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**STATE CONSUMER DISPUTES REDRESSAL COMMISSION,
UTTAR PRADESH, LUCKNOW**

APPEAL NO.2010 OF 2004

(Against the judgment/order dated 31-08-2004 in Complaint
Case No.58/2002 of the District Consumer Forum-I, Lucknow)

M/s. Kuoni Travel (India) Pvt. Limited

.....Appellant

Vs.

Sri Arun Sinha and others

.....Respondents

BEFORE:

**HON'BLE MR. JUSTICE BHANWAR SINGH, PRESIDENT
HON'BLE MR. SYED ALI AZHAR RIZVI, MEMBER
HON'BLE MR. RAMPAL SINGH, MEMBER**

For the Appellant : Sri Arun Tandan, Advocate.

For the Respondent : Sri Arun Sinha in person and his junior Sri
Pranshu Agarwal

Dated : 08-04-2011

JUDGMENT


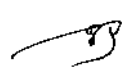
PER MR. JUSTICE BHANWAR SINGH, PRESIDENT

This appeal is directed against the judgment and order dated 31-08-2004 passed by the District Consumer Forum-I, Lucknow in Complaint Case No.58/2002 whereby the appellants M/s. Kuoni Travel (India) Private Limited formerly known as M/s. Sita World Travel India Limited, hereinafter to be referred to as the 'Travel Agency' was directed to pay to the respondents a total sum of Rs.2,55,000/- as compensation for the deficiency in service.

The facts giving rise to this appeal may, in brief, be narrated as below:-

The respondent no.1 Sri Arun Sinha, Advocate, his wife Smt. Mala Sinha and their two children Master Sidhartha and Km. Akanksha Sinha had asked the travel agency to chalk out their tour programme to Malaysia and Singapore. The travel agency charged Rs.1,79,417/- in cash besides US \$ 3,200 for the entire tour of the above said four. The respondents/complainants paid the aforesaid money in addition to

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Rs.20,000/- to the opposite parties for their domestic air travel. It was a package tour and the aforesaid payments included the airfare for the entire tour, the price for the hotel accommodation, star cruise charges, transit to the hotel from airports and vice versa, sights seeing charges and also the taxi-fare from airport to the hotel and then to the cruise and back. The travel agency had arranged the respondents' Malaysian tour through a foreign travel agency known as "Tourland" and Singapore tour through another foreign agency M/s. Frederick's Travels & Tour Pvt. Limited. The tour of the complainants commenced from 18-06-2001 and it had lasted upto 05-07-2001. The respondents pleaded in their complaint filed before the District Consumer Forum-I, Lucknow that on arrival at Kualalampur airport they were taken to 'Genting Highland', where they stayed for two nights and as per their schedule, they were to leave in the morning of June 21, 2001. They were required to report at the lobby of the hotel by 11.00 a.m. and they reached there on time but nobody came to collect them for the next programme of the tour and resultantly they had to wait upto 2 O'clock at the hotel lobby. As a matter of fact, an another group of 12 persons did not reach the hotel lobby upto 2 O'clock and the tour manager refused to leave the hotel as he cannot drop the other members of the tour. The tour manager was not known to the complainants nor he showed his identity card and he was a different person than the one who had received the complainants at Kualalampur airport on 19-06-2001. The complainants came across a difficult situation as they were not able to locate the manager/staff of the Tourland agency who was required to take them to Kualalampur from hotel Genting Highland. Thus, they felt harassed and experienced too much of inconvenience – physical while waiting and mental while locating the right person in the state ^{of} ^{the} bewilderment. With great difficulty the complainants were able to locate the Tourland staff who had taken them to Kualalampur city at 2.00 p.m. on 21-06-2001. There in Kualalampur, they were to be lodged in Crown Princess Hotel where the staff of the hotel informed them that only one room had been booked for them. The complainants insisted for provision of two rooms as they had booked for

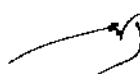
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four of ^{the} party. They had to wait and sit in the hotel lobby for a long time as the hotel authorities conversed with the Tourland agency. Then they were allotted two rooms on different floors and when their demand for providing both the rooms at the same floor was not acceded to, they threatened to leave the hotel in protest. This led the hotel staff to think of the consequences and then they agreed to provide two rooms on the same floor. In this exercise the whole day of June 21, 2001 was wasted. The quality of the rooms of the hotel was poor and the toilets were choking and leaking. The Tourland people asked the respondents to reach the hotel lobby at 10.00 a.m. on 22-06-2001 and since they were on a tour they were ready in time but kept on waiting in the lobby for more than two hours. When the respondents contacted the Tourland office in Kuala Lumpur, they were informed to be ready by 2.00 p.m. and in this way half day had gone waste. The Tourland people started the city tour at 2.00 p.m. but the complainants felt cheated when they were taken only to three shops and an insignificant museum. They were not shown the famous TV tower and Twin towers. The Tourland people asked the complainants to take photographs of the two towers i.e. TV tower and twin towers from a distance of one mile. The complainants then had to go to these towers on their own by spending a lot in hiring taxi.

