

Role of Indian Judiciary Regarding Safety and Security under Aviation Laws

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ABSTRACT

“The execution of the laws is more important than the making of them.”¹

Thomas Jeffers

In the traditional division between the various organs of the legal system, the role of the judiciary comes into play once the statute is enacted. In the process of interpretation of various statutes, the judiciary promotes or impedes the objective of a law - a process which is of special significance in the context of social change. The Judiciary in India performs various important functions and role which does not remain confined within water tight compartment. The importance of the judiciary in democratic society can hardly be exaggerated. It is a part of democratic process. It not only administers justice, it protects the rights of the citizens and it acts as the interpreter and guardian of the constitution. It is actively involved in systematically dismantling the legislation for the protection of vulnerable groups².

Keywords: Indian Judiciary, Aviation Laws, Legal System, Vulnerable Groups, Democratic Society.

Introduction

The importance of the judiciary in democratic society can hardly be exaggerated. It is a part of democratic process. It not only administers justice, it protects the rights of the citizens and it acts as the interpreter and guardian of the constitution. It is actively involved in systematically dismantling the legislation for the protection of vulnerable groups.³ Indian democracy is held up by three pillars-the executive, the legislature and the judiciary and as per the Constitution of India, the judiciary is most independent out of the three and is given a wide range of powers so that it is capable of offering justice freely and fairly. Courts emerged as powerful juristocracies across the world.⁴

The Indian Judiciary plays a significant role in the Ahmadabad plane crash case with the Supreme Court taking suo motto cognizance of the incident.⁵ Two medical professionals Dr Saurav Kumar and Dr. Dhruv Chauhan have petitioned the Supreme Court requesting immediate intervention to

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¹ This quotation is quoted by Thomas Jeffers, “Jefferson on Politics and Government: Legislative Branch”, available at: <http://www.cambridge.org/core/books/thomas-jefferson-and-executive-power/execution-of-laws-is-more-impotent-than-the-making-of-them-reconciling-executive-power-with-democracy.html> (Last Visited on 12 July 2025).

² Dr. Mor Atul Lalasaheb, An Appraisal of the Judicial System in India: A Critical Study on Judicial Independence Vis-à-Vis Judicial Accountability 148 (Laxmi Book Publication, Solapur, 2015).

³ Dr. Mor Atul Lalasaheb, An Appraisal of the Judicial System in India: A Critical Study on Judicial Independence Vis-à-Vis Judicial Accountability 148 (Laxmi Book Publication, Solapur, 2015).

⁴ Rohit De, A People's Constitution: The Everyday Life of Law in the Indian Republic 4 (Princeton University Press, USA 2018).

⁵ “Air India Flight Crash : Supreme Court Urged To Take Suo Motu Cognizance, Issue Directions For Compensation & Probe” available at : <https://www.livelaw.in/top-stories/air-india-flight-crash> (Last Visited on August 24, 2025).

ensure justice, compensation, and reforms in the wake of the aviation disaster.¹ The Supreme court has awarded Rs. 7.64 crores in compensation to the family of a victim, by applying the principles established in *National Insurance Company Ltd. v. Pranay Sethi*.²

