

Station Adhikash Not. Wes. Railway vs Smt. Abha Sharma on 1 June, 2026

BEFORE THE RAJASTHAN STATE CONSUMER
DISPUTES REDRESSAL COMMISSION, CIRCUIT
BENCH AT BIKANER

FIRST APPEAL NO: 133/2022

1. Station Superintendent

North Western Railway, Shri Ganganagar-335001

2. Station Superintendent

Sarai Rohilla, Railway Station, Delhi

3. Union of India,

Indian Railway Department, Through the Secretary,
Ministry of Railway, New Delhi

...Appellants

-VERSUS-

Smt. Abha Sharma

W/o Sh. Dinesh Sharma, R/o Principal, BSF Senior
Secondary School, Shri Ganganagar

...Respondent/Complainant

BEFORE

HON'BLE MR. A.K. AGARWAL - MEMBER (J.)

HON'BLE MR. R.N. SARSWAT - MEMBER (J.)

Present:

For Appellants: Mr. Rajesh Ladreacha, Advocate

For Respondent: None

FA/133/2022

Station Superintendent & Ors. Vs. Smt. Abha Sharma

Dated: 01.06.2026

Judgment

Authored by: Hon'ble Mr. R. N. Sarswat - Member

The present appeal has been filed by the Station Superintendent, North Western Railway, Shri Ganganagar, the Superintendent, Sarai Rohilla Railway station New Delhi; and the Union of India, Indian Railways Department through the Secretary, Ministry of Railways, New Delhi (collectively hereinafter referred to as the Appellants) against the order dated 16.08.2022 passed by the District Consumer Disputes Redressal Commission, Sri Ganganagar (hereinafter referred to as the DCDRC) in Consumer Complaint No. CC/631/2016, whereby the DCDRC allowed the consumer complaint filed by Smt. Abha Sharma (hereinafter referred to as the Complainant) held the present appellants liable for a deficiency in service and negligence. Complaint's version The Complainant submitted that she booked a ticket through online reservation in Train No. 12455 (Sarai Rohilla to Sri Ganganagar) by which she had to travel from New Delhi to Sri Ganganagar on 04.11.2014. In respect thereof, PNR No. 2526799863 was issued, and seat no. 9 in the 3rd AC coach was allotted to her.

It was further submitted that she boarded the reserved coach at about 10:40 p.m. and placed her luggage on the reserved seat. Immediately thereafter, two ladies took away the handbag/purse of the Complainant, got down from the said coach, and fled away quickly. A complaint regarding the FA/133/2022 Station Superintendent & Ors. Vs. Smt. Abha Sharma incident was made on the helpline number 1800-111-322. Upon registration of the online complaint, some policemen came and enquired about the incident; however, they did not make any attempt to apprehend the said ladies who escaped with the Complainant's handbag. The Complainant also informed the Railway Police Station/GRP, Sri Ganganagar, regarding the incident on 05.11.2014, and a copy of the FIR in relation thereto was provided to her.

The Complainant submitted that the handbag contained two gold chains, a mobile handset, cash amounting to Rs. 2,000/, a PAN card, two ATM cards, goggles, and identity cards. The total value of the articles, along with the handbag, was stated to be Rs. 109,000/-.

The Complainant further submitted that there was neither any policeman nor any T.T.E. present in the reserved coach, and unauthorized persons were roaming freely in the said reserved coach.

Proceedings before the DCDRC Being aggrieved by the deficiency in service and the consequent loss caused to her, the Complainant filed Consumer Complaint No. CC/631/2016 before the DCDRC, Sri Ganganagar on 19.05.2015, seeking, inter alia, compensation of Rs. 1,09,000/- towards the loss caused to the Complainant, compensation of Rs. 2,00,000/- for the mental, physical, and economic distress, along with Rs. 11,000/- towards litigation expenses, and any other relief deemed just and proper in the facts and circumstances of the case.

