

IN THE COURT OF MIRZA JAWAD A: BAIG, DISTRICT & SESSIONS JUDGE,  
PRESIDING OFFICER, DISTRICT CONSUMER COURT,  
DISTRICTS: D.G. KHAN; LAYYAH; MUZAFFARGARH; RAJANPUR,  
50/Z, MODEL TOWN, DIVISIONAL HEAD QUARTER, DERA GHAZI KHAN.

(PHONE: PTCL No. 0642474100) (VNIC No. 0649239094) (FAX No. 0642470496).

Allah Ditta etc V Al-Haj Malik Ghulam Qasim & 2 others

COMPLAINT ABOUT MISCONDUCT OF TRAVEL AGENCY

Complaint/Case No:	1214/556/10.
Date of Institution:	26-10-2010.
Date of Decision:	16-09-2011.

ORDER:

Present: Claimant No.1 in person along with Mohammad Aurangzaib Khan Afghan Advocate from D.G.Khan on behalf of the claimants and nobody on behalf of the defendants who are being proceeded against exparte vide order dated 14-09-2011.

1. The case is at the stage of the exparte arguments which have been heard and the file has been perused by going through the evidence on the record as such I proceed to dispose of the complaint in exparte manner by discussion in the following paragraphs:-

2. Briefly stated the version of the claimants is to the effect that they entered into the contract about Umra package for consideration of Rs.1,90,000/- under Receipt bearing serial No.187 dated 15-07-2010; that they paid Rs.20,000/- as advance on the same date; that the time was given for proceeding on Umra after ten days; that the claimants were told to wait when they contacted on 25-07-2010; that the claimants were made to pay excess amount of Rs.1,80,000/- as well as Rs.3,000/- under Receipt No.08 on 07-08-2010 instead of agreed amount of Rs.1,70,000/-; that the claimant proceeded from Dera Ghazi Khan for Karachi on 22-08-2010 after being held away from Umra during said period; that the claimant suffered physical and mental anguish due to said conduct; that the cause of delay was not explained by the defendants despite asking of the claimants; that derogatory attitude was adopted to the claimants; that the ego of the claimants has been hurt due to said conduct; that the claimants are entitled to recover **Rs.1,00,000/-** as damages on the said account; that the claimants were made to wait for 2½ to 3 hours at Jeddah Airport; that they were also made to wait for lodging in the hotel after approaching Makkah by bus; that the hotel accommodation was not provided throughout the pilgrimage; that the claimants had to spend five days and nights in Haram sharif; that claimant No.2 fell ill during the said process; that expenses of 1000 Riyals amounting to Rs.23,000/- had to be incurred on telephonic contact with the defendants; that the grievances of the claimants were not removed despite telephonic contact; that the claimants were treated with indignation during efforts for making contact by the defendants; that the claimants were subjected to police investigation and search; that the claimant had to look after their luggage; that the claimants were taken to Madina from Makkah by non AC bus after making them wait for 1.00 PM to 8.00 PM; that there was no arrangement for accommodation at Madina; that the claimants had to spend 1750 Riyals amounting to Rs.40,250/- by staying at Dar-ul-Shuhada Hotel for 14 days at Madina; that the claimants had to pay 70 Riyals amounting to Rs.1610/- as fare charges of SAPTCO for journey from Madina to Makkah on 04-09-2010; that the claimants had to spend the night on footpath; that they had to face police interrogation; that the claimants are entitled to recover **Rs.2,00,000/-** as damages on the said account; that the claimants had to spend about Rs.30,000/- on medical treatment of claimant No.2; that the claimant had to get Rs.23,000/- from their son through Western Union to meet with the expenses; that on return to Pakistan, claimant No.1 was pushed out the shop of the defendants when he visited the defendants to voice his grievance in presence of the witnesses named in the complaint; that the claimants are entitled to recover **Rs.3,00,000/-** for said conduct; that the detail of expenses is mentioned in paragraph 5 of the complaint amounting to **Rs.8,79,470/-** in addition to the litigation charges to be fixed by the courts ; that license No.H.P.4227/GL:4161 under which the defendants are doing

business under the name of 'Al-Sughra Travels & Tours Private Limited' should be cancelled in addition to the recovery of damages and litigation charges and any other relief which can be granted; that the defendants.

