

**District Consumer Disputes Redressal Commission Rohtak.
Haryana.**

**Complaint Case No. 450/2018
(Date of Filing : 18 Sep 2018)**

1. Monika Rani

D/o Sh. Kailash Kumar and W/o Rohit Chauhan R/o H.No. 855
Sec-1, Rohtak.

.....Complainant(s)

Versus

1. Indian Railways

Station Superintendent, Railway Station, Rohtak.

.....Opp.Party(s)

BEFORE:

**Nagender Singh Kadian PRESIDENT
Mrs. Tripti Pannu MEMBER
Sh. Vijender Singh MEMBER**

PRESENT:

Dated : 24 Nov 2023

Final Order / Judgement

Before the District Consumer Disputes Redressal Commission, Rohtak.

Complaint No. : 450

Instituted on : 18.09.2018.

Decided on : 24.11.2023

Monika Rani age 29 years, daughter of Kailash Kumar and wife of Rohit Chauhan resident of
H.No.855 Sector-1, Rohtak..

.....Complainant.

Vs.

Station Superintendent, Railway Station, Rohtak.

.....Opposite party.

COMPLAINT U/S 12 OF CONSUMER PROTECTION ACT.**BEFORE: SH.NAGENDER SINGH KADIAN, PRESIDENT.****DR. TRIPTI PANNU, MEMBER.****DR. VIJENDER SINGH, MEMBER.**

Present: Sh.A.S.Hooda, Advocate for the complainant.

None for opposite party.

ORDER**NAGENDER SINGH KADIAN, PRESIDENT:**

1. Brief facts of the case, as per complainant are that on 06.05.2017 complainant was going from Rohtak to Mumbai by train number 12138 Punjab Mail and her seat number was booked as A.C.B-1 Coach Seat No.41-42. The complainant checked her goods/luggage at Railway Station Bahadurgarh but when she reached at Delhi, by then her one bag was missing, the total cost of which was Rs.240000/- (bag cost Rs.5000/-, 20 suits Rs.25000/-, 10 sarees worth Rs.50000/-, cash amount Rs.30000/- 3 rings of Gold worth Rs.45000/- one mangal sutra Rs.80000/- and 3 pair of payal of silver worth Rs.5000/-).The complainant reported the matter with G.R.P. Rohtak District GRP Ambala Cantt. Vide Zero FIR No.20170005 dated 06.05.2017 u/s 379 at 8.15AM. Complainant also personally approached the Station Superintendent, Railway Station Rohtak,at Railway Station Delhi but they are avoiding the matter on one pretext or the other. Hence this complaint and it is prayed that opposite party may kindly be directed to pay a sum of Rs.250000/- with interest @ 12% p.a. from the date of loss till realisation and Rs.10000/- as compensation for harassment and costs to the complainant.

2. After registration of complaint, notice was issued to the opposite party. Opposite party filed its reply and has submitted in its preliminary objections that the Hon'ble Forum has no territorial jurisdiction to try and entertain the present complaint. It is further submitted that no evidence has been adduced with the plaint in support of carrying stated items(if carried), while travelling. For the un-booked luggage/personal belongings of the passengers, the railway administration is not responsible as per the rules and regulations and also in the light of various precedents set by the Hon'ble National Commission and Hon'ble Supreme Court of India. It is further submitted that as per Section-100 of the Railways Act-1989 : "A railway administration shall not be responsible for the loss,, destruction, damage,, deterioration of non-delivery of any luggage unless a railway servant has booked the luggage and given a receipt thereof and in the case of luggage which is carried by the passenger in his

charge, unless it is also proved that the loss, destruction, damage or deterioration was due to the negligence or misconduct on its part or on the part of any of its servants". As per the provision of the Coaching Tariff "Article taken into the carriage are at the entire risk of the owner" similarly another clause gives notice to the public "that they are not accountable for any article, unless the same are booked, and a receipt for them is given by their clerk or agents". It is also submitted that the matter i.e. missing/theft of items pertains to Police Department of concerned state and Station Superintendent Rohtak is not the correct party to implead as opposite party. All the other contents of the complaint were stated to be wrong and denied and opposite party prayed for dismissal of complaint with costs.

3. Ld. counsel for the complainant in his evidence has tendered affidavits Ex.CW1/A to Ex.CW2/A documents Ex.C1 to Ex.C4 and closed his evidence on dated 16.09.2019. On the other hand, ld. counsel for the opposite party has tendered affidavit Ex.R1 and closed his evidence on dated 17.12.2019.

4. Ld. counsel for the opposite party did not appear at the time of arguments and therefore, we have heard learned counsel for the complainant and have gone through material aspects of the case very carefully.

5. We have perused the documents placed on record by both the parties. Regarding the objection of territorial jurisdiction, it is observed that the complainant has booked the ticket from Rohtak and this fact is proved from the ticket Ex.C2.As such, this Forum has territorial jurisdiction to entertain the present complaint. It is also observed that as per copy of FIR Ex.C4 dated 06.05.2017 lodged by Kailash Kumar brother of the complainant at GRP Ambala Cantt., P.S.Rohtak, "The complainant has started her journey from Rohtak and when she reached at New Delhi, she found that one of her bag was missing. The alleged bag was having articles i.e. clothes, cash worth Rs.30000/-, 3 gold rings, one gold mangalsutra and 3 pairs of payal in it". On the other hand, opposite party has not placed on record any evidence to prove that any action was taken or any enquiry was made by the opposite party on the complaint of complainant. Ld. Counsel for the complainant relied upon the judgments of Hon'ble State Commission, Punjab in first appeal no.34 of 2017 titled as **General Manager, Northern Railway, Baroda House, New Delhi Vs. Anupama Sharma**, Hon'ble National Commission in **Station Master, Rajnagar Railway Vs. Kamal Narayan** decided on 03.07.2019, **Divisional Railway Manager Vs. Raju Devi** decided on 03.09.2019. In **G.M.Northern Railway's case(Supra)**, the Hon'ble State Commission has held that: "It has been rightly held by the District Forum that price difference between the unreserved ticket and reserved ticket is quite high and the travelling public who buy a reserved ticket would expect that they can enjoy the train journey with a certain minimum amount of security and safety. It has also rightly been held by the District forum that the Railway Department failed to prevent such unauthorized person to enter the reserved compartment and the opposite parties were deficient and negligent in not providing requisite safety and security to reserved compartments". The aforesaid law are fully applicable on the facts and circumstances of the case. It is also on record that it is observed that there is deficiency in service on the part of opposite party and opposite party is liable to compensate the complainant. As per the complainant, she has demanded an amount of Rs.250000/- but in 3rd para of complaint, the value of articles is shown as Rs.240000/-.

6. In view of the facts and circumstances of the case we hereby allow the complaint and direct the opposite party to pay the amount of Rs.240000/-(Rupees two lac forty thousand only) alongwith interest @ 9% p.a. from the date of filing the present complaint i.e. 18.09.2018 till its realization and shall also pay a sum of Rs.5000/-(Rupees five thousand only) as

compensation on account of deficiency in service and Rs.5000/-(Rupees five thousand only) as litigation expenses to the complainant. Order shall be complied within one month from the date of decision.

7. Copy of this order be supplied to both the parties free of costs. File be consigned to the record room after due compliance.

Announced in open court:

24.11.2023

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Nagender Singh Kadian, President

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TriptiPannu, Member.

.....

Vijender Singh, Member.

**[Nagender Singh Kadian]
PRESIDENT**

**[Mrs. Tripti Pannu]
MEMBER**

**[Sh. Vijender Singh]
MEMBER**