FA/133/2022 Station Superintendent & Ors. Vs. Smt. Abha Sharma In support of the complaint, the Complainant placed on record copies of several documents, including the IRCTC Booking confirmation, the FIR, the Letter sent by SP GRP (N) Jodhpur to the DCP Railways, New Delhi, the

Invoice of the mobile handset, the Untrace Report, and the Final Report.

However, the complainant did not tender her evidence by way of the affidavit.

In response thereto, the Appellants filed a detailed written statement contesting the claims made by the Complainant. The Appellants raised, inter alia, the following objections: -

1. That the DCDRC lacked jurisdiction in view of the judgment of the Hon'ble Supreme Court in Sonic Surgical Case SLP No. 1560/2004, as well as the judgment of the Hon'ble NCDRC in Neeva Agarwal, (RP No. 85 / 2013).
2. That the jurisdiction to entertain such claims vested exclusively with the Railway Claims Tribunal and not with the Consumer Fora.
3. That the IRCTC was a necessary party to the proceedings, as the ticket was booked on their site.
4. That the DCDRC lacked territorial jurisdiction, as the alleged incident had occurred at Delhi, Sarai Rohilla Railway Station, whereas the complaint had been filed at Sri Ganganagar.
5. That under Section 100 of the Special Railway Act, 1989, the Indian Railways could not be held liable for luggage which had neither been booked with the Railways nor remained in the exclusive custody of the passenger.

FA/133/2022 Station Superintendent & Ors. Vs. Smt. Abha Sharma In support of the written statement, Mr. C.R. Kumawat, Senior Regional Manager (Commerce), NWR Bikaner, tendered his evidence by way of affidavit.

Order of the DCDRC After hearing the arguments advanced by the parties and perusing the material available on record, the DCDRC allowed the complaint against the Appellants and directed them, jointly and severally, as under: -

1. To pay a sum of Rs. 1,09,000/- to the Complainant along with interest@ 9% per annum from the date of filing the complaint, i.e., 19.05.2015, till realization;
2. To pay a sum of Rs. 3000/- towards compensation for the physical and mental agony suffered by the Complainant;
3. To pay a sum of Rs. 3000/- towards litigation expenses.

The DCDRC held that since the Complainant travelled from Delhi Sarai Rohilla to Sri Ganganagar and had lodged the FIR at Sri Ganganagar, the DCDRC, Sri Ganganagar, possessed territorial jurisdiction to entertain and decide the complaint.

The DCDRC further held that mere booking of the railway ticket through the website of IRCTC did not make IRCTC a necessary party to the proceedings.

The DCDRC also observed that the version of the Complainant stood established from the evidence placed on record by her and that the same had not been rebutted by the opponents. Accordingly, the Complainant was held entitled to the relief claimed by her.

FA/133/2022 Station Superintendent & Ors. Vs. Smt. Abha Sharma Appeal Aggrieved by the impugned order dated 16.08.2022, passed by the DCDRC, the appellants preferred the present appeal on the following grounds: -

1. That the DCDRC erred in entertaining and deciding the complaint despite lacking territorial jurisdiction, as the alleged incident had taken place at Delhi, Sarai Rohilla.
2. That the DCDRC erred in adjudicating upon the claim despite the availability of an efficacious alternative remedy before the Railway Claims Tribunal.
3. That the DCDRC committed an error in holding the appellants deficient in service, despite the circumstances of the case casting serious doubt upon the version put forth by the Complainant.

Mr. Anil Kumar Raina, Senior Regional Manager (Commerce), OIC, North Western Railway, Bikaner, presented this appeal and tendered his evidence by way of affidavit in support of the appeal.

Points for determination Upon careful perusal of the record, this commission finds that the following points arise for determination: -

1. Whether the DCDRC had the jurisdiction to entertain and decide the complaint?
2. Were the Appellants guilty of deficiency in service?
3. Whether the absence of an "Evidence Affidavit hurts the complaint?"

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4. Relief?