3. Defendants are being proceeded against exparte however their version is on the record through joint written statement in which they have alleged that the delay in Umra has occurred due to the process of the Embassy and also due to the conduct of the defendants who had not enough money to meet with the raised prices of air tickets; that the difference of the air tickets was the responsibility of the claimants; that the facilities to be provided are mentioned in voucher No.207; that the providing of AC vehicle and accommodation in Madina was not included in the package; that the waiting of 2 to 3 hours on Jeddah Airport is normal due to huge traffic of passengers; that medical treatment is provided free of charge by the Embassy; that the claimants could have resided in some hotel by spending 200 Riyals instead of spending 1000 Rayals on telephone expenses; that the concerned Ministry might have fined the defendants if the claimant were to be found to spend the nights in the Haram with their luggage; that it is normal routine about search and checking by police due to security reason; that claimant No.1 being retired from service has started black-mailing certain institutions to extort money by illegal means; that blank notices were sent to harass the defendants; that the defendants had to file the petition for safety from illegal harassment; that the claimants have extended threats for payment of money; that the complaint should be dismissed; that damages and costs should be awarded to the defendants.

4. In accordance with the requirement of S.30 PCP Act 2005, the parties were directed to produce their evidence through appointment of learned Local Commissioner (LLC) for recording the evidence subject to the payment of fees to be paid by the parties.

5. The evidence produced by the claimants alongwith cross examination consists of the affidavit of claimant No.1 as Ex.P-1 alongwith cross examination as PW-1; the affidavit of claimant No.2 as Ex.P-2 alongwith cross examination as PW-2; the affidavit of Mohammad Irfan PW as Ex.P-3 alongwith cross examination as PW-3; original visiting card of Karwan-E-Al-Sughra as Ex.P-12;

6. Documentary evidence produced by the claimants consists of the affidavits used as examination in chief of PWs as Ex.P-1 to Ex.P-3; original postal receipts as Ex.P-4/1 to Ex.P-4/3; original postal acknowledgment cards as Ex.P-5/1 to Ex.P-5/3; photo copies of passport of claimant No.1 as Ex.P-6; photo copies of passport of claimant No.2 as Ex.P-7; original receipt about Rs.20,000/- as Ex.P-8; original receipt about Rs.1,80,000/- as Ex.P-9; original hotel bill as Ex.P-10; copy of pension book as Ex.P-11; photo copy of joint legal notice as Mark-A; original ticket of SAPTCO as Mark-B; original medical prescription as Mark-C.

7. Oral evidence of the defendants consists of the affidavit of Alhaj Malik Ghulam Qasim defendant No.1 without cross examination as RW-1; affidavit of Mohammad Sharif Khan defendant No.3 alongwith cross examination as RW-2 his own statement as R.W-2.

8. It is pertinent to note that the affidavit of RW-1 could not have been cross examined due to exparte proceedings and documents included in the file on behalf of the defendants including remaining affidavits could not have been produced in evidence due to exparte proceedings.

9. I have observed from the perusal of the oral and documentary evidence of the parties with reference to the pleadings in the light of the arguments that since the defendants have absented themselves from the proceedings of this court as such they have nothing to rebut and the claimants are deemed to have proved their version by their evidence, therefore the claimants are entitled to the full relief as prayed for.

10. The complaint is therefore accepted in exparte manner as prayed for and the defendants are being directed to pay Rs.8,79,740/- to the claimants and cancellation of license.

11. Claimant is entitled to get the order implemented by filing the application for implementation with reference to S.31, 32 & 36 of PCP Act, 2005, if so required with the warning to the defendants that further expenses to be incurred by the claimant on the prosecution of the application for implementation would also be liable to be paid by the defendants.

12. Stringent action would be liable to be taken u/s 32(2) read with S.36 of PCP Act, 2005 for implementation of this order through arrest, detention, attachment & auction after the period fixed for appeal.

13. Defendants would be liable to suffer simple imprisonment up to 3 years with fine up-to Rs.20,000/- and liability of recovery of fine as arrears of Land Revenue in default of the payment of fine, concurrently with attachment and auction of their official belongings as well as personal property u/s 32 of PCP Act 2005 read with S.36 of PCP Act 2005, in case of deliberate delay in compliance with this order.

14. The amount of fine if recovered would be liable to be credited in the Government Treasury under the relevant head of account.

15. This order would become not become final u/s 34 of PCP Act 2005, if the appeal is preferred within period of 30 days under S.33 of PCP Act 2005 & Rule 18 of PCP Rules 2009 in accordance with the Rules of Procedure of Honourable High Court or if the application for cancellation is filed by exparte defendants under Rule 14 PCP Rules 2009 during the said period.

16. A copy of this order would be available for publishing on the internet to the website of Punjab Consumer Protection Council Secretariat, 135-J, Model Town, Lahore for public disclosure and easy access of information to the consumers relating to the products and services in accordance with Rule 25 of PCP Rules 2009.

17. The file of this court is to be consigned in the record room duly page marked with proper index and made available for issuance of attested copies to any applicant and kept under safe custody till the period fixed for destruction, after due completion.

Announced:  
16-09-2011.

(MIRZA JAWAD A. BAIG)  
D. & S.J./ P.O., D.C.C., D.G. KHAN.