- ***In Air Safety NGO v. Director General of Civil Aviation***³ the Delhi High Court directed the DGCA to disclose its internal safety audit reports, emphasizing transparency and passenger safety. This case highlights the growing intersection of aviation laws, constitutional rights and consumer protection.
- ***In Air India Statutory Corporation v. United Labour Union***,⁴ the United Labour Union had challenged Air India's decision to terminate the services of certain employees. The Union argued that the termination was illegal and in violation with the Industrial Disputes Act, 1947. The Supreme Court held that Air India being a statutory corporation has the power to terminate the employees according to its rules and regulations. The termination was justified due to employees misconduct and indiscipline.
- ***In Consumer Rights Forum v. Union of India***⁵ the court emphasized the importance of safety in civil aviation, linking it to the right to life under Article 21 of the Indian Constitution.⁶
- ***In All India v. United Arab Airlines***,⁷ the All India Airlines Employees Union challenged the United Arab Airlines' decision to terminate the service of certain employees. The Union argued that the termination was illegal and in violation of the Industrial Disputes Act, 1947. The Supreme Court held that the United Arab Airlines being a foreign airline was not bound by Indian labor laws. The termination of employees was governed by the airline's own rules and regulations..
- ***In Pawan Hans Helicopters Ltd. v. Director General of Civil Aviation***,⁸ the complainant challenged the show cause notice issued by the DGCA for alleged violations of aviation rules. The DGCA issued the notice based on a report of an accident involving a Pawan Hans helicopter. The Supreme Court held that the DGCA had issued the show cause notices and take action against operators for violations. The complainant had indeed violated aviation rules and regulations. The DGCA's decision to show cause notice was justified. The court upheld the DGCA's decision and dismissed Pawan Han's appeal. This case establishes the authority of the DGCA to regulate and enforce aviation safety standards in India.
- ***In DGCA v. Kanpur Flying Club***⁹ The DGCA issued a notice to the Kanpur Flying Club, suspending their flying training activities due to safety concerns. The club challenged the DGCA's decision, arguing that it was arbitrary and unlawful. The issue was whether the DGCA's decision to suspend the Kanpur Flying Club's activities was justified and in accordance with the provisions of Chicago Convention. The Allahabad High Court applied the Chicago Convention's provisions regarding aviation safety and regulation. The court held that DGCA's decision was justified, as the club had failed to comply with safety regulations and maintain adequate safety standards. The court emphasized the importance of prioritizing safety in aviation operations, as per the Chicago Convention.

Consumers in Aviation Sector

Consumers in the aviation sector can be defined as an individual or group that purchases and uses goods or services including air travel services, for personal or business purposes. They have

¹ Available at: <https://lawbeat.in/top-stories/ahmedabad-plane-crash-plea-before-supreme-court-seeks-suo-moto-cognizance-immediate-interim-compensation> (Last Visited on August 24, 2025)

² 2017 INSC 1068, The Supreme Court of India delivered a landmark judgement in this case by clarifying of compensation in motor accident cases.

³ WP (C) No 11754/2024 (Delhi HC)

⁴ AIR 1997 SC 3873.

⁵ WP (C) No 11823/2024(Delhi HC).

⁶ Article 21 of the Indian Constitution deals with the Right to Life and Personal Liberty.

⁷ AIR 1997 SC 101.

⁸ (2011) 5 SCC 341.

⁹ (1981) All LJ 342.(Allahabad High Court).

needs, wants and expectations for air travel services. They can be individuals, business organizations or government entities. Consumer in the aviation sector can be defined as the:

- Airline Passenger who purchase tickets and travel by air.
- Air travel customers who buy air travel services, including flights, baggage handling and in flight amenities.
- Airport users are those who use airport facilities, including passengers, meters, greeters and airport employees.
- End users of aviation services are those who benefit from aviation services like business travels, leisure travels, cargo shippers and families and individuals with special needs.
- Purchasers of aviation products are those individuals and organizations buying airline tickets, travel packages, aviation related services like luggage handling, catering etc., and aviation equipments.
- Beneficiaries of aviation services are the people impacted by aviation, including the communities near airports, recipients of air cargo like packages, mails and the users of aviation infrastructure like airports, air traffic control.

Deficiency in Services

In simple words deficiency in services means “*not doing what you should have done*” or “*not doing it well enough*.” It means failure to provide a service s promised, providing a service that is not up to the expected standards, not doing something that should have been done, doing something poorly or inadequately, failing to meet the needs or expectations of the consumers.

*Section 2(g) of Consumer Protection Act, 1986*¹ defines the word deficiency as

“*any fault, imperfection, shortcoming or inadequacy in the quality, nature and manner of performance which is required to be maintained by or under any law for the time being in force or has been undertaken to be performed by a person in pursuance of a contract or otherwise in relation to any service*”.

According to Section 2(o) of the Consumer Protection Act of 1986²

Service means service of any description which is made available to potential users and includes, but not limited to, the provision of facilities in connection with banking, financing insurance, transport, processing, supply of electrical or other energy, board or lodging or both, housing construction, entertainment, amusement or the purveying of news or other information, but does not include the rendering of any service free of charge or under a contract of personal service.

