

BEFORE THE DISTRICT CONSUMER DISPUTES REDRESSAL COMMISSION, AMBALA.

Complaint case no. : 30 of 2022
 Date of Institution : 01.02.2022
 Date of decision : 20.06.2024

1. Ganesh Dass Nagpal, aged 55 years son of Sh. Bela Ram resident of H.No. 896, Sector-9, UE, Ambala City, Haryana.
2. Jyoti Nagpal aged 50 years wife of Ganesh Dass Nagpal resident of H.No.896, Sector-9, UE, Ambala City, Haryana.

..... Complainants

Versus

1. Air India through its Chief Executive Officer/Officer Incharge/General Manager (legal), Office at Air India Limited, Airlines House, 113, Gurudwara Rakabganj Road, New Delhi-01
2. Air India through its Branch Head/Regional Head at SCO No.162 and 164, Sector 34 A, Behind Sham Fashion Mall, Chandigarh - 160034.

..... Opposite parties

Before: Smt. Neena Sandhu, President.

Shri Vinod Kumar Sharma, Member.

Present: Shri Shubham Aggarwal, Advocate, counsel for the complainants.

None for the OPs.

Order: **Smt. Neena Sandhu, President.**

Complainants have filed this complaint under Section 35 of the Consumer Protection Act, 2019 (hereinafter referred to as 'the Act') against the Opposite Parties (hereinafter referred to as 'OPs') praying for issuance of following directions to them:-

- i. To refund the remaining amount of Rs.73,590/-, qua cancellation of flight.
- ii. To pay compensation to the tune of Rs.50,000/- for mental agony and harassment
- iii. To pay cost of litigation to the tune of Rs.25,000/-
- iv. Grant any other relief, which this Hon'ble Commission may deems fit.

2. Brief facts of the case are that the complainants had planned a trip to Chicago, USA in the month of May, 2021. For the said trip, they had booked two flight tickets online on 20.03.2021 for travel from New Delhi to Chicago on 19.05.2021 and return to New Delhi on 01.07.2021 and paid Rs.1,43,611/- to the OPs. The complainants were given Booking Reference Number (PNR) YBRBV and E ticket No. 0982135278626 and 0982135278627 for the said booking and they also got their VISA issued for the travel from embassy and paid additional amount for the same. In the month of April, 2021, it was well within the knowledge of general public, the corona virus had started hitting the country again in its second wave and it came to the knowledge of the complainants that all the flights, national and international were suspended by the Government of India. Upon knowledge of the same and for fear of being caught by the deadly disease which had become the most severe in India in second quarter of the year 2021, the complainants enquired about the status of flight booking through email as they had been reading about the suspension of flights by government till May 31,2021. The OPs also replied to the

said email asking for several other details and the complainants kept communicating through emails and provided all the details to the OPs. After various request and reminder emails by complainants, the OPs replied via email dated 11.05.2021 that the tickets of the complainants have been cancelled as the flights have been cancelled. The complainants kept writing to the OPs and requested them to refund their booking amount but the OPs were least bothered to reply to the emails and calls of the complainant. In the month of June, 2021 the OPs refunded an amount of Rs.70,021/- in the account of the against cancelled flights while the actual amount paid by the complainants was Rs.1,43,611/-. The complainants thus wrote another email on 29.06.2021 to the OPs asking them to correct their mistake qua refund of part amount against cancelled booking and again requested them to refund full amount as the flight was cancelled by the OPs only but to no avail. Several requests made in the matter did not yield any result. Hence, the present complaint.