Findings After hearing the learned counsel for both parties and perusing the material available on record, along with the written arguments submitted by the parties, the findings of this commission are as follows:

- I. Jurisdiction This Commission has carefully considered the objection raised by the Appellants regarding territorial jurisdiction as well as the maintainability of the

complaint before the Consumer Commission in view of the provisions of the Railway Claims Tribunal Act, 1987.

Although the alleged incident is stated to have occurred at Delhi Sarai Rohilla Railway Station, it is not disputed that the Complainant was travelling to Sri Ganganagar and that the FIR was subsequently lodged at Sri Ganganagar. Further, the Appellants admittedly carry on business and maintain offices within the territorial jurisdiction of the District Commission, Sri Ganganagar. Therefore, a part of the cause of action can be said to have arisen within the territorial jurisdiction of the District Commission.

It is now well settled that the remedy available under the Consumer Protection Act is in addition to and not in derogation of any other remedy available under law. In this regard, reference may be made to the judgment of the Hon'ble Supreme Court in Secretary, Thirumurugan Cooperative Agricultural FA/133/2022 Station Superintendent & Ors. Vs. Smt. Abha Sharma Credit Society v. M. Lalitha & Ors., (2004) 1 SCC 305, wherein it was held that the provisions of the Consumer Protection Act provide an additional remedy and the jurisdiction of the Consumer Fora cannot be ousted unless specifically barred by statute.

However, merely because the complaint was maintainable before the Consumer Forum does not ipso facto establish a deficiency in service on the part of the Railways. II. Deficiency in Service The principal question for determination is whether the Appellants can be held liable for the alleged theft/snatching of the handbag of the complainant from the reserved coach.

At the outset, it is pertinent to note that the complainant herself stated that immediately after boarding the coach, two unknown ladies took away her handbag and alighted from the train. However, there is no material on record to show that the complainant raised any alarm, sought immediate assistance from co-passengers, or made any prompt attempt to prevent the alleged offenders from escaping. Such conduct assumes significance while appreciating the probability and credibility of the allegations.

Further, admittedly, the luggage in question was neither booked with the Railways nor entrusted to the custody of the Railway Administration.

In this regard, Section 100 of the Railways Act, 1989 assumes importance, which reads to the effect that the Railway FA/133/2022 Station Superintendent & Ors. Vs. Smt. Abha Sharma Administration shall not be responsible for the loss, destruction, damage, deterioration, or non-delivery of luggage unless such luggage has been booked and a railway receipt issued therefor, except where it is proved that the loss was due to negligence or misconduct on the part of the Railway Administration or its servants.

The Hon'ble Supreme Court in *Station Superintendent & Ors. v. Surender Bhola*, Civil Appeal No. 7116 of 2017 (Decided on June 15, 2023) explicitly held that the theft of personal belongings cannot be equated with a "deficiency of service" by the Railways. The Court ruled that if a passenger is unable to protect their own unbooked luggage, the Railways cannot be held responsible under consumer law or tort law unless explicit administrative negligence is proved.

Similarly, the Hon'ble Supreme Court previously affirmed in the case of *Ram Priya Saran Sinha v. Union of India*, (2019) 17 SCC 614 that passengers are expected to take care of their own luggage when it is in their custody inside the carriage. Absent concrete proof of a security protocol breach by the railway staff, statutory liability does not arise.

In the present case, except for bald allegations that no TTE or police personnel were present in the coach, no cogent evidence has been led by the complainant to establish any specific act of negligence on the part of the Railway Administration.

On the contrary, the admitted position is that the complainant left her handbag unattended immediately after FA/133/2022 Station Superintendent & Ors. Vs. Smt. Abha Sharma boarding the train while the train was stationed at the platform. In the considered opinion of this Commission, such conduct amounts to contributory negligence and failure to exercise reasonable care over personal belongings.

It is also relevant to observe that the fare paid by a passenger is towards transportation and does not cast an absolute insurer-like liability upon the Railways in respect of unbooked personal luggage retained in the passenger's own custody.

III. Absence of Proper Evidence Another important aspect that goes to the root of the matter is that the complainant failed to prove her case through legally admissible evidence.