Deficiency in Services in Aviation Sector

Deficiency in service refers to any shortcoming or inadequacy in the quality, standard of a service provided to a consumer. DGCA has carried out comprehensive surveillance at major airports, including Delhi and Mumbai. The surveillance revealed multiple deficiencies across the country’s aviation ecosystem. The surveillance covered multiple critical areas, including flight operations, air traffic control, communication, navigation and surveillance systems, and pre-flight medical evaluations. During the surveillance, ground activities and aircraft movements were closely monitored to check the compliance of regulatory requirements and to identify weak areas for improvement.³

A Delhi consumer forum has held Indigo Airlines guilty of deficiency of service for providing an unhygienic and stained seat to a woman and directed it to pay a compensation of ₹1.5 lakh for the discomfort, pain and mental agony she suffered.⁴

The District Consumer Redressal Commission, southwest Delhi recently held Alliance Air Aviation liable for deficiency in service following a six hour delay in a flight’s departure, which caused mental agony to the passengers and the commission found that the airline was negligent for discovering

¹ Section 2 of the Consumer Protection Act, 1986 deals with the definitions.

² Ibid.

³ Site Admin, “DGCA finds multiple deficiencies at major airports during comprehensive surveillance” *Akashwani*. June 24, 2025.

⁴ PTI, “Unhygienic, dirty, stained seat to passenger: Delhi consumer forum tells Indigo Airlines to pay 1.5 lakh compensation”. *The Hindu*, August 10, 2025.

a technical glitch after passengers had already boarded. The commission ordered the airline to pay Rs 50,000 to the complainants for mental harassment, agony and litigation expense.¹

- ***In Indian Airlines Limited v Prabha D. Kanan,***² is a landmark judgment in the Indian Aviation law. Prabha D Kanan was a passenger and she was denied boarding on an Indian Airlines flight due to the overbooking. She filed a complaint before the Consumer Disputes Redressal Forum for seeking compensation for the hardship and mental agony caused. The District Consumer Forum held Indian Airlines Ltd. guilty of “*deficiency in Services*” for denying boarding to the complainant despite of having a valid ticket. The forum ordered the airlines to pay Rs. 20,000 as compensation and Rs. 5000 as litigation costs and along with that the refund of the ticket that is Rs. 4800.

But the Indian Airlines Ltd. appealed to the State Consumer Dispute Redressal Commission against the order given by the District Consumer Forum. The Airlines challenged the decision of the District Consumer Forum on the ground that the district Consumer Forum had no jurisdiction to entertain that present complaint and the compensation was too excessive. The complainant was also wanted to challenge the decision of the Forum as she felt that the compensation granted to her was not sufficient and inadequate. The State Consumer Dispute Redressal Commission upheld the decision of the District Consumer Forum finding the airlines guilty of “deficiency in services”. The commission modified the compensation amount and increased it to Rs. 35,000 and ordered the airlines to pay that amount to the Prabha D Kanan.

The decision of the State Consumer Dispute Redressal Commission was again challenged by the Indian Airlines Ltd. in the National Consumer Dispute Redressal Commission. The National Consumer Dispute Redressal Commission upheld the decision of the State Consumer Dispute Redressal Commission and modified the amount of compensation and increased the amount to Rs. 40,000.

The decision of the National Consumer Dispute Redressal Commission which has upheld the orders of both the State Consumer Dispute Redressal Commission and the District forum was then challenged by the Indian Airlines Ltd. in the Supreme Court of India. The Indian Airlines Ltd. challenged the jurisdiction of the consumer forums to entertain the complaint by arguing that the matter fell under the purview of the Carriage by Air Act, 1972 and not the Consumer Protection Act, 1986. The Supreme Court was asked to interpret the scope of “deficiency in service” under the Consumer Protection Act, 1986 and whether it applied to cases of overbooking and denial of boarding. The Court was also required to consider whether the compensation awarded by the lower courts were adequate and justified.

