

# TO RESOLVE THE LEGAL ISSUES BETWEEN AIRPORTS AND PASSENGERS VIA DISPUTE SETTLEMENT MECHANISM

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## Abstract

*It is a good sign for India's social and economic development that common people can travel in airlines these days at a very economic cost showing the future growth of airline services industry and their reach. If any business wants to expand their business, they should reach to the bottom of the society and should design their services for all. In recent years airlines are able to do that and have succeeded by cost cutting. At the same time there will arise many new legal issues which come in new forms and needs to think beyond the present legal system by amendment with suitable laws and provisions. These issues will arise due to globalization and public private partnership in aviation business with new environmental challenges.*

*The civil aviation industry in India has emerged as one of the fastest growing service industries in the country over the last three years. India is currently considered as the third largest domestic civil aviation service market in the world. According to International Air Transport Association (IATA), India will replace UK for the third place in 2026. The Civil Aviation industry has shown a great expansion due to factors such as low-cost carriers (LCCs), modern airports, Foreign Direct Investment (FDI) in domestic airlines; advanced artificial Intelligence (AI) interventions and growing emphasis on regional connectivity etc. There are many developments that have been made in aviation sector due to various initiatives taken by the government.*

**Keywords:** Resolve Dispute, Passenger, Airport, and Dispute settlement Mechanism.

## INTRODUCTION

### Major Issues between Airports and Passengers:

Passenger expectations have changed dramatically over the past decade. The introduction of robotics, AI and augmented reality into all areas of life has led passengers to expect more from all products and services they use. Airports are no exception, and passengers now demand higher standards from the airports they travel through. These changes in expectation constantly bring new challenges to airports. Failure to meet these challenges may result in negative reviews and see passengers head to other airports. However, rising to meet and exceed these challenges provides excellent opportunities to improve passenger happiness, drive positive reviews and encourage more people to pass through the respective airport.

#### 1. Flight issues and delays

One of the biggest complaints that passengers have about airports today is that they aren't kept informed of flight issues and delays. There's nothing more frustrating as a passenger, than turning up early and waiting around for hours, only to discover at the last minute there's been a delay or change in the flight schedule.

#### 2. Trouble with baggage

After flight issues and delays, baggage troubles are another common complaint. It's understandable considering that the number of passengers passing through airports has significantly increased in recent years. This has placed a lot of pressure onto the current, outdated baggage handling system, which is why airports need to start looking into more modern baggage solutions.

#### 3. Customer service

Although it's difficult for airports to build up a personal relationship with passengers, providing exceptional customer service should always be a priority. This is especially true when it comes to times of disruption.

#### 4. Disability accessibility

As technology has developed, those with disabilities are finding it much easier to travel. However, many airports are still yet to catch up and provide very little in the way of disabled accessibility. There are big opportunities here to make a positive impact if you haven't set up disabled access already.

## 5. Waiting times

Finally, waiting times are one of the most frustrating challenges passengers face when traveling. From getting through airport security to waiting for bags to arrive, queues can be a really stressful and time-consuming part of the airport experience. However, airports worldwide are working towards resolving the issue.

## 6. Other Identified challenges:

- Airline marketing and management
- Economic impact in privatization
- Airport airline relations
- Environmental issues
- Automation
- Cargo problems
- Air traffic
- Capacity constraints
- Airport-airspace congestion
- Safety
- New large aircraft
- Compacting strategies:
- Airline marketing and management

## DISPUTE SETTLEMENT MECHANISM

A concise description of a few broadly used ADR procedures is as follows:

- **Negotiation:** A non-restricting system in which discussions between the parties are started without the intercession of an outsider, with the object of showing up at an arranged settlement of the dispute.
- **Conciliation:** In this case, parties submit to the exhortation of a conciliator, who talks to every one of them separately and tries to resolve their disputes. Conciliation is a non-restricting methodology in which the conciliator assists the parties to a dispute to show up at a commonly satisfactory and concurred settlement of the dispute.
- **Mediation:** A non-restricting strategy in which an unprejudiced outsider known as an arbiter tries to encourage the resolution process however he can't impose the resolution, and the parties are allowed to conclude as indicated by their accommodation and terms.
- **Arbitration:** It is a strategy for the resolution of disputes outside the court, wherein the parties allude the dispute to at least one person named as an arbitrator(s) who reviews the case and imposes a decision that is lawfully authoritative on the two players. Usually, the arbitration clauses are referenced in business agreements wherein the parties consent to resort to an arbitration process in case of disputes that may arise in the future with respect to the agreement terms and conditions.
- **Via Court including consumer court:**
- File requisite amount of procedure - fee in the court. File 2 copies of plaint for each defendant in the court. Of, the 2 copies for each defendant, one shall be sent by Register/post/courier, and one by Ordinary post. Such filing should be done within 7 days, from date of order/notice.