On 24-06-2001 the complainants left Kuala Lumpur city for Singapore by air. M/s. Frederick's Travels & Tour Private Limited (in short FTL) were engaged, as mentioned earlier, by M/s. Sita World Travel India Limited to arrange for the respondents tour programme there. They were to be collected from Singapore airport for being taken to the dock (ship-yard) by FTL for onward journey on Star Cruise, in which they were to stay for three nights and four days starting from Singapore on 24-06-2001 and as per programme the cruise was to be back in Singapore by 27-06-2001. The respondents reached Singapore airport on time i.e. at 11.05 a.m. on 24-06-2001 but nobody from FTL came to receive them at the airport and when they contacted the management of the cruise concerned at around 2.30 p.m., they were informed to reach the cruise immediately otherwise check-in formalities

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on cruise would be closed. The complainants then hired a taxi at Singapore airport and reached the dock of the cruise after 3.00 p.m. In this way they were put to lot of mental and physical discomfort. Initially the respondents were provided very small room on fifth floor of the cruise and when they learned that it was physically impossible for them to stay in, they requested for a bigger room and the cruise staff accommodated them but after charging US \$ 460 extra. It was at about 10 p.m. when the complainants were shifted to a balcony room and in this way the whole day of the complainants had been wasted in just coming across one difficulty or the other resulting in sever physical discomfort and mental agony.

On arriving back at Singapore from cruise on 27-06-2001 the complainants were to be received at the dock by FTL staff but again none could be spotted to receive them. The respondents waited at the dock but none was there to receive them. In the meantime, all other co-tourists had left the cruise. Then a person of FTL came there and searched for one Mr. Anand and his family but they could not be traced and unless they were searched the complainant were not to be taken to the hotel of their stay. When the said staff of the FTL refused to leave the dock without Mr. Anand's family, who were perhaps members of rich tourist-party, the respondents hired a taxi by standing in a mile long queue in the hot summer and it was thus with great difficulty that they reached Orchard Parade Hotel, Singapore at 5 p.m. Again they were informed that only one room had been booked for them. The hotel staff agreed to provide two rooms but after a long wait of two hours at the hotel lobby they could be accommodated initially in a dormitory. Sri Sinha and his family members felt harassed and humiliated and when they contacted their travel agent at Lucknow it was with great difficulty that at 8 p.m. on 27-06-2001 they were provided two rooms no. 400 and 401 on fourth floor of the hotel. The complainants felt suffocative in the two rooms as their condition was very poor. The complainants then summoned the travel agent Mr. Frederick in the hotel and showed him the two rooms. Mr. Frederick then talked to the hotel management and promised to arrange

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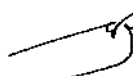
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for another set of two rooms the other day. It was on 28-06-2001 that the complainants were shifted to rooms no. 1200 and 1203 on 12th floor at 9 p.m. and in this way two complete days i.e. 27-06-2001 and 28-06-2001 were wasted in waiting and shifting from one accommodation to another. The complainant Sri Arun Sinha spent a lot to pay his telephone bills as he had to contact his travel agent at Lucknow time and again besides calling to the local agents. In Singapore the complainants had to arrange for their sight seeing tours and since there was no guide provided to them by the local tour agent they missed many tourist places and some places like 'Bird Park' and 'Santosa Island' were visited by them at wrong hours.

The complainants on return to Lucknow filed the complaint narrating therein all the above facts and prayed for refund of the entire money he had paid besides compensation and damages for the sufferings.

The travel agent formerly known as Sita World Travel India Limited was in the meantime merged with M/s. Kuoni Travel(India) Pvt. Limited, the appellants. They filed the written statement denying all the allegations of deficiency in service. The travel agency admitted the booking of the said tour by the complainants but pleaded that the complainants were themselves to blame for the inconvenience, if they had any. The complainants cut-short the Kualalampur stay from three nights to two nights and if they were put to any inconvenience they were themselves responsible for it. It was pleaded further that the tour programmes of the respondents were arranged through Tourland Travel BON.BHD., Malaysia and Frederick Travels & Tours in Malaysia and Singapore respectively and if there was any lapse on the part of the said tour agencies it was not within the control of Sita Travels. As a matter of fact, the complainants were expected to have filed a case against the foreign travel agency and not the answering agency. If the complainants were put to some inconvenience while waiting for long for other group members to come, Sita Travels could not be blamed as all the members of the group were to be taken care of. It was submitted further by the answering opposite party that the two foreign travel agencies were liable for the lapse in booking two double rooms for the respondents and thus