The decision of the Supreme Court in this case was significant as:

- It upheld the jurisdictions of consumer forums to entertain the complaints related with the airlines services.
- The Supreme Court has clarified the scope of “deficiency in services” to include cases of overbooking and denial of boarding.
- It established a precedent for calculating compensation in such case by considering factors like the mental agony, hardship and loss of time.

Consumers may file cases against the aviation sector for the various deficiencies in aviation services which are as follows:

Flight Delays

Flight delays refers to a situation where a flight departs or arrives later than its scheduled time. It can be caused by various sectors like weather conditions, air traffic congestion, technical issues with the aircraft, crew or staff issues, medical emergencies, security concerns. In case of flight delays, the passengers have certain rights like right to information about the delay, refreshments and meals, hotel accommodation in case of overnight delays and compensation depending on the duration of the delay and the distance of the flight.

- ***In the case of Suresh Mittal v. Air India,***³ the National Consumer Disputes Redressal Commission (NCDRC) ordered Air India to pay Rs. 1.5 lacs compensation to a passenger for a

¹ TNN, “Court holds airline liable for flight delay, service deficiency”. *The Times of India News*, August 18, 2025.

² AIR 2005 SC 3514.

³ 2019 (1) CPR 241 (NCDRC).

7 hour flight delay. The NCDRC held that Air India's failure to provide reasonable services and facilities to the passengers during the delay amounted a deficiency in services. The commission also observed that the airline's conduct was unreasonable and unfair.

Flight Cancellations

The cancellation of flights refers to the act of cancelling a scheduled flight, either by the airline either by the airline or due to unforeseen circumstances. Some of the reasons for the cancellation of flight are weather conditions like thunderstorms, fog, mechanical failure, medical emergencies, security concerns, natural disasters like hurricanes, earthquakes, pandemics like Covid-19, global health crises. In the case of flight cancellations the passengers have certain rights including right to information about the cancellation, refund or rebooking, compensation, assistance.

- ***In Vishal Singh v. Indigo,***¹ the complainant had booked a flight from Delhi to Mumbai with Indigo on August 18, 2019. The flight was cancelled without any prior notice and the complainant did not provide any refund or alternative arrangements. The complainant claimed compensation for the cancellation as deficiency in services. The State Consumer District Redressal Commissions held Indigo responsible for the cancellation and ordered them to pay Rs. 50,000 as compensation for deficiency in service and along with that as ordered to pay Rs. 10,000 as litigation costs.

Lost Luggage

Lost luggage refers to a luggage that is misplaced, stolen or fails to arrive at the intended destination during air travel. The luggage can be lost due to several reasons such as mishandling by airline staff or handlers, failure to load luggage onto the correct flight, luggage getting left behind or misplaced during transit, theft or pilferage. In cases of lost luggage passengers have some rights such as right to report the loss to the airline, compensation for the value of the lost luggage, reimbursement for essential items purchased due to the loss and assistance from the airline.

- ***In Shalini Sharma v. Vistara,***² the complainant had booked a flight from Delhi to Pune with Vistar on February 20, 2020. On arrival, the complainant discovered that her checked in luggage was missing. Vistara failed to trace or return the luggage inspite of many complaints. The State Consumer District Redressal Commissions held Vistara responsible for the loss of luggage and ordered them to pay Rs. 40,000 as compensation for deficiency in service and along with that as ordered to pay Rs. 10,000 as litigation costs.

Damaged Luggage

Damaged luggage refers to the luggage that is physically damaged or tampered with during air travel, resulting in loss or destruction of its contents. The damage can be as the scratches, dents, tears, broken wheels, handles, zippers, water damage, strains, tampering or signs of forced opening. The reasons for the damaged luggage can be mishandling by airline staff or handlers, improper loading or unloading, exposure to extreme temperatures or weather conditions, accidental drops or impacts. The rights of the passengers in case of damaged luggage are right to report the damage to the airline, compensation for the value of the damaged luggage, reimbursement for repair or replacement costs and assistance from the airline.