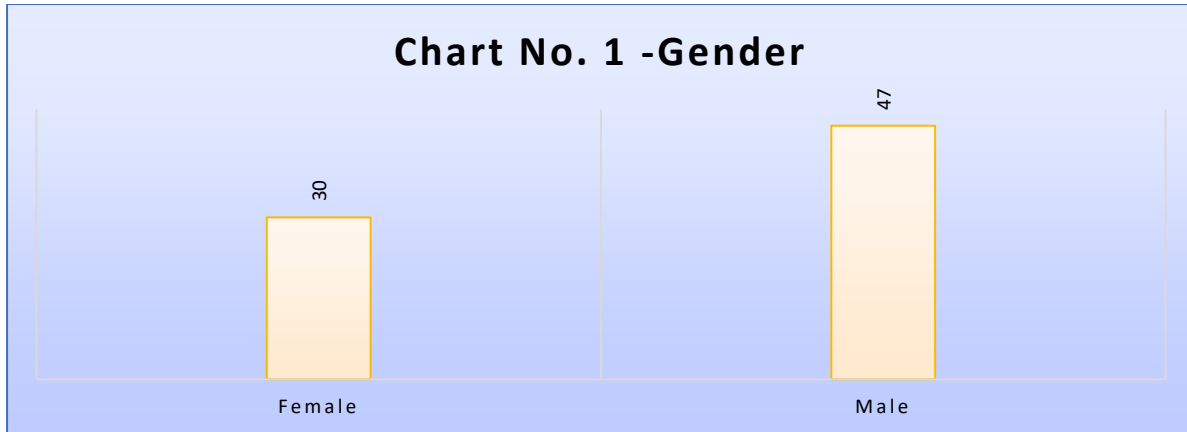
## RESEARCH METHODOLOGY

The data collected here is a summarization through various sources like Primary and secondary data from respondents, various magazines, journals, scholarly articles, research papers and various authentic websites of various Airline industries. The international aviation laws have been analyzed based on data obtained from their annual financial statements of airlines; web-sites of the Ministry of Civil Aviation, Directorate General of Civil Aviation (DGCA), Airport Authority of India (AAI), Centre for Asia Pacific Aviation (CAPA), International Civil Aviation Organization (ICAO) and various airlines groups, observations of various committees, and other published as well as unpublished work of various professional legal bodies, newspapers and magazines. Many convention, treaty and protocols of significance like Aircraft Act of 1934 and 1937, Hague Protocol etc. have also provided facts for reference analysis the dispute between passengers and airports.

### 1. Methodology:

It is a type of Descriptive Research and Survey Method used.

- **Population:** In the present study, all passengers of India were the population.
- **Sample Size:** 77 respondents and main related Case laws, acts and provisions taken as sample in the present study.



➤ **Process of selection of sample:** Random sampling is used in primary data collection.

➤ **Tool of the Study**

Any instrument used to collect data consistent with the objectives of the study is known as tool. In the research, the researcher used a questionnaire to collect the primary data from the passengers who travel via airplane.

**Tools:** A Questionnaire used for primary data collection.

➤ **Methods of Data collection**

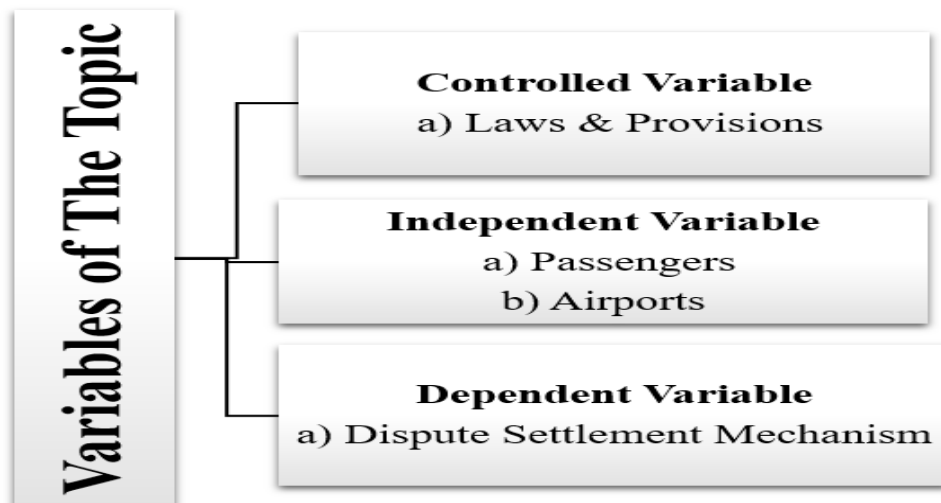
Researcher, collected raw data through questionnaire via Google form and try to identify the major dispute areas due between passengers and airports and best alternative to solve.