the complainants should have taken action against the two foreign travel agencies and not the appellants/opposite parties. As regards payment for hiring taxi by the complainants, it was pleaded that it was their choice if they preferred to visit the sites of interest in their family group leaving aside the other members of the group. The accommodation in the cruise was compared with a 1st A.C. coach and as the berths are in tier in the train's 1st A.C. coach, the cruise too had the same kind of arrangements. Moreover, the appellants were not to blame for the small accommodation. The so called inconvenience and the so called deficiency in service, as was pleaded by the appellants, were an outcome of the travel agencies/firms outside India and thus no action could be taken against them within the territorial jurisdiction of India. If the complainants desired to sue those principal agencies outside India, they should have filed their complaints in Kuala Lumpur or Singapore. The complainants were accused by Sita Travels of filing the complaint with a view to harass them and extract money in the garb of damages. The claims of the complainants were termed to be exorbitant and unimaginable. Thus Sita Travels pleaded before the District Consumer Forum that the complaint was liable to be dismissed.

The District Consumer Forum examined the pleadings of the parties and the evidence produced in support thereof and recorded a finding of deficiency in service on the part of the travel agencies which had been engaged by the appellants to provide services to the complainants and, as said above awarded in all a sum of Rs.2,55,000/- as compensation for deficiency in service, mental agony, physical discomfort and litigation expenses.

The appellants M/s. Kuoni Travel (India) Pvt. Limited after Sita World Travels India Limited merged with it, filed this appeal with the allegations that they do not know as to what inconveniences the respondents had suffered during their tour to Malaysia and Singapore or what discomfort they were caused during their visit to those countries. They reiterated that M/s. Tourland and M/s. Frederick's Travels & Tour Private Limited should have been impleaded in the complaint by the

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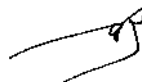




complainants for any deficiency in service. The appellants cannot be held responsible for any deficiency in services allegedly committed by the foreign travel agents. As a matter of fact, the respondents had filed their complaint either to take revenge with some malice or to squeeze all tour expenses.

The appellants have in the first instance raised the issue of jurisdiction by contending that the deficiency in service being on the part of two foreign travel agents namely 'M/s. Tourland' and 'M/s. Frederick's Travels & Tour Private Limited', the Lucknow District Consumer Forum in India was not competent to have taken cognizance of the dispute. As a matter of fact, as submitted by the learned Counsel appearing for the appellants, the respondents/complainants should have knocked at the door of the relevant Consumer Forums/Courts in Malaysia and Singapore. In our considered opinion, the contention pressed into service is devoid of merit for the simple reason that the two agencies namely 'M/s. Tourland' and 'M/s. Frederick's Travels & Tour Private Limited', were engaged by M/s. Sita World Travel India Limited i.e. the predecessor of M/s. Kuoni Travel (India) Private Limited, the appellants. The travel agents in Malaysia and Singapore were the agents of the appellants' predecessors and not the agents of the respondents. Neither the respondents hired their services, nor they insisted that M/s. Sita World Travel India Limited should have rendered their service only through the Tourland and M/s. Frederick's Travels & Tour Private Limited. The selection of the two travel agents in Malaysia and Singapore was the choice and discretion of M/s. Sita World Travel India Limited and accordingly they received instructions for making necessary arrangements and facilitate the two tour programmes of the respondents at the instructions of Sita Travels (for short). The office of Sita Travels was located at Raj Chambers, 29/9 Rana Pratap Marg, Lucknow and since the respondents had paid the entire money to the Branch Manager Sri A K Tiwari and Senior Executive Sri Manas Sinha of Sita Travels at Lucknow, the contractual relationship between the two had developed in Lucknow itself giving a cause of action to the respondents to file a

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compensation claim petition in the District Consumer Forum, Lucknow. On the same analogy the appellants' submission that unless M/s. Tourland and M/s. Frederick's Travels & Tour Private Limited were impleaded in the array of opposite parties in the complaint of the respondents, no relief could be granted against them seems to be misconceived.

M/s. Sita Travels had entered into an agreement with the respondents to provide their service during their tours to Malaysia and Singapore, therefore, the appellants are answerable to them with the jurisdiction of Lucknow Fora to entertain and decide their claim petition. Needless to say that M/s. Kuoni Travel (India) Private Limited owe the liabilities of Sita Travels as the Sita Travels has now merged with the appellant company after the latter had acquired all its rights and liabilities. Accordingly we hold that the plea of jurisdiction taken by the appellants has no substance and thus rejected.