- ***In Raghavendra Singh v. Spice Jet,***³ the complainant had booked a flight from Delhi to Mumbai with Spice Jet on January 15, 2018. On arrival, the complainant discovered that her checked in luggage was damaged. Spice Jet failed to provide adequate compensation leading to a consumer complaint. The National Consumer District Redressal Commissions held Spice jet responsible for the damage of the luggage and ordered them to pay Rs. 40,000 as compensation for deficiency in service and along with that as ordered to pay Rs. 5,000 as litigation costs.

Refusal or Denial for Boarding

Refusal to board a air flight refers to a situation where an airline denies a passenger the ability to board a flight, even they have valid ticket. The airlines may refuse to board passengers due to some

¹ 2020 (CPR) 245 (Delhi SCDRC).

² 2020 (3) CPR 232 (Delhi CDRC).

³ 2019 (2) CPR 246 (NCDRC).

reasons like overbooking, security concerns, health and safety reasons, non compliance with travel documents like visa, passport, disruptive behavior, failure to comply with airlines rules and regulations. In cases of refusal to board passengers have certain rights which are as right to information about the reason for refusal, compensation, reimbursement or rebooking and assistance and support from the airline.

- ***In Manish Kumar v. Emirates,***¹ the complainant had booked a flight from Delhi to New York with Spice Jet on February 10, 2018. On arrival, at the airport the complainant was denied boarding due to overselling of seats. Emirates failed to provide adequate compensation leading to a consumer complaint. The National Consumer District Redressal Commissions held Emirates responsible for the damage of the luggage and ordered them to pay Rs. 50,000 as compensation for deficiency in service and along with that as ordered to pay Rs. 5,000 as litigation costs.

Inadequate and Poor Services in Flight

Inadequate service refers to a situation where the service provided by an airline falls short of the expected standards resulting in a disappointing or unsatisfactory experience for the passenger. Inadequate service may includes rude or unfriendly staff, long queues or wait times, poor food or beverage options insufficient or in adequate amenities, failure to assist passengers with special needs. In case of inadequate services passengers have certain rights like right to complain to the airline, information about the airline's service standards, reimbursement or compensation and assistance and support from the airline.

- ***In Priya Gupta v. Spice Jet,***² the complainant had booked a flight from Delhi to Mumbai with Spice Jet on January 10, 2020. During the flight, the complainant had requested a special meal but was not provided with one. Spice Jet has failed to provide adequate compensation leading to a consumer complaint. The Delhi State Consumer District Redressal Commissions held Spice Jet responsible for the damage of the luggage and ordered them to pay Rs. 25,000 as compensation for deficiency in service and along with that as ordered to pay Rs. 5,000 as litigation costs.

Safety Concerns

A safety concern refers to a situation or condition that may pose a risk to the safety of passengers, crew members and aircraft. The aspects related to safety concern are mechanical issues or technical problems with the aircraft, inclement weather or hazardous flight conditions, security threats or suspicious behavior, medical emergencies, passenger health issues, non compliance with safety regulations or protocols. The rights of the passengers are right to be informed about safety concerns, assistance and support from the airline, reimbursement or compensation.

- ***In Abhay Sharma v. Go Air,***³ the complainant had booked a flight from Delhi to Mumbai with Go Air on January 15, 2020. During the flight, the complainant had noticed that his seat was malfunctioning and brought it to attention of the flight attendants. Go Air has failed to provide adequate compensation leading to a consumer complaint. The Delhi State Consumer District Redressal Commissions held Air India responsible for the damage of the luggage and ordered them to pay Rs. 40,000 as compensation for deficiency in service and along with that as ordered to pay Rs. 5,000 as litigation costs.

Accidents

Accidents in the aviation sector refers to unexpected events or occurrences that result in harm to people, damage to property or both. The accidents are may be aircraft accidents, in flight accidents, ground accidents, runway incursions, system failures, weather related incidents, safety equipment failures, human error, sabotage or intentional acts. In the event of an accident, passengers have certain rights, including right to information, compensation and reimbursement, medical assistance, confidentiality, transparency, care and support and to seek legal action

¹ 2019 (3) CPR 301 (NCDRC).

