

NATIONAL CONSUMER DISPUTES REDRESSAL COMMISSION

NEW DELHI

FIRST APPEAL NO. NC/FA/152/2024

(Against the Order dated 16th January 2024 in Complaint No. CC/47/2023 of the State Consumer Disputes Redressal Commission Uttar pradesh)

WITH

NC/IA/1935/2026 (EARLY HEARING)

NC/IA/13319/2025 (EARLY HEARING)

NC/IA/3330/2024 (EXEMPTION OF FILE TYPED COPIES OF DOCUMENTS)

JUSTICE RAJESH CHANDRA (RETD.) S/O. LATE SHRI JAGDISH PRASAD GARG
PRESENT ADDRESS - R/O. 9,10, BALWANT NAGAR MAIN, NEAR CENTRAL BANK, JAIL
CHUNGI CHAURAHA, MEERUT, UTTAR PRADESH- 250002

.....Appellant(s)

Versus

AIR INDIA LIMITED
PRESENT ADDRESS - THROUGH GENERAL MANAGER, DLF GALAXY TOWER, SILOKHERA,
NEAR STAR MALL, SECTOR -30, GURUGRAM, HARYANA- 121003

.....Respondent(s)

FIRST APPEAL NO. NC/FA/177/2024

(Against the Order dated 16th January 2024 in Complaint No. CC/47/2023 of the State Consumer Disputes Redressal Commission Uttar pradesh)

WITH

NC/IA/1936/2026 (EARLY HEARING)

NC/IA/3797/2024 (EXEMPTION OF FILE TYPED COPIES OF DOCUMENTS)

NC/IA/3796/2024 (STAY)

NC/IA/13318/2025 (EARLY HEARING)

AIR INDIA LIMITED
PRESENT ADDRESS - BLOCK- 4, VATIKA ONE- ON- ONE, SECTOR 16, NH 48, GURUGRAM-
122001, HARYANA

.....Appellant(s)

Versus

JUSTICE RAJESH CHANDRA S/O. LATE SH. JAGDISH PRASAD GARG
PRESENT ADDRESS - R/O. 9/10, BALWANT NAGAR MAIN, NEAR CENTRAL BANK, JAIL
CHUNGI CHAURAHA, MEERUT-250002, UTTAR PRADESH

.....Respondent(s)

BEFORE:

HON'BLE MRS. JUSTICE SAROJ YADAV , PRESIDING MEMBER

HON'BLE MR. SHASHI NANDKEOLYAR , MEMBER

FOR THE APPELLANT:

MR. RITESH KHARE, ADVOCATE

FOR THE RESPONDENT:

DR. RAJESH RANJAN, ADVOCATE WITH MS. DEEKSHA ARORA, ADVOCATE

DATED: 12/06/2026

ORDER

SHASHI NANDKEOLYAR

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1. These Cross Appeals have been filed against the impugned Order dated 16.01.2024 in Complaint No. 47 of 2023, passed by the State Consumer Disputes Redressal Commission, Uttar Pradesh vide which the Complaint was partly allowed.
2. The facts and question of law involved in these Appeals arise from a single impugned Order involving the same parties and Complaint, therefore these Appeals are being disposed off by this common Order. For the sake of convenience, FA/152/2024 is treated as the lead case, and the facts and nomenclature of the parties enumerated therein are followed.
3. The factual background, in brief, is that the Complainant/Appellant and his wife had booked return air tickets from Delhi to San Francisco and back with the Opposite Party/Respondent/Airline by paying Rs. 1,80,408/-, and owing to the Complainant's medical conditions, including cervical spondylosis and sciatica, both tickets were upgraded from Economy Class to Business Class on payment of an additional amount of Rs.1,23,900/- each. However, during the return journey on 22.09.2022 by Flight No. AI-174, the Complainant was allotted seat No. 08D in

Business Class which was defective and non-reclining. Despite repeated requests, the cabin crew expressed inability to rectify the defect or provide an alternative seat, stating that other vacant Business Class seats were also defective and no First Class seat was available. It was alleged that the Complainant suffered severe discomfort during the journey and his health deteriorated, and after arrival he required medical treatment including consultation with an orthopedic surgeon, medication, bed rest and physiotherapy. The Complainant lodged a representation dated 25.09.2022 before the Cabinet Secretariat (Directorate of Public Grievances), Government of India, which was forwarded to the Ministry of Civil Aviation, but no response was received. It was alleged that allotment of a defective Business Class seat despite charging a substantial upgrade amount amounted to breach of implied contract, deficiency in service and an unfair contract within the meaning of Section 2(46) of the Consumer Protection Act, 2019. Aggrieved with the same, he filed his Complaint before the Ld. State Commission, Uttar Pradesh.

