) If so, to what relief?

5.1. Point No.(a) & (b):

It is undisputed fact that the complainant purchased economic-class tickets in Gulf Air i.e. Opposite Party to travel from Rajiv Gandhi Airport to Bahrain International Airport and the scheduled date of journey was on 22.10.2022. That as per averments of complaint, she travelled with two luggage bags from one of her bag she found missing a pair of diamond gold earrings, one diamond ring, one silver ruby ring, one silver diamond Pandora ring, one garmin venus smart watch, one silver emerald ring, two pairs of silver earrings and one silver necklace totally worth of approximately Rs. 2,00,000/- (Rupees Two Lakhs Only) and it is contended as complainant raised ticket to resolve issue and also she lodged a police complaint, later she filed the present complaint praying this commission to direct the opposite party to refund the ticket amount along with the cost of lost items with compensation but to substantiate her contention, she did not file her evidence affidavit and mark the documents, beyond the initial act of filing complaint.

The crucial act of complainant is to substantiate her grievance through the presentation of evidence, the burden of proof naturally rests on the complainant, if the complainant fails to file evidence affidavit and mark it naturally weaken her case. In this case, the Complainant failed to substantiate her case. The burden on the party making a claim, failure to meet this burden by not presenting evidence affidavit can result in the case being decided against the complainant.

5.1.1. The Opposite Party filed evidence and got marked documents as Ex.B1 to Ex.B3 and filed written arguments by strongly opposing the averments of complaint, that as per Ex.B1, the condition of carriage

### 8.3. PROHIBITED ITEMS AND ITEMS UNACCEPTABLE AS BAGGAGE

8.3.1. *You must not include in your baggage:*

8.3.7. *You must not include in Checked Baggage money, jewellery, precious metals, precious stones, silverware, computers, personal, electronic devices (including without limitation mobile communication devices, tablets and ipads, or equivalent), negotiable papers, securities or other valuables, business documents, passports and other identification documents or samples.*

5.1.2. That the Complainant alleging as deficiency of service but it is settled law that the person who alleges that there is deficiency in service needs to prove the same, reliance is placed on the judgment of Hon'ble Supreme Court of India in SGS India Limited Versus Dolphin International Limited clearly held as follows:

*The onus of proof of deficiency in service is on the complainant in the complaints under the Consumer Protection Act, 1986. It is the complainant who had approached the Commission, therefore, without any proof of deficiency, the Opposite Party cannot be held responsible for deficiency in service. In a judgment of this Court reported as Ravneet Singh Bagga V.KLM Royal Dutch Airlines and another, this court held that the burden of proving the deficiency in services upon the person who alleges it.*

*“attributing fault, imperfection, shortcoming or inadequacy in the quality, nature and manner of performance which is required to be performed by a person in pursuance of a contract or otherwise in relation to any service. The burden of proving the deficiency in service is upon the person who alleges it. The Complainant has, on facts, been found to have not established any willful fault, imperfection, shortcoming or inadequacy in the service of the respondent”.*

5.1.3. The Opposite Party also relied upon the judgment of Hon'ble National Consumer Disputes Redressal Commission between Shiv Garg and Lufthansa German Airlines and others wherein at para no. 6, clearly held as under:

*Regarding Petitioners contention that he should be compensated for the loss of diamond necklace and other valuables also, we agree with the State Commission that since these were carried in violation of the terms and conditions that since these were carried in violation of the terms and conditions of the passenger ticket as stated earlier and were not insured, the Respondents were not liable to compensate the Petitioner for this loss.*

*Petitioner's contention is that Respondent/Airlines should not have accepted the checked in baggage containing the necklace and other valuables which was revealed in the X-ray. We are not convinced with this contention because the baggage is X-rayed for security considerations by security staff and Respondent/Airlines do not scan the baggage to see whether valuables are being carried or not. In view of the above reasons, we find no infirmity in the order of the State Commission and uphold the same. The revision petition is therefore, dismissed, No costs.*

5.1.4. Hence, in view of the above observations and findings, this point is answered against the Complainant.

5.2. Point No.c:

In the result, the Complaint is dismissed with no order as to costs.

Dictated to stenographer, transcribed and typed by him, pronounced by us on this the 12<sup>th</sup> day of December, 2023.

MEMBER

MEMBER

PRESIDENT

APPENDIX OF EVIDENCE

WITNESS EXAMINED FOR THE COMPLAINANT:

NIL

WITNESS EXAMINED FOR THE OPPOSITE PARTY:

Jabi Ali Country Manager of the Opposite Party Gulf Air Lines (DW1).

EXHIBITS FILED ON BEHALF OF THE COMPLAINANT:

NIL

EXHIBITS FILED ON BEHALF OF THE OPPOSITE PARTY:

Ex.B1 Copy of print out of relevant articles.

Ex.B2 Snap shot of aircraft entry register.

Ex.B3 Copy of legal notices dated: 28.11.2022 and 20.01.2023 along with postal receipt dated: 21.01.2023.

MEMBER

MEMBER

PRESIDENT

Read by:  
Compared by:  
DSK