² 2020 (1) CPR 151 (Delhi SCDRC).

³ 2020 (1) CPR 201 (Delhi SCDRC).

- ***In Sanjay Kumar v. Spice Jet,***¹ the complainant's wife Anju Kumar was died while disembarking Spice Jet's flight from Delhi to Mumbai on January 10, 2020. The complainant has filed a consumer complaint seeking compensation for the deficiency in service. The National Consumer District Redressal Commissions held Spice Jet responsible for the accident and ordered them to pay: Rs. 75 lakh as compensation and along with that as ordered to pay Rs. 25,000 as litigation costs.

Inadequate Facilities

In the aviation sector, inadequate facilities includes insufficient or poorly maintained terminals, poor lighting, heating, cooling systems, inadequate security screening or protocols, inadequate signage or way finding, inadequate air traffic control tower or navigation aids, inadequate waste management or environmental protection measures, inadequate baggage handling etc. In cases of inadequate facilities, the passengers have the rights such as right to comfortable waiting areas, access basic amenities, complaint resolution and feedback mechanisms, assistance for passengers with disabilities, safe and secure facilities, rebooking and refund if facilities are unavailable, access aircraft maintenance and repair facilities, adequate seating and power outlets, clear signage and way finding and transparency about efforts to improve facilities.

- ***In Anjana Singh v. Chandigarh International Airport Ltd.,***² the complainant was with a disability faced difficulties while travelling through Chandigarh International Airport due to inadequate facilities. The complainant had filed a writ petition seeking directions to improve facilities for passengers with disabilities. The Punjab and Haryana High Court directed Chandigarh International Airport Ltd. to provide accessible toilets and ramps, ensure wheel chair assistance. Train staff to assist passengers with disabilities. The Punjab and Haryana High Court had ordered to submit a compliance report within three months.

Harassment

Harassment in aviation sector refers to unwanted or unwelcome behavior, comments or actions that create a hostile or intimidating environment for passengers, employees or others. The harassment is of many kinds like verbal, physical, visual, sexual, racial, ethnic, disability, cyber harassment. It can occur on onboard flights, in airports or terminals, during security screening or customs, in airline offices or customer service areas, through online platforms or social media.

Victims of harassments have the rights such as report incidents to the airline staff or authorities, file complaints with regulatory bodies, seek support from advocacy group or legal representation.

- ***In Rohan Mehta v. Air India,***³ the complainant was harassed by Air India staff during check in and boarding. He filed a consumer complaint for harassment seeking compensation for harassment and deficiency in service. The National Consumer District Redressal Commissions held Air India responsible for harassment and deficiency in service and ordered them to pay: Rs. 1 lakh as compensation and along with that as ordered to pay Rs. 25,000 as litigation costs.

Failed Assistance to Disabled Person

Failure to provide assistance to the disabled person in the aviation sector is a serious issue that can result in the denied boarding or access to service, inadequate or lack of wheelchair assistance, insufficient support for passenger with hidden disabilities, inaccessible aircraft or airport facilities, lack of trained staff to handle disability related request, inadequate communication.

- ***In Dr. GN Singh v. Spice Jet,***⁴ the complainant was a passenger with a disability and was not provided assistance by Spice Jet during boarding and deplaning. He filed a consumer complaint for seeking compensation for harassment and deficiency in service. The National Consumer District Redressal Commissions held Spice Jet responsible for not providing assistance to him and ordered them to pay: Rs. 1 lakh as compensation and along with that as ordered to pay Rs. 25,000 as litigation costs.

¹ 2020 (1) CPR 401(Delhi SCDRC).

² 2020 (1) PLR 843.

³ 2019 (2)CPR 501 (NCDRC).

⁴ 2020 (3) CPR 301 (NCDRC).

Negligence

Negligence in the aviation sector refers to the failure to exercise reasonable care or diligence, resulting in harm or damages to the passengers, aircraft, cargo, airport facilities, third party property. Following are the examples of the negligence in aviation includes pilot error or recklessness, failure to maintain aircraft worthiness, inadequate maintenance or inspection, failure to follow safety protocols etc. In case of negligence in the aviation sector, passengers have the rights such as medical assistance, compensation, assistance, information, seek legal actions.

