

**DISTRICT CONSUMER DISPUTES REDRESSAL COMMISSION-I,
U.T. CHANDIGARH**

Consumer Complaint No.	:	CC/898/2021
Date of Institution	:	14.12.2021
Date of Decision	:	3/11 /2023

Vikram Singh son of Sh. Raj Singh resident of House No.1296, Sector 41-B, Chandigarh.

... Complainant(s)

V E R S U S

1. Air India through it Chief Executive Officer/Officer Incharge/Branch Head, Office at SCO No.162 and 164, Sector 34-A, Behind Sham Fashion Mall, Chandigarh 160034.
2. Vistara Airlines through its Managing Director/Chief Executive Officer/Director, registered office at TATA SIA Airlines Limited, Jeevan Bharti Tower-1, 10th floor, 124 Cannaught Circus, New Delhi-110001.
3. India Railway Catering and Tourism Corporation (IRCTC) through its Branch Manager/Officer in charge SCO 80-82, 3rd floor Sector 34-A, Behind Picadilly Cinemas, Chandigarh 160022.

... Opposite Parties

CORAM :	SHRI PAWANJIT SINGH	PRESIDENT
	MRS. SURJEET KAUR	MEMBER
	SHRI SURESH KUMAR SARDANA	MEMBER

ARGUED BY : None for complainant
: Sh. Daksh Prem Azad, , Advocate for OP No.1
: Sh. Gursher Singh Bhandal, Advocate for OP No.2
: Sh. Saksham Arora, Advocate for OP No.3.

Per Pawanjit Singh, President

1. The present consumer complaint has been filed by the complainant under Section 35 of the Consumer Protection Act 2019 against the opposite parties (hereinafter referred to as the OPs). Briefly stated, The brief facts of the case are as under :-
 - a. It transpires from the averments as projected in the consumer complaint that on 10.1.2020, the complainant booked four air tickets for himself, his wife Savita, son Dushyant Kumar and daughter Lakshita Mathur from Calcutta to Port Blair on 27.3.2020, by paying an amount of Rs.23770/- with OP No.1 airlines through OP No.3 which provides tickets and tourism services. On the same day the complainant also booked four return tickets for himself and his family for their return journey to Delhi by paying an amount of Rs.48754/- with OP No.2 airline, through the same service provider OP No.3. The copy of air ticket is Annexure C-1 and copy of statement of account of the complainant is Annexure C-2, showing that the complainant had paid a total amount of Rs.72524.38. However, due to Corona Virus in the month of March 2020, the complainant was compelled to cancel his booking as during the aforesaid period all tourism activities in Andaman and Nicobar Island were stopped. The Mail qua cancellation of the booking was sent to OP No3 well in advance from the date of journey. Copy of email and reply thereof is Annexure C-3 and C-4. The OPs were requested by the complainant for the refund of the aforesaid amount. However, the OP No.1 airlines has refunded the amount by deducting Rs.10,500/- (Rs.2625/- per ticket) as cancellation charges whereas OP No.2 airlines has deducted an amount of Rs.12000/- (Rs.3000/- per ticket) as cancellation charges without any justification. Thereafter the complainant again approached the OPs to refund the deducted amount but with no result. The OPs were requested through emails Annexure C-5(colly) to refund the amount but nothing was done by the OPs. The aforesaid act amounts to deficiency in service and unfair trade practice on the part of OPs. OPs were requested several times to admit the claim, but, with no result. Hence, the present consumer complaint.
 - b. OP No.1 resisted the consumer complaint and filed its separate written version, inter alia, taking preliminary objections of maintainability, suppression of facts and also that the complainant has no cause of action against the answering OP. On merits, admitted that the subject tickets were booked by the complainant through OP No.3 who sold the tickets to the complainant after buying the same from the answering OP in bulk and in advance. It is further alleged that the complainant has no cause of action against the answering OP and the complaint be dismissed. The cause of action set up by the complainant is denied. The consumer complaint is sought to be contested.
 - c. OP No.2 in its written version admitted that the subject ticket was purchased by the complainant through OP No.3 and an amount of Rs.12,000/- was deducted as cancellation charges. It is further alleged that the answering OP has already refunded processed refund of amount of Rs.12,000/- and the complainant has no cause of action against the answering OP. On merit it is alleged that the answering OP has already authorized the full refund but the same was not processed at the end of OP No.3 to whom the answering OP has already transferred the amount as the ticket was booked thorough OP No.3. The cause of action set up by the complainant is denied. The consumer complaint is sought to be contested.
 - d. OP No.3 in its written version took preliminary objection of maintainability, cause of action and concealment of fact and also that the OP No.3 IRCTC is an agent to the contact between the users and the service providers from whom it takes services beyond its control and provides the same to the end user for a sum of small commission. It is further alleged that the refund of Rs.10,500/- received from the airlines has been initiated by the answering OP on 24.1.2022 and as the transaction was more than one year old the same was required to be processed through NEFT and as the passenger details was not provided to the answering OP the said amount could not be refunded to the complainant. The cause of action set up by the complainant is denied. The consumer complaint is sought to be contested.
 - e. Despite grant of numerous opportunities, no rejoinder was filed by the complainant to rebut the stand of the OP.