4. The Ld. State Commission vide the impugned Order dated 16.01.2024 partly allowed the Complaint with the following observations:

“...Since the opposite party failed to file clear evidence in support of its submissions and merely sought rejection of the complaint, whereas the complainant substantiated his case by documentary evidence, it is evident that the complainant, a senior citizen and retired judicial officer, despite having upgraded his ticket from Economy Class to Business Class on payment of additional charges for a comfortable journey, was not provided the expected cooperation or proper seating facility by the opposite party. Even though three seats in Business

Class were lying vacant, no alternative seat was provided to him in place of the defective seat, as a result of which the complainant suffered considerable inconvenience during the long journey and was compelled to undergo medical treatment thereafter. Such conduct on the part of the opposite party amounts to deficiency in service for which it is liable to compensate the complainant. In the circumstances, the complainant is entitled to refund of the Business Class fare along with interest, compensation and litigation costs.

Accordingly, the complaint filed by the complainant against the opposite party Air India Company was partly allowed and the opposite party was directed to pay a sum of Rs. 1,69,002/- towards the cost of the Business Class ticket along with interest @10% per annum from the date of deposit till realization, Rs.20,00,000/- towards compensation for physical and mental agony suffered by the complainant during and after the journey, and Rs. 20,000/- towards cost of the complaint within a period of 45 days from the date of the order. It was further directed that in case of non-compliance within the stipulated period, the entire amount would carry interest @12% per annum from the date of filing of the complaint till payment.”

5. We have heard the Ld. Counsel for the Appellant and Respondent, and perused the material available on record.

6. Ld. Counsel for Appellant has argued that the Appellant had purchased round-trip air tickets for himself and his wife from Delhi to San Francisco and back for a total sum of Rs. 1,80,408/-, and owing to his medical condition of cervical spondylosis and sciatica, he upgraded both seats from Economy Class to Business Class on

payment of an additional amount of Rs.1,23,900/- for each seat totaling to Rs.2,47,800/-. However, during the return journey, the Business Class seat allotted to the appellant was malfunctioning and could not recline, causing acute discomfort during the 15-hour flight. Despite informing the cabin crew, no alternative arrangement was made though three Business Class seats were lying vacant, and his request for upgrade to First Class was also declined. It was further submitted that after returning to India, the Appellant suffered severe pain in the neck, shoulder and lumbar region along with headache and vertigo and remained under medical treatment including bed rest and physiotherapy. Aggrieved by the deficiency in service, the Appellant filed Consumer Complaint before the State Commission With following prayer :-

- a) *“Direct the opposite party to pay a compensation of Rs.1,95,00,000.00 for physical and mental torture, agony and harassment suffered by the complainants and also for medically putting the complainant in the high risk zone of health issue.*
- b) *Direct the opposite party to pay Rs.50,000/- for the cost of litigation.*
- c) *Direct the opposite party to pay an amount of Rs.1,69,002/- being the cost of business class ticket of the complainant.*
- d) *Direct the opposite parties to pay appropriate compensation and damages and interest which this Hon’ble Commission may deem it just and proper in the facts and circumstances of this case.*
- e) *Direct the opposite parties to pay punitive damages to the complainant whom this Hon’ble Commission may deem it just and proper in the facts and circumstances of this case.*
- f) *Any other relief/order which this Hon’ble State Commission may deem fit and*

proper in the circumstances of the case may also be passed.”