- ***In Srivastava v. Spice Jet,¹*** the complainant suffered a heart attack during a Spice Jet flight and alleged negligence in medical assistance provided by the airline. The complainant filed a consumer complaint seeking compensation. The National Consumer District Redressal Commissions held Spice Jet responsible for negligence in providing medical assistance to the complainant and was ordered to pay Rs. 50,000 as compensation and Rs. 25,000 as litigation cost.

Inadequate and Incorrect Information

Inadequate and incorrect information in the aviation sector can lead to the delays or cancellations, no compliance with regulations, financial losses, passenger complaints and legal action, industry reputation impact, passenger confused or frustration, safety risks and accidents, damage to airline or airport reputation, regulatory penalties or fines. The passengers have the rights such as right to accurate information, protection, clear communication, legal action, transparency, refund, complaint, rebooking, refund and assistance.

- ***In Anita Sharma v Emirates,²*** the complainant booked a flight to the U.S., but was denied boarding due to inadequate visa information provided by the Emirates. She filed a consumer complaint for inconvenience and loss of time. The National Consumer District Redressal Commissions held Emirates responsible for providing incorrect information regarding visa requirements and ordered to pay Rs. 1 lakh as compensation and Rs. 25,000 as litigation cost.

Overbooking

Overbooking in the aviation sector refers to the practice of selling more tickets than available seats on a flight. This can lead to the denied boarding or bumping of passengers, passenger rights violations, industry reputation impact, unfair treatment of passengers, increased operational costs and complexity, negative impact on the passenger trust and confidence, compensation claims and legal issues. There are so many causes of overbooking which are as high demand and limited capacity, aircraft changes or upgrades, no show passengers or cancellations, schedule changes or disruptions, lack of effective overbooking controls, adequate staff training etc. The rights of the passengers are information, care, compensation, downgrading, priority boarding, legal action, upgrade, complaint, refund, rebooking.

- ***In Vikram Singh v. Qatar Airways,³*** the complainant booked a flight with Qatar Airways and requested a vegetarian. The airlines overlooked the request and was served a non vegetarian meal. He filed a consumer complaint seeking compensation for overlooking. The National Consumer District Redressal Commissions held Qatar Airways responsible for overlooking complainant's request of vegetarian meal and was ordered to pay Rs. 50,000 as compensation and Rs. 25,000 as litigation cost.

Failure to Refund

Failure to refund refers to the airline's inability or unwillingness to provide a refund to a passenger who is entitled to one. This can be occurred due to Scheduled changes, cancelled flights, downgrading, passenger no show, ticketing errors, overbooking, refund policy restrictions, technical issues, staff error or miscommunication, bank or payment processing issues. The consequences for the the failure to refund in these above situations are financial loss to passengers, damage to the airlines trust and reputation, the negative reviews and mouth to mouth words, regulatory penalties and fines, legal action and claims, passenger complaints and disputes, industry reputation impact, decreased passenger confidence etc.

¹ 2019 (2) CPR 101 (NCDRC).

² 2019 (4) CPR 201 (NCDRC).

³ 2020 (1) CPR 201 (NCDRC)..

- ***In Vikram Singh v. Lufthansa***,¹ the complainant booked a Lufthansa flight but was cancelled due to Covid- 19. He requested the airline to refund but the airline failed to refund one. He filed a consumer complaint seeking compensation. The National Consumer District Redressal Commissions held Lufthansa responsible for failure to provide for refund the cancelled ticket was ordered to pay Rs. 1 lakh as refund, Rs 25,000 as compensation and Rs. 10,000 as litigation cost.

Security Concern or Breaches

Security concerns in the aviation sector includes terrorism and hijacking, cyber attacks on air traffic control systems, passenger screening and identification, baggage handling and cargo security, airport perimeter security, access control and surveillance, insider threats from employees or contractors, aircraft sabotage or tampering, passenger data protection and privacy, aircraft maintenance and repair security, air traffic control tower security, emergency response planning and preparedness. By prioritizing security, the aviation sector can protect passengers, staff, aircraft, and infrastructure from potential threats. In case of safety concerns, passengers has some rights like right to safety, information, compensation, evacuation, medical attention, compensation, investigations, assistance.