3. Upon notice, the OPs appeared through their counsel and filed written version wherein they raised preliminary objections to the effect that the complainants have not approached this Commission with bonafide intentions; the present complaint, filed by the complainants is absolutely frivolous, misconceived and malafide; the complainants have miserably failed to disclose any cause of action against the OPs etc. On merits, it has been stated that both the tickets had been refunded by the OPs for Rs.70021/- each, which fact is evident from the documents, Annexure R1 & R2 maintained in the record of the OPs. The complainants have failed to produce the bank statements to the OPs despite making various requests. It is further stated that the amount of both the tickets was duly refunded by the Air India to the complainants on 01.07.2021, but complainant failed to produce the bank statement. Rest of the averments of the complainants were denied by the OPs and prayed for dismissal of the present complaint with costs.
4. Learned counsel for the complainants tendered affidavit of the complainants as Annexure CW1/A and CW1/B respectively alongwith documents as Annexure C-1 to C-7 (colly.) and closed the evidence on behalf of complainants. However, it is pertinent to mention here that the OPs failed to lead any evidence despite availing various opportunities, therefore, evidence of the OPs have been closed by the order of this Commission on 12.10.2023.
5. On the date of arguments, none put in appearance on behalf of the OPs and therefore, we have heard the learned counsel for the complainants and have also carefully gone through the case file.
6. Learned counsel for the complainants submitted that by not refunding the remaining amount of Rs.73,590/- despite the fact that it has not been disputed by the OPs that the complainants were entitled to get back the entire amount of air fare because of cancellation of flights due to COVID-19 and on the other hand, wrongly saying that the entire amount stood refunded to the complainants, the OPs are deficient in providing service. He further submitted that only an amount of Rs.70,021/- out of Rs.1,43,611/- stood refunded by the OPs to the complainants on 26.06.2021 and it has wrongly been alleged by the OPs that the amount of both the tickets was refunded by the Air India to the complainants on 01.07.2021.
7. It may be stated here that because there is no dispute qua booking of the tickets in question by the complainants for the said journey on making payment of Rs.1,43,611/- on 20.03.2021 and its cancellation due to COVID-19 and that the complainants were entitled for refund of the entire amount, as such the only question which needs to be decided by this Commission is as to whether the entire amount of Rs.1,43,611/- as claimed by the OPs in their written version stood refunded to the complainants or only the amount of Rs.70021/- as claimed by the complainants have been refunded to them out of Rs.1,43,611/-. In order to prove this fact that only an amount of Rs.70,021/- stood refunded by the OPs on 26.06.2021, the complainants have placed on record statement of account Annexure C-6, pertaining for the period from 21.06.2021 to 05.07.2021. On the other hand, the OPs in their written version have stated that the amount of Rs.70,021/- (twice) stood refunded by the OPs and have attached two documents of their computer dashboard alongwith the written version, wherein it has been mentioned as "WS-WEB SALES REFUNDS 70021", but these documents have not been tendered into evidence by the OPs, despite availing number of opportunities, as a result of which their evidence stood closed by this Commission vide order dated 12.10.2023. However, nothing is clear from the afroesaid documents as to how the entire amount of Rs.1,43,611/- stood refunded to the complainants. Even otherwise in the written version, it has further been stated by the OPs that amount of both the tickets was duly refunded by the Air India to the complainants on 01.07.2021. From the perusal of statement of account, Annexure C-6, it is revealed that on 26.06.2021, an amount of Rs.70,021/- was credited in the account of the complainants by the Air India Limited but on 01.07.2021, no amount was credited by Air India Limited in the account of the complainants. There is no document which shows that on 01.07.2021, OPs credited the amount of both the tickets i.e

Rs.1,43,611/-, in the account of the complainants. Thus, in the absence of documentary evidence the contention of the OPs that amount of both the tickets was duly refunded by the Air India to the complainants on 01.07.2021, gets falsified. As such, we have no reason to disbelieve the contention of the complainants that OPs refunded only Rs.70,021/- and not Rs.1,43,611/-. By not refunding the balance amount of Rs.73,590/- to the complainants, the OPs are deficient in providing service. It is therefore held that the OPs are liable to refund the remaining amount of Rs.73,590/- to the complainants alongwith interest from 26.06.2021 i.e the date of refund of the amount of Rs.70,021/- onwards.

8. In view of the aforesaid discussion, we hereby allow the present complaint and direct the OPs, in the following manner:-
- i. To refund the balance amount of Rs.73,590/- to the complainants alongwith interest @6% p.a. from 26.06.2021, to the complainants, till its realization.
 - ii. To pay Rs.5,000/-, as compensation for the mental agony and physical harassment suffered by the complainants.
 - iii. To pay Rs.3,000/-, as litigation expenses.

The OPs No.1 and 2 are further directed to comply with the aforesaid directions within the period of 45 days, from the date of receipt of the certified copy of the order, failing which the OPs No.1 and 2 shall pay interest @ 8% per annum on the awarded amount, from the date of default, till realization. Certified copy of this order be supplied to the parties concerned, forthwith, free of cost as permissible under Rules. File be indexed and consigned to the Record Room.

Announced:- 20.06.2024.

(Vinod Kumar Sharma)
Member

(Neena Sandhu)
President