The next submission pressed into service on behalf of the appellants is that they are not accountable for the lapse of the two travel agents working abroad as neither they were under the control of Sita Travels or the appellants, nor there is any proof of the deficiency on their part. In this context, it may be observed that Sita Travels or Kuoni Travel (India) Private Limited could seek instructions from the two travel agencies i.e. M/s. Tourland and M/s. Frederick's Travels & Tour Private Limited and ascertain as to what had happened and who was at fault. The appellants have not filed any correspondence with the two travel agencies so as to bring on record their version of the matter. Sita Travels and the appellants both had the business relationship with the two travel agencies of Malaysia and Singapore and thus they were in complete commanding position to ask the managers of both the agencies to send their written versions about the allegations of lapses or the deficiency in service rendered to the complainants. But the appellants have not made any endeavour to bring on record their version either before the District Consumer Forum or before this Commission. Sri Arun Sinha filed his detailed affidavit about the lapses and deficiency in services of the two

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travel agencies but the appellants have not cared either to send the copy of the complaint or Sri Arun Sinha's affidavit to the managers of the two travel agencies for admission or denial nor they, by any other mode of communication, tried to elicit from the two managers anything about the allegations in the complaint. In the absence of specific denials by the managers of the two travel agencies, the affidavit of Sri Arun Sinha carries significance and his averments are believable as the appellants have not been able to rebut them by counter affidavit of a relevant person. The affidavit of Sri Cleveland John, manager of Kuoni Travels is not reliable for the simple reason that he had not submitted his affidavit on the basis of any material supplied to him by the managers of the two foreign travel agencies. Had he enclosed with his affidavit some letter of the two foreign travel agencies, his averments would have been of some value but in the absence of the version of the real service providers, his statement simplicitor is of no relevance. All his denials on the face of the affidavit of Sri Arun Sinha are baseless and liable to be rejected.

To be specific on all counts, we take up the complainants' version one by one.

Before hiring the services of Sita Travels in the year 2001, the complainants had once more in the year 1999 utilized on payment the service of the said company while touring to Honkong and Bangkok and after the said tour was over the complainants complained to the officers of Sita Travels about their poor arrangements. Though it is not very relevant from the present dispute point of view but it shows that Mr. Arun Sinha was acquainted with Sita Travels through their local officers who had engaged him as a lawyer in a case under Section 138 of the Negotiable Instruments Act. As asserted by Sri Arun Sinha, the complainant, he ignored the poor arrangements and poor services provided to him and his family by Sita Travels in the 1999 tours but since the local officers had regretted and promised to provide better service this time, he agreed to hire their services once again. Had he not been their Counsel in a criminal case pending before the Special Chief Judicial Magistrate Lucknow, perhaps he could not have gone for hiring services

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of Sita Travels in the year 2001. In this background of the relationship between the complainant Sri Arun Sinha and Sita Travels, the statement of Sri Cleveland John, the manager of Kuoni Travels that the complainant's version of past poor services was not believable, is not sustainable. It is noteworthy that Sri Cleveland John was not in the year 1999 in any business partnership of Sita Travels and, therefore, his averment that Sri Arun Sinha had manufactured the past history is not tenable. His contention that Sri Arun Sinha being happy with the past services of Sita Travels had chosen the same travel agency for travelling abroad in 2001 is not acceptable as Sri Cleveland John has not sworn in para 3 of his affidavit, submitted before the District Consumer Forum on the basis of any record of Sita Travels, although, he could have laid his hands on the relevant records pertaining to the lapses in the services pointed out by Sri Arun Sinha in the year 1999. Therefore, we do not find any substance in Mr. John's contention that by hiring services of Sita Travels again and again, Sri Arun Sinha proved the fact about better quality of services, Sita Travel was famous for.

Narrating his woeful tale, the complainant Sri Arun Sinha stated in his affidavit that after spending two nights at hotel 'Genting Highland' he and his family members as directed by the Tourland agency arrived at the hotel lobby at 11.00 a.m. but nobody came to collect them upto 2 O'clock on 21-06-2001. Waiting in a foreign land for three hours indeed would have raised the blood pressure of Sri Arun Sinha and other family members also but since Sri Arun Sinha was head of the family with his wife and two children in the touring party, he, as narrated by him not only felt nervous but also was totally tense and the tension he suffered from, lasted for more than three hours. The Tour Manager of the Tourland travel agency then came and conveyed to Sri Arun Sinha that he had to collect some other persons also and unless a group of the other 12 persons was there he would not leave the hotel. That apart, Sri Arun Sinha experienced lot of difficulty in locating the manager of the Tourland. The contention of Sri Cleveland John that Sri Arun Sinha was himself to blame for cutting short his stay at hotel Genting Highland is of

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no avail as even if the stay at Genting Highland was cut-short by one day, Sri Arun Sinha with prior arrangement after conversation with the manager of the Tourland was ready to leave the hotel on June 21, 2001 morning as directed by the travel agency. If the said travel agency had to take care of any other group of persons – big or small, it should have made proper arrangements for the four members group of Sri Arun Sinha. Either he would have been asked to stay in the room itself or some other better arrangements could be provided to him and his family members but it would have really antagonized the complainants to force them to wait for more than three hours in the lobby of the hotel and watching there helplessness without any fruitful result. This was a serious deficiency in service on the part of the Tourland management, the agent for Sita Travels. M/s. Sita Travels and now the appellants would be equally responsible for such serious lapse on the part of Tourland agency.

