

IN THE DELHI STATE CONSUMER DISPUTES
REDRESSAL COMMISSION

Date of Institution: 29.11.2023

Date of Hearing: 03.09.2024

Date of Decision: 11.11.2024

FIRST APPEAL NO.- 637/2023

IN THE MATTER OF

UBER INDIA SYSTEMS PRIVATE LTD.,

THROUGH AUTHORISED REPRESENTATIVE MR. KARTIK

ARORA

CIN: U74120MH2013FTC247008

REGISTERED OFFICE:

REGUS BUSINESS PLATINUM CENTRE PVT. LTD., LEVEL 13

PLATINUM TECHNO PARK,

PLOT NO. 17/18, SEC-30A VASHI, THANE,

NAVI MUMBAI, MAHARASHTRA, INDIA, 400705.

(Through: LINK LEGAL)

...Appellant

VERSUS

Mr. UPENDRA SINGH

S/O LATE SH. SOHAN PAL SINGH

R/O. L-80, SARITA VIHAR, MATHURA ROAD,

NEW DELHI-110076.

(Through: S.K ROY & S.K JHA, Advocates)

...Respondent

CORAM:**HON'BLE JUSTICE SANGITA DHINGRA SEHGAL
(PRESIDENT)****HON'BLE MS. PINKI, MEMBER (JUDICIAL)**

Present: Mr. Kritya Sinha and Mr. Kushagra Kaul, counsel for the appellant
(Email: kritya.sinha@dentonelinlegal.com)
None for the respondent.

**PER: HON'BLE JUSTICE SANGITA DHINGRA SEHGAL,
PRESIDENT****JUDGMENT**

1. The facts of the case as per the District Commission record are:

"The complainant is a well-qualified doctor residing at L-80, Sarita Vihar, Mathura Road, New Delhi. The OP is an American based Company engaged in the business providing travel services through car, cab, taxi etc. to the customers. On 19/11/2022 (the complainant has booked an Uber Taxi for Indira Gandhi International Airport, Terminal-3 at 3.15 AM but the driver's name Daleep Yadav did not turn up and the complainant hiring another way out but had to wait for the said booked Taxi to come. The copy of the screen shot of the booking o Uber Taxi is Annexure-C-1. the complainant has booked the branded Uber Taxi only with assurance that 24x7 services will be available and he will get the service. The complainant has called the OP again but no one has responded from OP side. The complainant tried to search a local Taxi and cancelled the Uber Taxi and reached Airport at 5.15 AM but could not catch the booked Vistara Flight No. UK-913 from Indira Gandhi International Airport to Indore. The complainant has booked Economy Class ticket for himself and his wife namely Preeti Singh bearing booking

UBER INDIA SYSTEMS PRIVATE LTD. VS. UPENDRA SINGH

number T-7H28 Ticket No TKT-228-6025936460 and 22 85025936459 respectively which is Annexure-C-2. The complainant and his wife has to attend marriage ceremony of close friend at Indore and due to delay Taxi the complainant has missed the function. The complainant has booked second flight to Indore in the evening at the double price. The copy of the second purchased Ticket is Annexure-C-3. The complainant has already booked ticket for return to New Delhi and could not stay with the family for over 12 Hours. The copy of return ticket Annexure-C-4. The complainant has requested OP to resolve the issue but no reply. The complainant has sent legal notice 23/12/2021 to solve the issue but all in vain. The OP was served but it did not enter appearance and was proceeded ex-parte vide order dated 08.07.2022.”