- ***In Kaunsa Kamra v. Indigo Airlines***,² the complainant was banned by Indigo Airline for six months due to unruly behavior on a flight. He challenged the ban citing as violation of his fundamental rights. The Delhi High Court upheld the Indigo's decision citing as the security concerns and the need to maintain passenger safety. The court held that ban was reasonable and proportionate to his misconduct.

Non Compliance with Regulations and Laws

In the aviation sector non compliance with the laws and regulations means to the failure to the aviation authority regulations, safety standards and protocols, maintenance and repair requirements, aircraft operation and flight rules, customs and immigration rules, environmental regulations noise abatement procedures ,airworthiness directives, international civil aviation organization standards, pilot training and licensing standards, data protection and privacy laws, aircraft operations and flight rules, passenger rights and consumer protection laws.

If the rules and regulations are not fully obeyed then it can lead to safety risks and accidents, legal action and litigation, financial losses and operational disruptions, restrictions on operations or routes, decreased passenger confidence and loyalty, regulatory penalties and fines, reputation damage and loss of public trust, revocation of licenses and public trust, increased insurance cost and liability, negative impact on the environment and communities.

- ***In Air India v. DGCA***,³ Air India challenged a show cause notice issued by the DGCA for non compliance with regulations regarding pilot training and licensing. Air India alleged that the DGCA's actions were arbitrary and violated their rights. The Delhi High Court upheld the DGCA's actions, stating that Air India had indeed violated regulations and compromised passenger safety. The court directed Air India to comply with the DGCA's directions and rectify the deficiencies.

Suggestions

Here are the few suggestions for the betterment of judiciary in the aviation sector:

- There must be an establishment of specialized aviation tribunals which specifically deals with the complexities of aviation law and ensure speedy disposal of cases.
- The Consumer Protection laws with special reference to aviation sector must be strengthened by enhancing awareness and enforcement of consumer rights.
- The training and resources must be provided to the judges and legal professionals to enhance their expertise in aviation sector.
- To increase transparency and accountability in the decision making processes and enforcement actions.

¹ 2020 (2) CPR 201 (NCDRC).

² 2020 (2) AD (Delhi) 1

³ 2020 (2) AD (Delhi) 141.

- There must be a consistency between the judiciary, industry stake holders and regulatory bodies under the aviation sector.
- There must be a public awareness about the aviation laws, rules, regulations and consumer rights through the education and also through the outreach programs.
- There must be a developed comprehensive database of aviation sector to facilitate easy access to relevant laws, regulations and case laws.
- The judicial activism must be encouraged to address emerging issues and challenges in the aviation sector.
- The alternative disputes resolution must be promoted to reduce the burden on the courts and to facilitate the faster resolution of disputes.

Conclusion

The judiciary plays an important role in the aviation sector by ensuring that the laws and the regulations are enforced, the disputes are resolved and the rights of all stakeholders are protected. The courts have interpreted aviation laws and regulations, ensuring that the airlines, airports and aviation authorities must comply with the safety and security standards. The judicial decisions set precedents for future cases, shaping the development of aviation laws and influencing the industry's approach to safety and security. The courts held airlines, airports and other parties accountable for negligence or wrongdoing providing a framework for compensation and redress for victims of aviation accidents or incidents. By upholding safety and security regulations, the judiciary promotes a culture of safety within the aviation industry, encouraging airlines and airports to prioritize safety and security. The role of judiciary is to achieve the dream of social justice in the preamble of the Constitution of India. Because the Apex Court has explained the idea of social justice consist of diverse principles essential for the orderly growth and development of personality of every citizen. Through various judgments and cases, the judiciary has established its authority in matters related to aviation safety, consumer protection and labor disputes, the judiciary's role is important in maintaining the balance between the interests of airlines, passengers and other stakeholders.