After their harassment while waiting for three hours in the hotel lobby, the complainants were brought to Kualalampur city where they were to stay upto 24-06-2001 in the hotel known as Crown Princess. Sri Arun Sinha has asserted in his affidavit that when he arrived at the hotel he came to learn that only one room was booked for the four complainants, while they had booked for their requirement, two rooms everywhere, they were to stay. The requisition of two rooms of their stay is not denied by the appellants and even from perusal of annexure-2 i.e. the travel programme for Sri Arun Sinha and his family, it is clear that two double bed rooms were required for every place of their stay. When Sri Arun Sinha told the hotel staff that they had booked two rooms, he and his family members were asked to wait as the hotel authorities had to contact the Tourland people. After waiting for long in the hotel lobby, two rooms were ultimately provided to him but the rooms shown to them were not on the same floor. This again gave a cause of tension to Sri Arun Sinha and all other family members who reacted and threatened to leave the hotel but this time the hotel authorities appreciating the agony of Sri Arun Sinha promised to provide two rooms on the same floor. Sri Arun Sinha has disclosed in his affidavit that the whole day had wasted

in the entire exercise of waiting and getting two rooms and when they occupied the rooms they learned that the toilet seats were chocking and the water was not passing smoothly and from the washbasin taps yellow water was flowing out. When the complainants complained to the hotel staff they got some respite.

The narration of all the above facts clearly indicate that neither the services of the Tourland nor that of the hotel the, Tourland had arranged, for stay of Sri Arun Sinha and his family were satisfactory; rather it was a matter of physical and mental discomfort for the entire family to wait for long in the hotel lobby at hotel Genting Highland as well as Crown Princess. If a person touring abroad with his family would get this kind of treatment, the pleasure of his holidaying would be shattered and one would be compelled to realize, better he would have stayed back at his home. We do not find even an iota of exaggeration in the complainants' version as Sri Arun Sinha had booked the tour on payment of heavy amount and had no reason to develop a story unless he was really put in an embarrassing, as also physical and mental discomfort. We, therefore, hold that the poor arrangements for collecting Sri Arun Sinha and his family from Genting Highland and lodging them in Crown Princess hotel amounted to a serious deficiency in service and it is important to note that the appellants have neither shown some reason nor offered any explanation as to why only one room had been booked in Crown Princess hotel when the touring party of four had requisitioned two double bedrooms for every place of their stay. Obviously thus the plea of deficiency in service on the part of the appellants and their agents stands fully established.

On 21-06-2001 the Tourland people informed the complainants to come to the hotel lobby at 10.00 a.m. as they were to be taken to the city tour of Kualalampur but nobody came to pick them up. On being contacted, the manager said that the tourist bus being full, the complainants would be accommodated in the after lunch tour. The complainants felt harassed and helpless and returned to their room. They stayed there upto 2.00 p.m. when the Tourland people came and took

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them to an unimportant shopping centre and a museum but denied the opportunity of seeing the twin towers of the world fame and the famous TV tower. The complainants were asked from a distance of one mile to take the photographs of the twin towers and the TV tower and thus they were be-fooled. Since the towers were not clearly visible from such a long distance, the complainants had to go the other day on their own to see the towers and they spent lot of money on payment of taxi charges besides having spent their time. Sri Arun Sinha has in this context submitted in his affidavit that the Tourland people were more interested in the commission on purchases made by the tourists and it was on account of this worldwide known phenomenon that the complainants were taken to a shopping centre of no significance. Indeed this kind of maladies do exist not only at one tourist place but the world over. Sometimes depending upon so many circumstances of a given instance, this can be ignored but if there is a total dissatisfaction of the services, then a stock of the averment has to be taken. Sri Arun Sinha might have not been assured about his visit to an insignificant market. He and his family members had also not been taken to the famous TV and Twin towers but as stated by him, he and his family members were asked from a distance of one mile to take photographs of the towers and satisfy their lot. Certainly the services provided to the complainants were not satisfactory rather asking them to see towers and take photographs from a distance amounted to an insult to an injury and ultimately a serious deficiency in service. May be that there was no contract that the complainants would be taken close to the towers but then city tour in Kualalampur implies a meaningful visit to the towers and not just a formality. We are, therefore, of the view that the contention of Sri Arun Sinha and his family members about there being serious lapse on the part of the Tourland agency in providing services to them at Kualalampur is sustainable.