2. The District Commission after taking into consideration the material available on record passed the Ex-Parte order dated **16.10.2023**, whereby it held as under:

“We have carefully and thoroughly gone through the material on record. The case of the complainant is that he has booked Uber Taxi on 29/11/2021 for Indira Gandhi International Airport at 3.15.AM. The driver of the Uber Taxi did not turn up and the complainant had to go by private Taxi but could not take his flight for Indore due to negligence of the OP. The complainant has purchased the second ticket for double price for Indore in the evening. The complainant could not attend the function properly due to the act of Uber Taxi. The complainant could not stay even 12 hours to family as he has booked the return tickets in advance. No evidence at all was led by OP (Uber Taxi) explaining the non-arrival of Uber Taxi at the residence of the complainant. The OP was required to lead the evidence and expected the non-arrival of and proves that delay in

UBER INDIA SYSTEMS PRIVATE LTD. VS. UPENDRA SINGH

arriving occurred because of the reason beyond their control. At least the OP was required to explain the delay which the OP has failed. It cannot be disputed that every passenger's time is precious and they might have booked the air ticket for further journey, like in the present case from Indira Gandhi International Airport to Indore. Therefore, unless and until the evidence is laid explaining the delay and it is established and proved that delay occurred which was beyond the control and or even there was some justifications for delay, the Uber tax is liable to pay the compensation for delay. Therefore, in the facts and circumstances of the case and in the absence of an evidence led to explain the delay, there is clear deficiency of service and unfair trade practice on the part of OP. Accordingly, we allow the complaint of the complainant and direct the OP to refund Rs.24,100/- for purchasing second air tickets due to delay of Uber Taxi along with Rs 30,000/- lump sum for mental agony and litigation charges to the complainant within 45 days from the date of receipt of this order, failing which OP shall be liable to pay entire amount with interest @ 6% per annum till realization."

3. The Appellant/Opposite Party, aggrieved by the Ex-Parte order of the District Commission, has filed the present appeal, asserting that the District Commission erred in finding a deficiency on the part of the Appellant. The Appellant contends that it was unable to present its case and was proceeded with ex-parte by the District Commission. The Appellant further claims that it did not receive any notice or summons from either the District Commission or the Respondent/Complainant at its registered or corporate offices, and thus had no knowledge of the pendency of the consumer complaint, bearing CC No. 44 of 2022. In addition, the Appellant argues that the Impugned Judgment, while acknowledging the absence of a defense on its part, fails to

UBER INDIA SYSTEMS PRIVATE LTD. VS. UPENDRA SINGH

provide any specific finding to justify the conclusion that there was a deficiency of service. The Appellant emphasizes that it merely acts as an aggregator and facilitator, providing a common platform for independent driver-partners and riders to connect for transportation services. As such, the Appellant cannot be held liable for any actions or omissions by the driver-partners, including cancellations, refusals, or delays in service.

4. Furthermore, the Appellant asserts that the Impugned Judgment fails to take into account the nature of its role as a cab service aggregator, which connects riders to available driver-partners upon request. In instances where a driver-partner cancels or delays a ride, the Appellant facilitates an alternate arrangement by connecting the rider to another driver-partner to ensure uninterrupted service. However, in the present case, the Respondent did not use the Uber platform to request another driver, and instead chose to search for a local taxi at odd hours in New Delhi, which contributed to the delay in reaching the airport and missing the flight.
5. In light of the above, the Appellant respectfully prays for the setting aside of the Impugned Judgment passed by the District Commission.
6. The Respondent, on the other hand, has submitted that he does not wish to file the reply vide order dated 03.07.2024 however, he has filed written synopsis wherein he has denied all the allegations of the Appellant and submitted that the grounds mentioned in the appeal are not tenable and justifiable in the eyes of law and the order passed by the District Commission, is thus on merits. More so, he has submitted that the District Commission had rightly proceeded the Appellant ex-parte since the summons/notice was duly served upon them.
7. The Appellant has filed written arguments wherein he relied on various Judgments:
 - *Universal Sompo General Insurance Co. Ltd. Vs. Smt. Rekha Lohiya, FA No. 230/2015, order dated 29.11.2018*

