
(1993) 07 SHI CK 0004

In the High Court Of Himachal Pradesh

Case No : A. No. 5 and M.A. No. 16 of 1992

Gen Manager, Northern Rly., N.D. and Others

APPELLANT

Vs

G.C. Sharma and Another

RESPONDENT

Date of Decision : 07-07-1993

Acts Referred:

Consumer Protection Act, 1986 — Section 27

Citation : (1993) 2 ShimLC 449

Hon'ble Judges : T.U. Mehta, Member; R.B. Misra, President; Pratima Malhotra, Member

Bench : Full Bench

Advocate : P.A. Sharma, for the Appellant;

Final Decision : Dismissed

Judgement

R.B. Misra, President.

1. This appeal has been preferred by the General Manager, Northern Railway challenging the order dated 28-3-1992 allowing an award of Rs. 4,000 as compensation to the four complainant claimants in equal share.

2. The relevant facts are that complainants/Respondents four in number purchased Circular/tour tickets for 13 Air-conditioned two tier sleeper berths from Jullundar Railway Station on 26-8-1993 for boarding the train on 8-9-1991. The circular tour ticket No. 0934262426-429 for 13 berths were with two confirmed reservations only. For the remaining seats assurance of confirmation was given by the booking clerk as well as Chief Booking Supervisor when they were contacted on phone from Hamirpur on 4-9-1991 and 6-9-1991. When the complainants/Respondents arrived at Jullundar City Railway Station on 8-9-1991 they were however, not given reserved berths same for the two originally confirmed. The complainants/Respondents approached the Booking Office at 1600 hours but the official there put them off stating that there was no responsibility of the Railway to provide unconfirmed seats/berths. Two of the

complainants/Respondents namely Shri G.C. Sharma and B.D Sharma then met the Station Master at 1930 hours after getting their luggage booked at 1800 hours by the same train. The Station Master too showed his helplessness to get the remaining eleven berths confirmed. The complainants/Respondents were thus made to travel in a second class general bogie after paying Rs. 500 extra to the Conductor despite having Air Conditioned Sleeper Tickets.

The luggage of the Respondents was booked by the same train at 1800 hours which was much earlier than the arrival of the train. According to the Railway Time Table at pages 6 and 7, reproduced here-below, the passengers are advised to travel light and to have extra luggage loaded in luggage vans:

I request customers to carry only the minimum necessary luggage along with them in the compartments to make the injury comfortable for themselves as also for fellow passengers, the rest only be booked only in luggage vans attached to every train so that your luggage reaches the destination alongwith you.

(Emphasis supplied).

On arrival of the train, however, it transpired that the luggage of the complainants/Respondents had not been loaded in the luggage van of the same train i.e., Frontier Mail it was sent by Anr. train (Delux) which arrived 10 hours later at Bombay VT Station. The complainants/Respondents, therefore could not go out and were made to wait anxiously for the luggage for no fault of theirs. The luggage was eventually delivered at 1710 hours on 10-9-1991. The complainants/Respondents were to go from Bombay to Miraj and there also they found that 3 berths are not confirmed as no intimation regarding T No. 093427 had been sent by the Jullundar Station authorities. They experienced Anr. shortcoming at Miraj Vasco-de-gama, Bangalore and Madra Railway Stations. In the circumstances, the Respondents had to manage reservations themselves after filling fresh forms etc and endorsing unnecessary harassment causing them mental torture and physical harassment. Their entire holiday was thus spoiled due to the negligence of the Appellants/Respondents, for which they claimed refund of full fare and an additional payment of Rs. 10,000 per person as compensation for causing stress and strain.

3. The learned Distt. Forum in its order dated the 28th March, 1992 framed the following issues for determinations, namely:

1. Whether the Distt. Forum Hamirpur has got the jurisdiction to try and decide the complaint?
2. Whether the Petitioners are entitled to the compensation? If so, to what amount?
3. Final Order.

And for the reasons recorded in the said order decided that the Distt. Forum Hamirpur did have the jurisdiction as part of the cause of action arose at

Hamirpur and that the Petitioners were entitled to compensation, which has been quantified at Rs. 4,000 only.

4. In appeal it has been urged that the Distt. Forum, Hamirpur had no jurisdiction, as the tickets were purchased at Jullundar, and no cause of action arose at Hamirpur. We find that this point has been discussed at length by the learned Distt Forum in the Order under challenge, and we find no fault therewith.

It was then urged by the learned Counsel for the Appellants that confirmation of reservation could not possibly be arranged within a short period of a fortnight or so. In support he invited our attention to the Railway Time Table whereby the Railways give no guarantee of providing berths against reservation. Likewise, according to him, there is no guarantee for dispatching the luggage by any particular train. There are the same arguments as were urged before the learned Distt. Forum, and have been duly taken into consideration. On this point too, we find no infirmity in the impugned order and hold that as proven by evidence on record, this was clear negligence on the part of the functioning of the Appellant that result in the loss and injury to the complainants/Respondents.

5. In regard to quantum of compensation allowed also, we are in agreement with the learned Distt Forum and consider the sum of Rs. 4,000 awarded as compensation to all the complainants is fair and reasonable.

6. In the light of the above discussion, we dismiss the appeal and uphold the order dated 28th March, 1992 passed by the learned Distt. Forum Hamirpur with directions to the Appellants to comply therewith within next 6 weeks, failing they would expose themselves to action u/s 27 of the Consumer Protection Act, 1986.

7. In the facts and circumstances of the case, parties are left to bear their own cost.