Now starts the second round of harassment of the complainant and his family members and all through their Singapore tour beginning from 24-06-2001. This time, the gravity of their pain - physical and mental

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was greater than what they had experienced in Malaysia. On 24-06-2001 the complainants left Kuala Lumpur for Singapore by airlines. They reached in time at the Singapore Airport where they were to be collected by M/s. Frederick's Travels & Tour Private Limited, Singapore and taken to the dock (shipyard). As per their tour programme arranged by M/s. Sita Travels and M/s. Frederick's Travels, the complainants had a booking on Star Cruise for three nights and four days starting from Singapore on 24-06-2001. They were to check-in the cruise at 12 noon on 24-06-2001 but nobody from M/s. Frederick's Travels came to receive them upto 2.30 p.m., although they have been anxiously waiting from their arrival time i.e. 11.05 a.m. Under the mental strain of waiting for so long the complainants contacted the cruise authorities at 2.30 p.m. and they were informed by the authorities that they should reach the cruise immediately otherwise check-in formalities on cruise would be closed very soon. It is pertinent to note that in accordance with the terms and conditions of the tour programme-contract, M/s. Sita Travels through their agent were to arrange for airport transfers and city tour etc. but nobody was there at the Singapore airport to either receive them or to guide them. It was a deficiency on the part of M/s. Frederick's Travels not to have contacted the complainants for airport transfer, guidance and their arrangement to reach the cruise. The complainants felt badly perturbed to receive the information from the cruise authorities that the check-in formalities were likely to be closed very soon. They, however, hurriedly arranged for a taxi and reached the dock, at 3.00 p.m. and fortunately they were allowed to check-in on the cruise. On the cruise the complainants were given very small room which is known as Ocean View Stator Room on 6th floor (Room No. 6018). When they inspected the room which in fact was a small cabin, they found that four persons could never be accommodated in such a small cell. The two beds were put on floor and two hanging like two tier railway system but the stator room in fact was having only three small beds – two on the floor and one hanging. There was no ventilation in the room. Their luggage could not be placed in the stator room as the space was not enough to

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accommodate four persons and their luggage.

Learned Counsel for the complainants during his argument before us submitted that Sri Arun Sinha is a leading and Senior Advocate of Lucknow Bench of Allahabad High Court and enjoying a high status in the city. The small cell of the stator room was absolutely a hopeless accommodation for Sri Arun Sinha and his family members. They felt insulted to be accommodated in the small cabin, therefore, they did not stay even for a minute in it and came back to the reception on the cruise where there was a big rush on account of check-in formalities of several hundreds of passengers. With great difficulty, the complainant requested the cruise staff to shift the complainants to a bigger accommodation in which four persons could be accommodated. The cruise staff charged U.S. \$ 460 extra for upgrading the room from stator room to balcony room. At about 10 p.m. the complainants were shifted to a balcony room. Thus, the whole day of the complainants i.e. from 11.05 a.m. when they arrived at Singapore airport upto 10.00 p.m. in the night was wholly wasted.

Experiencing all kinds of odds and the mental tension, Sri Arun Sinha and his family members came across while waiting at airport, arranging taxi and rushing under mental stress of losing the cruise ride and finding themselves in a suffocative cell smaller than the required place and then bagging for a bigger accommodation, the complainants suffered a lot and all this could have certainly spoiled the pleasure of their foreign trip and holidaying on a cruise. A notice can be taken of the fact that holidaying is a great pleasure provided everything goes on well but it becomes painful if handicaps and hindrances are there to spoil the show. The complainants felt thoroughly harassed with the arrangements of M/s. Sita Travels and M/s. Frederick's Travels on account of the serious lapses in the arrangements made by them. Their tale of harassment as narrated above clearly points to the conclusion that M/s. Sita Travels and M/s. Frederick's Travels both were guilty of deficiency in service. The travel agents are supposed to take care of their customers for every facility promised to be provided and keep the track of the



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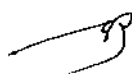


movements of their travellers. They are not expected to leave the travellers like the complainants in lurch and ask them to feed for themselves and push them at the mercy of the circumstances. In the case of the complainants, the pleasure of the first day of their holidaying on the cruise was certainly spoiled resulting in physical and mental inconvenience to all the complainants and humiliating mental agony to Sri Arun Sinha being the head of the family. He felt small and humble in the estimation of his family members who in their town lead a dignified and comfortable life.