7. The State Commission vide its impugned order dated 16.1.2024 partly allowed the Consumer Complaint by directing payment of Rs.1,69,002/- with interest @10% per annum towards Business Class fare, Rs. 20,00,000/- towards compensation for physical and mental agony and Rs. 20,000/- towards litigation costs; That although the State Commission rightly held the Respondent guilty of deficiency in service, the compensation awarded was inadequate in view of the Appellant's status as a senior citizen with long-standing medical ailments and the inconvenience suffered during the journey; That the State Commission erred in taking on record the Written Statement filed by the Respondent beyond the statutory limitation period of 45 days from the date of service, contrary to the law laid down by the Hon'ble Supreme Court in ***“New India Assurance Co. Ltd. vs. Hilli Multipurpose Cold Storage Pvt. Ltd., AIR ONLINE 2020 SC 300”***. Reliance was further placed on ***“U.S. Awasthy vs. Gulf Air and Anr., IV (2003) CPJ 114 (NC)”***, ***“Harshad Chiman Lal Modi vs. DLF Universal & Anr., AIR 2005 SUPREME COURT 4446”***, ***“Kiran Singh and Ors. vs. Chaman Paswan and Ors., 1954 AIR 340”***, ***“Sneh Lata Goel vs. Pushplata, AIR 2019 SUPREME COURT 824”*** and ***“Rule 14(7) of Consumer Protection (Consumer Dispute Redressal Commissions) Rules, 2020”*** in support of the contention that failure to provide a promised reclining Business Class seat without prior disclosure constitutes breach of promise and unfair trade practice.

8. Ld. Counsel for Respondent has argued that the original complaint filed by the Appellant before the State Commission alleging unfair contract was not

maintainable, as the allegations made in the complaint, even if accepted, at best constituted a case of deficiency in service and did not fall within the ambit of 'unfair contract' as defined under Section 2(46) of the Act. The State Commission failed to return any finding on the objection regarding maintainability and jurisdiction, and erroneously proceeded to allow the complaint on the ground of deficiency in service. The Respondent denies the allegation that the allotted seat was defective and submitted that the aircraft had undergone comprehensive technical inspection prior to operation and no deficiencies were found in the seating arrangements. No complaint regarding the alleged malfunctioning seat or non-cooperation by the crew was recorded during the flight in the cabin log or CCIC report. Ld. Counsel for Respondent further argued that the Appellant had been suffering from cervical spondylosis since 1978 and had subsequently developed sciatica, and therefore the alleged non-reclining seat could not reasonably be considered as the cause for aggravation of his pre-existing medical condition; The State Commission lacked pecuniary jurisdiction to entertain the complaint as the value of the consideration paid by the appellant was below the statutory threshold prescribed under Section 47(1)(a) of the Consumer Protection Act, 2019, and therefore the complaint ought to have been dismissed on this ground alone. Reliance was placed on "***Pioneer Urban Land & Infrastructure Ltd. vs. Govindan Raghavan, Civil Appeal No. 12238/2018***"; "***Pyaridevi Chabiraj Steels Pvt. Ltd. vs. National Insurance Company Ltd. & Ors.***", and "***Suncity Project Pvt. Ltd. & Ors. vs. Lt. Colonel Brijesh Kumar Singh***" in support of the contention that pecuniary jurisdiction is to be determined on the basis of the consideration paid and that the present dispute did not involve any unfair contract; That the compensation awarded by the State

Commission was excessive and disproportionate to the alleged deficiency and contrary to the principles laid down by the Hon'ble Supreme Court in "**Ghaziabad Development Authority vs. Balbir Singh, (2004) SCC OnLine SC 338**", "**Lucknow Development Authority vs. M.K. Gupta 1994 AIR 787**", "**Ghaziabad Development Authority vs. Union of India (2011)** " and "**Charan Singh vs. Healing Touch Hospital, (2000) 7 SCC 668**", wherein it has been held that compensation must be just, reasonable and proportionate to the actual loss suffered and should not result in unjust enrichment. It was also submitted that the cabin log records indicated that no other serviceable Business Class seats were available as alleged by the appellant and that earlier decisions including "**U.S. Awasthy vs. Gulf Air and Anr.**" (supra), and "**Regional Manager, Air India & Ors. vs. Shri Tarun Seth & Ors.**" demonstrated that compensation awarded in similar matters involving non-reclining seats had been substantially lower. Accordingly, the impugned order ought to be set aside.