From the order sheet dated 17.11.2016, it appears that no separate evidence affidavit was filed by the complainant. Instead, a request was made that the affidavit accompanying the complaint be treated as evidence. Such practice is contrary to the settled procedure governing adjudication before Consumer Fora.

In the case of *Chikaodili O.A. v. State Bank of India*, 2021 (NCDRC), the Hon'ble National Commission reinforced the rule that consumer courts follow summary procedures but not casual procedures. It noted that under Section 13(4) of the Consumer Protection Act, 1986 (corresponding to Section 38(9) of the 2019 Act), the Consumer Forum is vested with the same powers as a Civil Court for receiving evidence on affidavits. Therefore, if a complainant or opposite party wants the forum to FA/133/2022 Station Superintendent & Ors. Vs. Smt. Abha Sharma rely on records, they must execute an affidavit to formally state their testimony under oath.

The Hon'ble NCDRC reiterated in the case of Conforce Infratech Pvt. Ltd. v. Girish Malhotra, 2023 (NCDRC) that a party approaching the Consumer Forum must file a formal affidavit in evidence. Absent an affidavit formally proving the documents and statements, the pleadings do not automatically constitute legal, substantive evidence upon which a decree can be passed.

In the case of Union of India v. Ibrahim Uddin & Anr., (2012) 8 SCC 148, the Hon'ble Supreme Court directly underpinned the rule that a verification affidavit or a short affidavit filed along with a complaint cannot be treated as an Evidence Affidavit. In UOI vs. Ibrahim Uddin (Supra), the Hon'ble Supreme Court held that pleadings are not evidence. An affidavit filed along with a plaint or a complaint is merely a regular verification of those pleadings. If the facts within a complaint are highly controversial or disputed by the opposite party, the original short affidavit cannot be retroactively treated as an "Evidence Affidavit". New, specific testimony on oath must be formally tendered to prove those controversial facts.

Following the Hon'ble Supreme Court's mandate, this Commission is of the considered view that under the Consumer Protection Act (specifically Section 13(4) of the 1986 Act, which corresponds to Section 38(9) of the 2019 Act), the "reception of evidence on affidavits" is a distinct procedural step whereas an affidavit filed in support of a complaint belongs entirely to the FA/133/2022 Station Superintendent & Ors. Vs. Smt. Abha Sharma domain of "pleadings". It is a material error in law to pass a final order by relying solely on the complaint's short affidavit if a dedicated Evidence Affidavit was never formally filed by the complainant after the stage of admission.

Thus, the findings recorded by the District Commission are not sustainable in the eyes of law.

IV. Relief In view of the foregoing discussion, this commission is of the opinion that the Appellants/Opponents cannot be held guilty of deficiency in service. Accordingly, the Complainant is not entitled to relief.

Conclusion In light of the aforesaid discussion, this commission is of the considered view that:

1. The complainant failed to establish any specific negligence or deficiency in service on the part of the Appellants.
2. The alleged stolen articles were admittedly unbooked personal luggage which remained in the exclusive custody of the complainant herself;
3. The complainant failed to lead cogent and legally admissible evidence in support of her allegations;
4. The District Commission erred in fastening liability upon the Appellants in the absence of proof of negligence and contrary to the provisions of Section 100 of the Railways Act, 1989.

FA/133/2022 Station Superintendent & Ors. Vs. Smt. Abha Sharma Apparently, the impugned order dated 16.08.2022 passed by the District Consumer Disputes Redressal Commission, Sri Ganganagar, cannot be sustained and deserves to be set aside.

ORDER Accordingly, the impugned order dated 16.08.2022, passed by the DCDRC in CC/631/2016, is hereby set aside, and consequently, the complaint stands dismissed.

No order as to costs.

The original record, along with a copy of this order, be transmitted back to the DCDRC, Sri Ganganagar, forthwith.

(Arun Kumar Agarwal)
Member (J.)

(RamNiwas Sarswat)
Member (J.)