2. In order to prove their case, parties have tendered/proved their evidence by way of respective affidavits and supporting documents.
3. We have heard the learned counsel for the Opposite parties and also gone through the file carefully, including the written arguments of OP No.2.
 - i. At the very outset, it may be observed that when it is an admitted case of the parties that the complainant had booked four air tickets from Kolkata to Port Blair for himself and his family and also for their return journey from Port Blair to Delhi through OP No.3 with OPs No.1&2 the airlines, by paying a total amount of Rs.72524.38 as is also evident from Annexure C-2 the copy of statement of account of the complainant and the ticket is annexed as Annexure C-1 and the journey dates for the said tour were from 27.3.2020 to 1.4.2020 and during that period COVID19 virus had spread all over the India and even lockdown was clamped and due to the aforesaid reason the complainant cancelled the subject ticket by sending email Annexure C-4 to OP No.3 and out of a total booking amount the OPs have refunded the partial ticket amount to the tune of Rs.10,500/- by OP NO.1 and Rs.12,000/- by OP No.2 by deducting cancellation charges, the case is reduced to a narrow compass as it is to be determined if the aforesaid act of the Ops amounts to deficiency in service as is the case of the complainant, and the complainant is entitled for the relief as prayed for or if the OPs have rightly deducted the aforesaid amount and the complaint is liable to be dismissed.
 - ii. Perusal of Annexure C-2 copy of statement of account of the complainant clearly indicates that an amount of Rs.23770.38 and Rs.48,754/- was debited from the account of the complainant on 10.1.2020 and was credited in the account of the OP No.3 i.e. IRCTC. As it is not disputed by the OPs that the complainant had not booked the aforesaid tickets with the Ops No.1&2 through OP No.3, it is safe to hold that the complainant had paid an amount of Rs.72,524.38 for their onwards journey and return journey to be performed on 27.3.2020 and 1.4.2020 respectively as is also evident from Annexure C-1. It is the case of the complainant that out of the total paid amount, the OPs have already refunded Rs.47572/- and have deducted an amount of Rs.22500/- i.e. Rs.10500/- deducted by OP No.1 and Rs.12000/- by OP No.2 as cancellation charges without any justification despite of the fact that during the COVID 19 period as per the Government guidelines, the entire ticket amount was required to be refunded to the passengers. OP No.3 has admitted in its written version that OP No.1 has already processed refund of an amount of Rs.10,500/- which has been received by OP No.3 on 24.1.2022 i.e. before filing of the complaint and the said amount was not refunded by OP No.3 to the complainant till date, it is safe to hold that OP No.1 had refunded entire deducted amount to the OP No.3 who has only partially refunded the said amount to the complainant and has wrongly kept the amount of Rs.10,500/-, having been received from OP No.1 before the filing of the complaint, thus, there is deficiency of service on the part of OP No.3 who has not refunded the aforesaid deducted amount to the complainant till date and there is no deficiency of service on the part of OP No.1. On the other hand as OP No.2 has failed to prove on record that it has also refunded the entire amount to the OP No.3 and OP No.3 has also failed to prove on record that the amount of Rs.12000/-, having been deducted as cancellation charges has been refunded to the complainant till date, it is safe to hold that there is deficiency in service on the part of OPs No.2&3 in not refunding the amount of Rs.12,000/- to the complainant till date.
 - iii. In view of the foregoing, it is safe to hold that there is deficiency of service on the part of OPs NO.2&3 in not refunding amount of Rs.22500/- deducted as cancellation charges despite of receiving the amount of Rs.10,500/- from Air India OP No.1 and further did not refund amount of Rs.12000/- deducted as cancellation charges by OP No.2 and the complainant is entitled for the refund of the same.
4. In the light of the aforesaid discussion, the present consumer complaint succeeds, the same is hereby partly allowed in the following manner:-
 - i. OP No.3 is directed to refund ₹10,500/- to the complainant alongwith interest @ 9% per annum from the date when the said amount was received by OP No.3 from OP No.1 i.e. 24.1.2022 till onwards.
 - ii. OPs No.2&3 are jointly and severally directed to refund an amount of ₹12000/- to the complainant alongwith interest @ 9% per annum from the date of filing of the complaint.
 - iii. to pay ₹10,000/- as compensation for causing mental agony and harassment to him;
 - iv. to pay ₹10,000/- to the complainant as costs of litigation.

5. This order be complied with by the OPs No.2&3 within thirty days from the date of receipt of its certified copy, failing which, they shall make the payment of the amounts mentioned at Sr.No.(i), (ii)&(iii) above, with interest @ 12% per annum from the date of this order, till realization, apart from compliance of direction at Sr.No.(iv) above.
6. The complaint against OP No.1 stands dismissed.
7. Pending miscellaneous application(s), if any, also stands disposed off.
8. Certified copies of this order be sent to the parties free of charge. The file be consigned.

Announced

Sd/-

3/11/2023

[Pawanjit Singh]

mp

President

Sd/-

[Surjeet Kaur]

Member

Sd/-