The mental agony of the complainants on their arrival back at Singapore from the cruise on 27-06-2001 was almost the same as they experienced while checking-in the cruise.

There was none to receive the complainant and his family members at Singapore airport. Sri Arun Sinha searched for the travel agent but he had to wait for two hours at the dock while all other co-tourists had left the cruise. After two hours long waiting, a gentleman came with a folded paper in his hand and on being asked informed that he was from Frederick's Travels & Tour Private Limited. When the complainant asked them as to why he was late, he informed that he had forgotten to receive the complainants. The travel agent then started searching for one Mr. Anand and his family but they were not traceable perhaps because after waiting for two hours they had left the cruise. The agent was not willing to leave the dock without taking them along the family of Sri Anand and, therefore, refused to move with Sri Arun Sinha and his family. This obstinate and irresponsible behaviour of the agent vis-a-vis the complainants created an inferiority complex in the mind of Sri Arun Sinha and other family members that Mr. Anand and his family perhaps were distinguished guests and naturally it would have caused a further fury to the mental agony of the complainants, who were rendered helpless in the given situation cursing their decision to depend upon Sita Travels and their agents M/s. Frederick's Travels & Tour Private Limited. There was no option left for the complainants to go by the indifferent attitude and suggestion of the travel agent to either wait or leave on their

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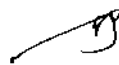
own and eventually they, as asked by the agent, made their own arrangements, hired a taxi by standing in a mile long queue and thus managed to reach Orchard Parade Hotel, Singapore at 5.00 p.m. (while there was a contract for airport transfers of the complainants from airport to the places of stay).

During the course of the arguments being submitted by his Counsel, Sri Sinha himself explained in detail as to how horrifying experience he had while standing in a mile long queue in the hot summer for hiring a taxi. It took more than an hour for him to reach the window and manage a taxi and all through this time the entire family suffered physical discomfort and severe mental tension. Possibility of willfully pushing the complainants to make their own arrangements, with a view to save money by the tour agents, could not be ruled out. The delaying tactics on one excuse or the other, observed by the travel agents to enable them to save their expenditures are in vogue, the world over and thus they force the travellers to go on their expenses.

When the complainants reached Orchard Parade Hotel at 5.00 p.m. they again got a shocking treatment when they learned that two rooms were available for them at two different floors. However, when the complainants informed the hotel staff that they could not leave their minor daughter at a different floor, they were asked to wait at the hotel lobby and having no option they kept on waiting for two hours. Being physically and mentally tired of waiting and long waiting at the cruise, in the queue lined up for the taxi and then in the hotel lobby, the complainants felt thoroughly run down with fatigue which forced them to be humble to the hotel staff while seeking a temporary stay even in one room where they could relax. The hotel staff offered them a dormitory where they were lodged temporarily but they felt totally harassed and humiliated.

Sri Arun Sinha contacted Sita Travels at Lucknow from the hotel dormitory itself and narrated them the painful story of their inconvenience and discomfort as also humiliation and also lodged his protest about the poor services rendered to him through out. With all-

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round efforts the complainants were able to get two rooms no. 400 and 401 on 4th floor of the hotel at about 8.00 p.m. on 27-06-2001. In the estimation of the complainants the upkeep of the rooms was worst and as stated by them they had never stayed in such a poorly maintained hotel. There was no window in the rooms, no ventilation and no balcony. On one side of the room there was a fixed transparent glass and a wall just in front of the glass was blocking the view. It was very suffocating for the complainants to stay in those rooms. The complainants called the travel agent Mr. Frederick in the hotel and showed him the poor upkeep of rooms no. 400 and 401. Mr. Frederick contacted the hotel management and informed the complainants that they would be shifted to better rooms on the next morning. The complainants also informed Mr. Frederick for all the lapses on his part. Though he felt sorry for the inconvenience and discomfort, the complainants came across, yet he requested them not to make any complaint to the Sita World Travels. He informed about his anxiety for his payment being with-held in case his lapses were conveyed to the Sita World Travel India Limited. The travel agent tried to offer the complainants a dinner in some five star hotel in Singapore in lieu of the lapses in tour but the complainants declined to accept it.

