

In the Court of Mahmood Ahmed Shakir Jajja, Presiding Officer/ District & Sessions Judge, District Consumer Court, Bahawalpur

Ghulam Mustafa Vs Sheikh Mohammad Iqbal etc

Case No.1908/10

Dated of Institution: 21-09-2010.

Date of Decision: 18-01-2012.

Present: Parties along with their counsel.
Arguments heard. Record perused.

Order:-

The version of the complainant is that he traveled from Jeddah, Saudi Arab to Karachi and Rahim Yar Khan and got booked his luggage; that he received his bag and baggage at Karachi Air Port and then, booked for Rahim Yar Khan for PK 582 dated 18-06-2010 in the shape of 4 items and also himself traveled alongwith his family on the said flight; that at Rahim Yar Khan Air Port, he received 3 items out of 4 and when bag of coupon No.0214-PK 484323 could not be traced, he made his complaint to Sheikh Mohammad Iqbal respondent No.1 at Rahim Yar Khan Air Port who entered the complaint on his register instead of feeding in to the computer due to load shedding. After that, Ch. Khursheed Hussain brother of the complainant contacted through telephone with Sheikh Mohammad Iqbal from Faisalabad who was informed that the bag has been sent to Bahawalpur and contact with Mr. Mansoor at Bahawalpur Air Port on mobile No.03008686929; that said Mansoor informed the brother of the complainant that the bag has been sent to Karachi on 28-06-2010; that then, Sheikh Mohammad Iqbal respondent No.1 was again contacted who gave 2 Phone Nos. 02199044733 and 021990044681; that on contact with Mr. Jameel, Hifiz-ur- Rehman and Miss. Ambreen, they informed the brother of the complainant after the record through computer that no such bag is available at Karachi Air Port in the name of Ghulam Mustafa / complainant and that the 4 bags were loaded on the earlier flight PK-582 dated 18-06-2010. Then, on contact respondent No.1 informed the brother of the complainant that Ghulam Mustafa /

complainant has received his misplaced bag who had promised to give him a Bozki suit which be sent to him. Thereon, the complainant went to Rahim Yar Khan from Faisalabad on 06-07-2010 to meet the respondent No.1 and asked him that how he has received the bag, when, the coupon is in possession of the complainant and why, he did not enter his complaint in the computer. Thereon, the respondent No.1 entered his complaint No.10021 dated 06-07-2010 and also handed over a form to the complainant. In this way, the bag of the complainant having precious articles of valuing 9750 Saudi Riyals have been misappropriated by the respondents. The complainant has also incurred expenses of Rs.10,000/- on telephone and his journey from Faisalabad to Rahim Yar Khan. He has also claimed damages of Rs. 1,00,000/- due to faulty services and misbehaviour of the respondents.

On the other hand, the respondents have raised preliminary objections that the petitioner has filed the above titled petition in his capacity as a Passenger of Pakistan International Airlines Corporation, established under the provisions of the Pakistan International Airlines Corporation Act, 1956, which is a body corporate which can sue and be sued in its corporate capacity. The petition as filed by petitioner is, therefore, not maintainable in its present form, merits to be rejected on this ground; that assuming without conceding, even if, the petitioner has any right to claim any compensation, that can be claimed by him strictly in accordance with the parameters laid down in terms of statutory rules and regulations of PIAC framed on the subject, and, not according to his desire; that in any case, no coupon with the number referred to in the petition was ever issued against the baggage claimed to be loaded in the name of petitioner, who has no locus standi to file the titled petition. On facts, the respondents have almost admitted the averments of the complaint but have denied the missing of bag of the complainant.

After hearing the arguments and perusal of the record, it has been observed that the complainant has placed on record copy of legal notice Mark-A, copy of OCS Pak Pvt Ltd. Mark-B, copies of PTCL record Mark-C to E, copy of property irregularity report PIR to PIA Mark-F, copies of electronic tickets Mark-G to L and copy of original coupon Mark-M. He has further produced affidavit of his brother Khursheed

Hussain Ex-P1 and his own as Ex-P2. From the other side, the respondents have not placed on record any document or oral evidence in rebuttal. The documents produced by the complainant make out without any shadow of doubt that he received only 3 bags at Rahim Yar Khan Air Port. Whereas, he had got booked 4 bags (items) at Karachi Air Port for Rahim Yar Khan through flight No. PK 582 on 18-06-2010. The bag definitely, has been misplaced by the respondents. The complainant lodged a complaint at Rahim Yar Khan Air Port through Sheikh Mohammad Iqbal respondent No.1 on the register and through the computer which also support the version of the complainant. The respondents have not produced any evidence to make out that the 4th bag was ever received by the complainant or he did not travel from Faisalabad to Rahim Yar Khan to meet the respondent No.1. The preliminary objections raised by the respondents are stereotype and has got no legal effect. Therefore, the same was repelled strait way.

The nut shell of the above findings is that the complainant is held entitled to receive 9750 Saudi Riyals as price of precious items available in the bag. Expenses incurred by him on telephone contacts and journey from Faisalabad to Rahim Yar Khan and to Faisalabad Rs.10,000/- and damages of Rs.50,000/- for facing physical and mental torture and agony due to the faulty services and misappropriation of his precious articles. In this way, the complainant is found entitled to recover 9750 Saudi Riyals and Rs.60,000/- Pak from the respondents which will be recovered from the salary of the respondents as they themselves are responsible for faulty services and misappropriation of complainant's articles. With these observations, the complaint is allowed in favour of the complainant and against the respondents. File be put up for execution on 20-02-2012.

Announced:
18-01-2012

Presiding Officer