

**DISTRICT CONSUMER DISPUTES REDRESSAL COMMISSION,
8TH FLOOR, B.W.S.S.B BUILDING, K.G.ROAD,BANGALORE-09**

**Complaint Case No. CC/70/2022
(Date of Filing : 08 Mar 2022)**

1. Smt.Sumathi Shetty

W/o Chandra Shetty, Aged about 42 years, No. 11, First Main Road
2nd Cross, Vaderapura Road, Yalahanka, Bangalore 5600063.

2. Ms. Deekshitha Shetty C

D/o Chandra Shetty, Aged about 26 years, No. 11, First Main Road
2nd Cross, Vaderapura Road, Yalahanka, Bangalore 5600063.

.....Complainant(s)

Versus

1. Indigo Airlines

Represented by its Managing Director Level 1, Tower C, Global
Business Park, Mehrauli- Gurgaon Road, Gurgaon-122002, Haryana,
India. Register Office at: Interglobe Aviation Ltd., Upper ground
floor, Thapar House Gate No.2, Western wing, 124 Janapath, New
Delhi-110001

2. Indigo Airlines

Represented by its Managing Director, Kempe Gowda International
Airport, Administration Block, Devanahalli, Bengaluru-560300

3. Bengaluru International Airport Ltd., Airport Operators,

Represented by its Managing Director, Kempe Gowda International
Airport, Administration Block, Devanahalli, Bengaluru-560300

.....Opp.Party(s)

BEFORE:

HON'BLE MRS. M. SHOBHA PRESIDENT

HON'BLE MRS. K Anita Shivakumar MEMBER

PRESENT:

Dated : 20 Apr 2023

Final Order / Judgement

**BEFORE THE DISTRICT CONSUMER DISPUTES REDRESSAL COMMISSION AT
BANGALORE (URBAN)**

DATED 20TH DAY OF APRIL 2023

**PRESENT:- SMT.M.SHOBHA
SMT.K.ANITA SHIVAKUMAR**

**: PRESIDENT
: MEMBER**

COMPLAINT No.70/2022

COMPLAINANT	1	Smt. Sumathi Shetty
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		W/o Chandra Shetty, Aged about 42 years,
		Ms. Deekshitha Shetty C., D/o Chandra Shetty, Aged about 26 years,
	2	Both are Residing at No.11, First Main Road 2 nd Cross, Vaderapua Road, Yalahanka, Bangalore – 560063.
		(SRI. Adv. Ravishankar.)
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OPPOSITE PARTY	1	Indigo Airlines Represented by its Managing Director, Level 1, Tower C, Global Business Park, Mehrauli – Gurgaon Road, Gurgaon – 122002, Haryana, India. Registered Office at: Interglobe Aviation Ltd., Upper Ground floor, Thapar House Gate No.2, Western wing, 124 Janapath, New Delhi-110001 (Rep. by Adv. Sri.Tamoghna)
	2	Indigo Airlines Represented by its Managing Director, Kempe Gowda International Airport, Administration Block, Devanahalli, Bengaluru – 560300.

		(Exparte)
	3	Bengaluru International Airport Ltd., Airport Operators, Represented by its Managing Director, Kempe Gowda International Airport, Administration Block, Devanahalli, Bengaluru – 560300 (Rep. by M/s Dua Associates, advocates)

ORDER

SMT.K.ANITA SHIVAKUMAR, MEMBER

Complainant filed this complaint under section 35 of Consumer Protection Act 2019, seeking direction to OP's for the deficiency of service caused to them, claiming Rs.30,00,000/- towards the loss of life of deceased Chandra Shetty and Rs.10,000/- towards cost of litigation.

2. The Brief facts of the case are as follows:-

The complainant filed this complaint under section 35 of Consumer Protection Act 2019, one Mr. Chandra shetty K, with his wife and daughter, planned to travel to Mangalore from Bangalore in Indigo flight on 19/11/2021 at 2:45p.m vide Airline PNR NO-VPC45A. Complainant No.1 is wife and Complainant No-2 is daughter of deceased Chandra Shetty in this case. Complainant submits that OP No.2 & 3 have completed the check-in procedure, during the period the husband of Complainant No.1 felt too tired. Therefore complainants requested OP No.2&3 to provide a wheel chair to take him to hospital but OP No.2&3 told them to wait for some time instead of providing wheel chair on time. It caused husband of Complainant No.1 wait for long time. Complainants humbly requested OP No.2&3 to provide wheelchair very urgently, but OP No.2&3 denied the same and made them to waste their precious time of one and half an hour in trouble some situation. Complainants stated that OP No.2&3 denied to give any emergency medical treatment or facility on time when the husband of Complainant No.1 was in very unconscious state and was feeling too hard to breathe. Subsequently he went under serious condition. Complainant alleged that they deeply screamed and cried for help for the medical facility or treatment from the public at that point of time husband of Complainant No.1 was too serious and his health condition was also too deteriorated. Complainant No.1&2 have requested OP No.2&3 for immediate check out from Airport to take deceased Chandra Shetty to the hospital but OP No.1&2 did not allow the patient to take to hospital.