UBER INDIA SYSTEMS PRIVATE LTD. VS. UPENDRA SINGH

- *Topline Shoes Ltd. Vs. Corporation Bank:II (2002) CPJ 7 (SC)*
 - *Bank Of India Vs. Shri Makaran Gujar, FA 877/2016*
 - *Sangaram Singh Vs. Election Tribunal, Kotah, 1955 AIR SC 425*
8. We have perused the Appeal, the Impugned Order and the Written Submissions filed on behalf of the Appellant and Respondent.
9. The main question for consideration before us is ***whether the District Commission erred in establishing deficiency on the part of Appellant.***
10. The Appellant's assertion that it was not served with any notice or summons is, however, contradicted by the record. On perusal of record, it is clear that the District Commission, by order dated 21.02.2022, admitted the complaint and issued notices to the Appellant via both registered post and speed post. Furthermore, the Respondent has filed an Affidavit of Service (***Annexure A-5 with the present appeal***), which includes a tracking report confirming that the notice was received by the Appellant on 07.03.2022. As such, the Appellant's contention regarding non-service is not substantiated, as proper service of summons was duly effected.
11. The Appellant, despite being provided with ample opportunity to appear before the District Commission, failed to do so and was consequently proceeded with ex-parte in the order dated 08.07.2022. Therefore, the Appellant's claim of a violation of the settled principles of natural justice is without merit and stands refuted.
12. Further, the Appellant's argument that it merely acts as an aggregator and, therefore, cannot be held liable for the actions or inactions of the driver-partners is without merit and fails to address the core issue at hand. While it is true that the Appellant provides a platform for connecting riders and independent driver-partners, it is equally true that the Appellant, by offering such a platform and facilitating transportation services, assumes an obligation to ensure that the services offered through its platform are delivered as promised and in a timely manner.

13. In the present case, the Appellant's failure to ensure the punctual arrival of the driver at the scheduled time directly resulted in the Respondent missing his flight, causing not only significant inconvenience but also additional expenses. The Appellant, despite its position as a facilitator of transportation services, did not present any evidence to explain or justify the delay caused by the non-arrival of the booked Uber taxi. This failure to address or rectify the situation is critical, as the Respondent was left without an alternative solution and ultimately had to cancel the ride.
14. Moreover, the Appellant's contention that the Respondent did not use the Uber app to request an alternative driver is not persuasive. The Respondent had already waited for an extended period without receiving any communication or updates from either the driver or the Uber platform regarding the delay. Given the urgency of the Respondent's situation — namely, the need to catch a flight — it was entirely reasonable for the Respondent to seek alternative means of transportation. The Appellant's failure to offer a timely and viable alternative, despite its role as an aggregator and facilitator of services, further exacerbates the deficiency in service and underscores the lack of responsibility taken by the Appellant in ensuring a seamless customer experience.
15. In this context, the Appellant's claim that it cannot be held liable for the actions of independent driver-partners is untenable. As a service provider facilitating the transportation process, the Appellant has an obligation to ensure that services are provided without undue delay or inconvenience. The Appellant's inability to deliver on this responsibility constitutes a clear deficiency in service, and the Appellant must be held accountable for the resultant harm caused to the Respondent.
16. Accordingly, the Appellant's defence is hereby rejected, and the District Commission's finding of deficiency in service is upheld.

17. From the above discussion, we find no infirmity in the order dated 16.10.2023 as it is evident that the Appellant failed to provide the service as promised and did not offer any valid justification for the failure and there is no error in the impugned order that warrants interference by this appellate authority.
18. Consequently, we are in agreement with the reasons given by the District Commission and fail to find any cause or reasons to reverse the findings of the District Commission. *Therefore, we uphold the order dated 16.10.2023 passed by the District Consumer Disputes Redressal Commission, South West, Dwarka, New Delhi-110077.*
19. Resultantly, *the present Appeal stands dismissed* with no order as to costs.
20. Application(s) pending, if any, stand disposed of in terms of the aforesaid judgment.
21. The judgment be uploaded forthwith on the website of the Commission for the perusal of the parties.
22. File be consigned to record room along with a copy of this Judgment.

(JUSTICE SANGITA DHINGRA SEHGAL)
PRESIDENT

(PINKI)
MEMBER (JUDICIAL)

Pronounced On:
11.11.2024

LR-SM