Mr. Cleveland John of M/s. Kuoni Travel (India) Pvt. Limited while replying to the aforesaid lapses on the part of the Frederick's Travels & Tour Private Limited simply said in para 15 of his affidavit that his company was not responsible for the lapses on the part of the Frederick's Travels & Tour Private Limited. Also he stated that the complainants were at liberty to have filed a complaint against M/s. Frederick's Travels & Tour Private Limited. In the succeeding para no.16 Mr. Cleveland John asserted that M/s. Kuoni Travel (India) Private Limited were not answerable or liable for the lapses on the part of the travel agents nor ^{to} ^{they} ~~it~~ were in any way concerned with the deficiency in service on the part of the agents. Mr. Cleavland John tried to shrug his shoulders simply by saying that no cause of action could arise to the applicants in India for the lapses committed in foreign land. He also made an endeavour to escape from his liability and that of his company

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by stating that the complainants had not given any specific choice or details of the accommodation at the time of booking their tour with M/s. Sita World Travel India Limited. The learned Counsel for the appellants also made an endeavour, during the course of his arguments, to accuse the complainants of making an effort to squeeze money by taking undue advantage of their position. There is no good reason to believe Mr. Cleavland John's version or that of his Counsel as the appellant company had not produced a single correspondence, they might have had with M/s. Frederick's Travels & Tour Private Limited so as to show that there was absolutely no lapse on the part of the said travel agents. On the other hand, Sri Arun Sinha gave a first hand version of his and his family members' pains and sufferings. He declined the invitation of M/s Frederick's Travels & Tour Private Limited to have dinner in a five star hotel and this shows how antagonized he was, otherwise the offer would have really been tempting. As a matter of fact, Hotel Golden Central, Singapore was arranged for stay of the complainants but then the travel agents changed the venue. In his affidavit filed before this Commission, Sri Arun Sinha specifically mentioned that Mr. Frederick conceded to the lapses by simply offering an explanation that his niece, whom he had brought along with him to Orchard Parade hotel, was looking after the work of his travel agency and further requesting that since she was a new entrepreneur in the said field, her lapses on account of being inexperienced could be ignored. As a matter of fact, these are the admissions of the deficiency in service on the part of Mr. Frederick and all these averments of Sri Arun Sinha have gone un rebutted and unchallenged as M/s. Kuoni Travel (India) Private Limited had not bothered to bring on record even a simple denial of Mr. Frederick as to all what was stated by Sri Arun Sinha.

It was, however, a matter of slight solace that the complainants were on 28-06-2001 shifted to the rooms no. 1200 and 1203 on 12th floor at 9.00 p.m. and obviously, thus, two days were wasted in shirting from one room to another. During these days the complainant no.1 Sri Arun Sinha made several telephonic calls from Singapore to Lucknow and

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incurred huge expenditures on telephone bills. The photostat copy of the telephone bills (in two pages) is annexure-7 on record and it certainly shows that large number of calls were made by Sri Arun Sinha to the Sita Travels at Lucknow. Besides huge expenditures, all this might have resulted in his harassment and that of his family. Doing phone calls, all the time, would have certainly given a bitter taste to Mr. Arun Sinha.

Sri Arun Sinha also stated in para 39 of his complaint that during the city tours the complainants were not taken to the famous places such as 'Bird - Park' also known a 'Jurong Bird Park' in the morning time - which is the right time to visit the park when feeding is offered to the birds. Thus, the complainants missed the opportunity of a pleasure that they might have gained while feeding the birds. Every historical place has its own significance and if it is not visited or sighted at the appropriate time, it spoils the show and pleasure. Certainly, such a visit would be termed to be incomplete and deficient in service on the part of the travel agent. The Travel agents are not just to observe the formalities but to provide satisfactory service and the term 'satisfactory service' includes visit to a historical place at the appropriate time so that a traveller, spending lacs of rupees, having spared out of his hard earnings derives the best pleasure out of it. The lack ~~lustre~~^{of} service provided to the complainants by M/s. Frederick's Travels & Tour Private Limited was full of infirmities with disturbing features all-around and thus the complainants' annoyance with agony was absolutely justified. Sri Arun Sinha's children and the couple themselves would have derived the pleasure of evening festivity in famous Santosa Island but they were taken to the said island in the morning hour and they being ignorant about its evening importance in the absence of a proper tourist guide could not appreciate the worldwide famous significance of the said Island. Its musical fountains were the main attraction which were displayed in the evening amidst the colourful lights used in those fountains. Neither Sri Cleavland John nor anybody else could dare to rebut the sworn testimony of Sri Arun Sinha. We are, therefore, of the decisive opinion that all through his and his family members' Malaysia

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and Singapore tour they were shabbily treated, harassed and humiliated on account of deficiency in service on the part of the appellants' travel agents.

In the result, this appeal being devoid of merit deserves to be dismissed with costs. The pecuniary compensation and the damages for the physical and mental discomfort and agony of all the four complainants seem to have been rightly awarded by the District Consumer Forum. No interference is required.

Accordingly the appeal is dismissed with costs which we quantify at Rs.10,000/-. The impugned judgment is hereby affirmed.


(JUSTICE BHANWAR SINGH)
PRESIDENT


(SYED ALI AZHAR RIZVI)
MEMBER


08.04.11
(RAMPAL SINGH)
MEMBER

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