3. Complainant No.1 stated that one of the person from public and some staff of that premises come forward to help husband of the Complainant No.1 by giving ventilators facility. Before having ventilator facility and before reaching hospital, husband of Complainant No.1 was dead, the body of the deceased was too cold and he was in unconscious condition before taking him to another hospital. When the Complainant No.1 was about to admit, her husband was in hospital (in Airport emergency care). Hospital authority asked complainants to take him to another hospital. By that time husband of Complainant No.1 was dead at 4:45p.m. Complainant alleged that from 2:10p.m to 4:45p.m OP No.2&3 negligently, irresponsibly and mis-management caused the death of husband of complainant No.1. The Doctor in Aster Hospital announced his death.

4. The Complainant No.1 alleged that if OP No.2&3 were co-operated in proper time the husband of Complainant No.1 would not have suffered and died. Due to the irresponsibility, negligence and mis-management of OP's caused this situation of a death of husband of Complainant No.1. Hence, she alleged jointly and severally that OP's held responsible for the whole incident of death of Chandra Shetty. Therefore she sought damages for the cause of death from OP's. Though complainants have allegations on OP's on that day, because of the situation of trauma they did not take any legal actions against OP's on that day.

5. Later on 07/12/2021 son of complainant No.1 had given a complaint before Kempegowda International Airport Police Station regarding the above said incident but OP's did not come forward to settle the issues. The complainants also stated another statement that deceased Chandra Shetty had lent around Rs.30,00,000/- to his relatives and neighbor which is his hard earned money for the marriage of his daughter i.e, Complainant No.2, but after his death no one has come forward to give his money back that is the main damage caused due to his death, to recover all his money from his relatives and neighbors, is difficult one. Complainant also stated that deceased Chandra Shetty had been in excellent health, he was successful farmer having the garden line in Mangalore and actively participated in sports and co-curricular with great enthusiasm because of his good managed health condition. The Complainant got issued a legal notice to OP's on 07/01/2022, 13/01/2022 and 20/01/2022 through RPAD which were dully served all of them. Except OP No.1 other OP's did not reply to the legal notice. OP No.1 sent untenable reply and requested for PNP details. Therefore after counsel the Complainant had sent a reply on 27/02/2023 and provided the PNP details at the same day through E-mail. Even after receipt of PNR details neither OP No.1 nor OP No.2&3 have intent to settle the issue and comply the claims of Complaint. Therefore Complainant No.1&2 approached this commission, seeking direction to OP's to pay Rs.30,00,000/- towards compensation of the loss of life of deceased Chandra Shetty and Rs.10,000/- on litigation.

6. After issuance of notice to OP's, OP No.1&3 made their representation through counsels, OP No.2 was absent on the date of appearance, hence placed Ex-parte. OP No.1 has not filed any version to defend his case. OP No.3 has filed written objection denying the averments made in the complaint. OP No.3 mainly contends that the claimed amount of Rs.30,00,000/- lending to various neighbors and relatives will not be recovered from them due to the death of deceased. The said money is claiming from the OP's is not fair on the part of Complainant. OP No.3 also contends that there is no contractual relationship between the passenger and OP No.3, therefore Complainant would not be consumer in so far as the OP No.3 is concerned. OP No.3 denied that complainants requested for a wheelchair and it exhibits Mr. Chandra Shetty was not having any serious health issue since the complainants have requested for wheelchair instead of requesting for emergency care. OP No.3 contends immediately that OP No.3 escorted Mr. Chandra Shetty to Aster Medical clinic wherein he was interacted with the doctor's and they administered medicine. When Mr. Chandra

Shetty was not responding to the treatment, the duty doctor referred to shift him to Aster Medical (Aster Hospital) situated within the Airport premises. Hence OP No.3 provided the Buggy service for emergency transfer of patient to Hospital and assisted complainants to provide immediate medical facility to the deceased. Hence OP No.3 is not caused any negligence, deficiency of service in providing medical assistance to the deceased on time. Hence OP No.3 is not liable for any compensation to the complainants as they sought in their complaint. OP stated that it is main intention to make unlawful gain on the cause of OP's part. Therefore OP No.3 stated that it is liable to dismiss the complaint since complainants are not even Consumers in so far as OP No.3 is concern, therefore OP No.3 prays this commission to dismiss the complaint in the interest of Justice and Equity.