**Process of Analysis of Data:** All data analyzed using the percentage and measurement of central tendency as well as 't' test, correlation & Regression.

**STATEMENT OF PROBLEM:**

*"To Resolve The Legal Issues Between Airports And Passengers via Dispute Settlement Mechanism."*

**VARIABLES OF THE TOPIC:**



**OBJECTIVES OF THE STUDY:**

- To study the various legal issues between airports and passengers.
- To study about the dispute settlement mechanism in aviation.
- To study the impact of disputes on airport business.

**RESEARCH QUESTIONS:**

- Q1- Have you ever travelled by air?
- Q2- Have you faced any problem in relation to cab / auto or else?
- Q3- Have you faced any problem in relation to Luggage Management?
- Q4- Have you faced any problem in relation to check in/ out?
- Q5- Have you faced any problem in relation to amenity management?
- Q6- How will you overcome from such problem?
- Q7- Which step will you take to resolve dispute?
- Q8- Did you get any positive response from authority?

## CONSTITUTIONAL PROVISIONS

### Legal Frame Work for aviation

- Constitution of India
- The Aircraft Act 1934
- The Aircraft Rules 1937,
- Airports Authority of India Act 1994
- Airport Economic Regulatory Authority Act 2009 – AERA Act
- Civil Aviation Requirements- CAR
- AIC, AIS
- Bilateral Agreements
- The Aircraft (Demolition of obstructions caused by Buildings and Trees etc.) Rules, 1994
- Aircraft (Security) Rules 2011
- Aircraft (Investigation of Accidents and Incidents) Rules, 2017
- Concession Agreements – Private airports

### Other National Legislation

- The Air Corporations Act, 1953 (27 of 1953)
- The Air Corporations (Transfer of Undertakings and Repeal) Act, 1994 (13 of 1994)
- The Carriage by Air Act, 1972 (69 of 1972) Amended in 2009
- Warsaw convention 1929, Hague protocol 1955, Montreal Convention 1999
- The Tokyo Convention Act, 1975 (20 of 1975)
- The Anti-Hijacking Act, 1982 (65 of 1982)
- The Suppression of Unlawful Acts against Safety of Civil Aviation Act, 1982 (66 of 1982)
- Notification regarding application of the Carriage by Air Act, 1972, to carriage by air which is not international
- The Aircraft (Demolition of obstructions caused by Buildings and Trees etc.) Rules, 1994
- The Aircraft (Carriage of Dangerous Goods) Rules, 2003

### Constitution of India

Article 246-

- Union list
- State list
- Concurrent list
- Schedule VII- item 29,30 -Airports, Airways

## COVID-19 AIRLINE REFUNDS

The Directorate General of Civil Aviation on Wednesday issued detailed guidelines for refund of fares for flights cancelled during Covid-19 lockdown after the Supreme Court recently decided on the issue. The regulator, based on SC directives, has categorized refund seekers into three categories and issued different directives for them.

The Supreme Court on Thursday ordered the airlines to refund the passengers who had to cancel the flight tickets booked during two-month long nationwide lockdown. A three-judge Bench, headed by Justice Ashok Bhushan, said for cancellation of bookings for travel after the lockdown period, airlines must give refunds within 15 days of the order. If the carriers are in financial distress, they can provide a credit to the flyers that can be redeemed until 31 March, 2021, the court further added.

The apex court's order will be applicable for the bookings made for both domestic and international tickets during the period.

## CONSUMER PROTECTION ACT, 1986<sup>1</sup>

The following are the main objects of the CPA, 1986.

1. Protection of interests of Consumers.
2. Protection of rights of Consumers.

Which include:

- (a) Protection against dangerous goods and services which are hazardous to life and property; (b) Right to information about the quality, quantity, potency, purity, standard, and price of goods or services to so as to protect him against unfair trade practices like false discrediting exaggerated claims etc.; (c) Right to be heard; (d) Right to access to variety of goods; (e) Right to seek redressal; and (f) Right to consumer education

<sup>1</sup> [http://chdlsa.gov.in/right\\_menu/act/pdf/consumer.pdf](http://chdlsa.gov.in/right_menu/act/pdf/consumer.pdf)

(b) On July 20<sup>th</sup>, 2020, the new **Consumer Protection Act, 2019** came into force in India, replacing the previous enactment of 1986. The new Act overhauls the administration and settlement of consumer disputes in India. It provides for strict penalties, including jail terms for adulteration and for misleading advertisements.