9. We have given our thoughtful consideration to the rival submissions advanced by the learned Counsel for the parties and have carefully perused the material available on record.

10. The contention of the Appellant that the State Commission lacked pecuniary jurisdiction to entertain the complaint does not merit acceptance at this stage. A perusal of the record reveals that no such objection was raised before the State Commission at the initial stage of hearing of the complaint. No material has been placed by the Respondent/OP/Air India on record to establish that the plea regarding pecuniary jurisdiction was pressed at initial stage or any application in

this regard moved to decide the issue of pecuniary jurisdiction first. Having participated in the proceedings before the State Commission, without specifically pressing the issue at initial stage and suffered an adverse order on merits, the Appellant cannot be permitted to raise, the issue in the present First Appeal.

11. If the Appellant was of the view that the value of the consideration paid by the Complainant was below the pecuniary threshold prescribed under Section 47(1)(a) of the Consumer Protection Act, 2019, it was incumbent upon the Appellant to raise such an objection before the State Commission itself by moving an application at initial stage so that the issue could be examined and adjudicated upon at the appropriate stage. The Appellant, having failed to do so, cannot now seek to challenge the pecuniary jurisdiction of the State Commission in appeal. Accordingly, the objection regarding pecuniary jurisdiction is rejected.

12. At the outset, the objection raised by the Respondent regarding maintainability of the complaint on the ground that the allegations do not constitute an “unfair contract” within the meaning of Section 2(46) of the Consumer Protection Act, 2019 does not merit acceptance. A mere incorrect nomenclature or reference to a particular statutory provision in the complaint cannot defeat a substantive consumer grievance if the facts pleaded disclose a clear case of deficiency in service. The substance of the complaint, as borne out from the pleadings and material on record, is that despite charging substantial additional consideration for Business Class travel, the Respondent failed to provide the very basic amenity attached to such upgraded service, namely a properly functioning reclining seat on a long-haul

international flight, thereby causing serious inconvenience, discomfort and hardship to the Complainant. Such allegations squarely fall within the ambit of “deficiency in service” under the Act and were rightly entertained by the Ld. State Commission.

13. On merits, we find no reason to take a view different from that taken by the Ld. State Commission insofar as the finding of deficiency in service is concerned. The admitted position is that the Complainant had upgraded his seat from Economy Class to Business Class on payment of substantial additional charges specifically for comfort, considering his medical condition. The grievance of allotment of a defective non-reclining Business Class seat during a long international journey was specifically pleaded and supported by documentary material. The Respondent, despite contesting the allegation, failed to place cogent and convincing evidence to completely dislodge the Complainant’s version.

14. However, insofar as the quantum of compensation is concerned, it is well settled that compensation awarded under consumer jurisprudence has to be fair, just and commensurate with the injury suffered. In **Ghaziabad Development Authority v. Balbir Singh**, (2004) 5 SCC 65, the Hon’ble Supreme Court held that compensation must correlate with actual loss, injury, harassment and suffering, and cannot become a source of unjust enrichment. Applying the said principle, we are of the considered view that the Ld. State Commission has struck an appropriate balance by directing refund of the Business Class fare component with interest, compensation for physical and mental agony and litigation costs. The compensation awarded cannot be said to be either so inadequate as to warrant enhancement, as contended by the Complainant/Appellant, nor so excessive or disproportionate as to

warrant interference, as urged by the Airline.

15. The findings recorded by the Ld. State Commission are based on appreciation of pleadings, documentary evidence and surrounding circumstances. The impugned order does not suffer from perversity, illegality or material irregularity calling for interference by this Commission. We are satisfied that the relief granted is just, equitable and in consonance with settled principles of consumer law.

16. In the result, both the Cross Appeals being devoid of merit are dismissed. The impugned Order dated 16.01.2024 passed by the State Consumer Disputes Redressal Commission, Uttar Pradesh in Complaint No. 47 of 2023 is upheld. Pending application(s), if any, stand disposed of. There shall be no order as to costs.

.....J
SAROJ YADAV
PRESIDING MEMBER

.....
SHASHI NANDKEOLYAR
MEMBER

SONIA TANDON/Court-5/D