7. After filing version of OP No.3, case has been set down to adduce evidence. Accordingly Complainant No.1 examine as PW-1 and marked 10 documents as exhibited P-1 to P-10. She also filed certificate under section 65B under Indian Evidence Act. In support of contention of OP No.3, one K. Satyabhama, authorized signatory has examined as RW-1 marked but documents has exhibit R-1. Both the counsels submitted their oral and written arguments, where perused the materials on record.

8. The points that arise for our consideration are:-

1. Whether complainants prove's that OP's caused deficiency of services?
2. Whether complainants are entitled to get relief as prayed?
3. What order?

9. Our complainants on the above points are as follows:-

Point No.1: Affirmative

Point No.2: Affirmative in part

Point No.3: As per final orders

RNN.

10. Point No.1 & 2:- Since these points are interconnected between each other for the sake of arguments, we would like to discuss and answer Point No. 1 & 2 together. Complainant No.1 is the wife and No.2 is daughter of deceased Chandra Shetty were travelling to Mangalore in Indigo Flight on 19/11/2021 by Indigo Airlines wherein PNR No – VPC 45 A from Bangalore International Airport to visit his native place, is undisputed. During the check-in procedure, the husband of Complainant No.1 was very tired and Complainant No.1 & 2 requested OP's to provide wheelchair for the rescue of patient is also undisputed. Due to non-providing of wheelchair at the proper time Complainant No.1 & 2 were screamed for help and they humbly requested OP No.2&3 to provide to medical assistance or to provide wheelchair to get him to hospital immediately to save his life. But OP No.2&3 disobeyed the requests of the Complainant No.1&2 and they did not provide any wheelchair or medical assistance to them, caused his death as complainants alleged in their complaint. Due to that Complainant No.1&2 also alleged the death caused have been financial loss to the complainants which the deceased Chandra Shetty has lent money around Rs.30,00,000/- to the relatives and friends.

11. Here the question arise only with regard to whether OP No.2&3 caused deficiency of services in not providing wheelchairs to the complainants at right time to rescue the patient from Airport premises to hospital or not. As OP No.3 contends that they have provided all the medical assistance to complainants. Considering the statements of complainant and OP No.3 in the case, OP No.3 provided wheelchair and other medical assistance to complainants in rescuing the patient in time, the deceased Mr. Chandra Shetty would have survived. On perusal of the documents, which is issued by hospital authority, it is clearly mentioned that the death happened in the interval between on set and death approximately 30 minutes to 1 hour, it caused due to pulmonary edema. The said medical certificate of 'cause of death' exhibits the manner of death is ' Natural ' and the death happened at 5:12 p.m on 19/11/2021. Complainants also submitted the death certificate which is at exhibit P-2 disclosed the details of death of deceased.

12. During the unwell situation like above, people are in helpless situation where the respondents like OP's have to come forward to help the people who are in need. It is the bonafide responsibility of every human being to help the people who are in need of medical assistance. As complainants stated in their complaint that they humbly requested and screamed at OP's but they did not come forward which is found to be unfair and inhuman. Meantime people from public come forward and helped the complainants to take him from Airport counter to outset, though the Airport authority and Airlines objected to go out. In our considered view, it is precious time for the patient to take proper and immediate medical treatment which gives him re-birth as we call it as '*Golden time*'- *period falling a traumatic injury where treatment has who contends to prevent death*. Per contra, OP No.3 instead showing concern over the death of complainant's husband, OP No.3 has rise point that complainants are not consumer under the definition of Consumer Protection Act 2019 in so far as OP No.3 is concerned. It indicates in-human attitude towards its consumers on the part of OP No.3.

13. OP No.3 has contractual relationship between OP No.1&2, with Airlines. OP No.1&2 has the same with complainants by issuing tickets. But when passengers booked their Air tickets to travel to destination, require to use Airport authority since Airlines has their relationship with Airport. So in turn, we can say that consumers have to utilize the service of Airport for them usually to travel through Airlines. Hence directly or indirectly Airport authority has rendered its services to consumers of Airlines, therefore Airport authority who is OP No.3 here are more responsible to the consumers who availed Airline services. Without availing the services of Airport no passenger can travel through Airline, hence OP No.3 cannot escape from the liability by using point of law in their contention. OP No.3 has held liable for the deficiency of services in providing proper medical assistance and support to the passenger who are in distress in the premises and under shelter of Airport authority as equally as Airlines.

14. OP No.1 is concerned that OP No.1 has not filed any written version to defend its case in not providing wheel chair at the right time which caused death. Being service provider and the passenger's booked their tickets to travel through their Airlines and facing any difficulty in health, his bonafide responsibility of an Airline to protect them as a host. The passenger usually carry essential things in their baggage and other sufficient stuffs required may not be available in their baggage, Airlines authority has to provide them a moral and other kind of support to the passenger. It ensures them good atmosphere to the passenger, wherever it is necessary, hence OP No.1 and 2 are failed to provide wheel chair at the right time when the complainant requested and even they did not bothered and put the complainant to suffer to take the deceased to the medical care is definitely amounts to deficiency of services on the part of OP No.1 and 2.

15. OP No.1 and 2 though received the legal notice sent by complainant, did not come forward to set right the issues with the complainants and even they did not bothered to appear before this commission in defending their case. The son of the complainant logged Police complaint before Kempegowda International Airport Police Station against OP No.1 and 2 on 07/12/2021 which is at exhibit P3. If at all the allegations made in the complaint are untrue and against to them, OP No.1 and 2 could have come before this commission to defend their case by filing its version and affidavit but OP No.1 and 2 did not do so, OP No.1 and 2 neither bothered the allegations nor protesting the claim of the complainants, shows deficiency of services even it is a unfair trade practice by negligent to passengers who are related to their Airlines. Hence, the evidence placed by the complainant are unchallenged with regard to OP No.1 and 2 are concerned. In our considered view, OP No.1 to 3 are liable to compensate to the complainants who lost life of a family, financial earnings in future days is great loss to the family. Considering the deficiency caused by OP's to the complainants leads to hardship, mental agony from the date of his death and in future days. Since he is 60 years old, it is not the age of death, he could live another 15 years happily with his family. Considering all these facts, family might have leading their life with difficulty in financially and mentally.

16. Complainant claimed Rs.30,00,000/- for the death of their husband caused due to the deficiency of services from OP's, hence OP's have to compensate Rs.30,00,000/- . In our considered view, not extending helping hand by OP's are the reason for death for non-providing in timely medical assistance and deprived by utilizing the golden time opportunity to save the life of the complainants husband. With all these, we come to the conclusion that Rs.30,00,000/- seems to be exorbitant to grant. Hence in our view Rs.12,00,000/- seems to be fair and compensating the death of complainants husband. However we all are aware that nobody can compensate with the life of human being in terms of money but as on the belief of Natural Justice we can say that money can little bit helpful to the family to lead the future life. Therefore Rs.12,00,000/- is fair and just in the ends of justice.

17. OP's could settle the issue at the initial stage of the complaint, since they have not come forward to settle nor settled after the receipt of legal notice. Hence, OP's made the complainant to approach this commission by incurring money on litigation. Hence, we award Rs.10,000/- towards the cost of litigation. For the foregoing reasons, we answer Point No.1 in affirmative and Point No.2 in partly affirmative.

18. Point No.3:- In view of our findings on the above points we proceed to pass the following:-

)CDR.

i) Complaint filed under section 35 under Consumer protection act 2019, is partly allowed.

ii) OP No.1 to 3 are jointly and severally pay Rs.12,00,000/- towards the deficiency of services, caused the loss of life of complainant's husband and Rs.10,000/- towards cost of litigation.

iii) OP No.1 to 3 shall pay the Awards amount within 45 days from the date of order, failing which OP's shall pay interest at the rate of 8% per annum from the date of complaint till realization.

(Dictated to the Stenographer, got it transcribed and corrected, pronounced in the Open Commission on this 20th day of APRIL, 2023)

(K.ANITA SHIVAKUMAR)

MEMBER

(M.SHOBHA)

PRESIDENT

Documents produced by the Complainant-P.W.1 are as follows:

1.	Ex.P.1	Air ticket is marked as Ex.P1
2.	Ex.P.2	Death certificate of my husband is marked as Ex.P2
3.	Ex.P.3	Copy of acknowledgement issued by police is marked as Ex.P3
4.	Ex.P.4	Copy of legal notice with postal receipt is marked as Ex.P4
5.	Ex.P.5	Copy of my another legal notice dated 07.12.2021 with postal receipt is marked as Ex.P5
6.	Ex.P.6	Copy acknowledgement is marked as Ex.P6
7.	Ex.P.7	Unserved postal cover of OP is marked as Ex.P7
8.	Ex.P.8	Reply of OP is marked as Ex.P8
9.	Ex.P.9	Copy of E-mail dated 21.02.2022 is marked as Ex.P9
10.	Ex.P.10	Certificate under section 65(b) of Evidence Act is marked as Ex.P.10
11.	Ex.P.11	Copy of death certificate of my husband is marked as Ex.P11
12.	Ex.P.12	Copy of medical certificate of cause of death is marked as Ex.P12

Documents produced by the representative of opposite party – R.W.1;

1.	Ex.R.1	Copy of Authorization letter is marked as Ex.R.1
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(K.ANITA SHIVAKUMAR)

MEMBER

(M.SHOBHA)

PRESIDENT

**[HON'BLE MRS. M. SHOBHA]
PRESIDENT**

**[HON'BLE MRS. K Anita Shivakumar]
MEMBER**