(c) The act provides 6 rights to the consumers;

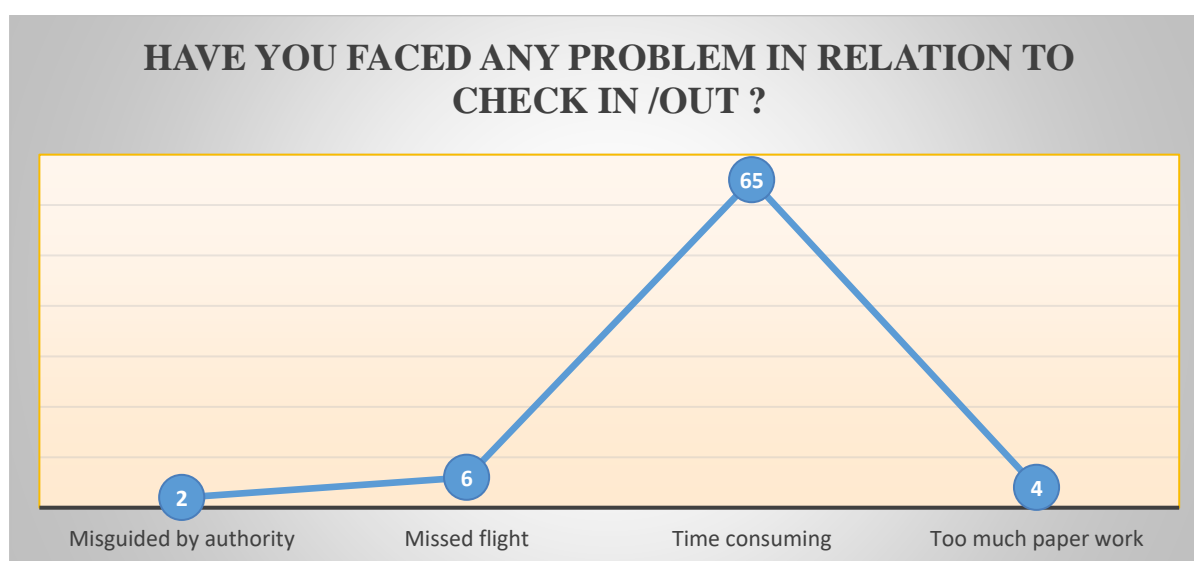
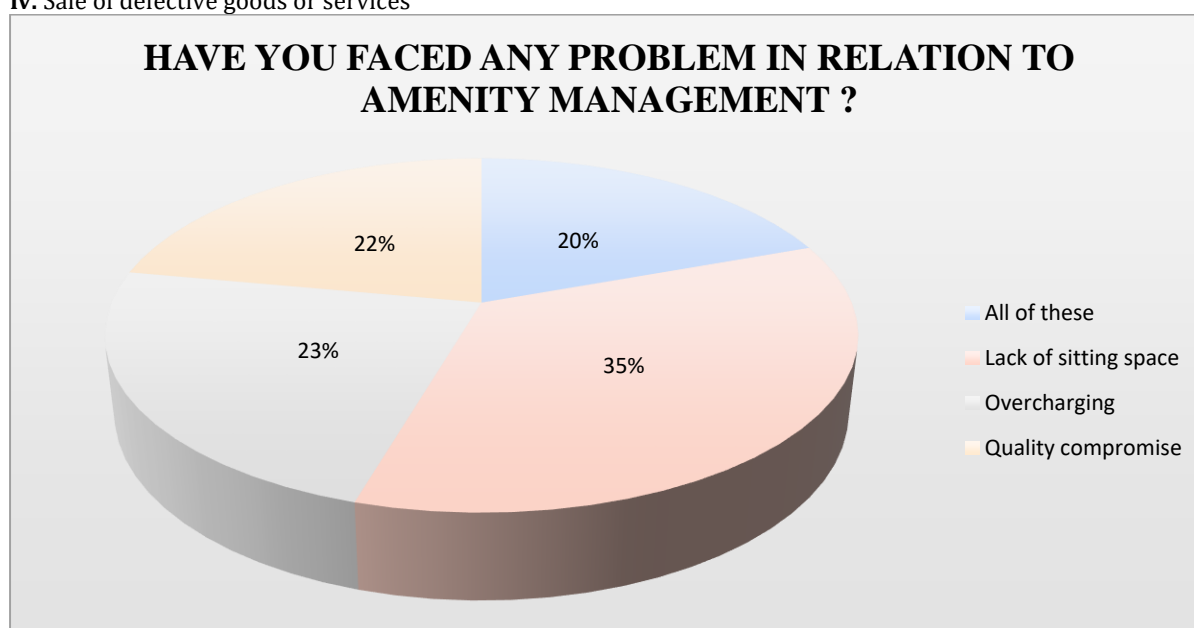
- i. To have information about the quantity, quality, purity, potency, price, and standard of goods or services.
- ii. To be protected from hazardous goods and services.
- iii. To be protected from unfair or restrictive trade practices.
- iv. To have a variety of goods or services at competitive prices

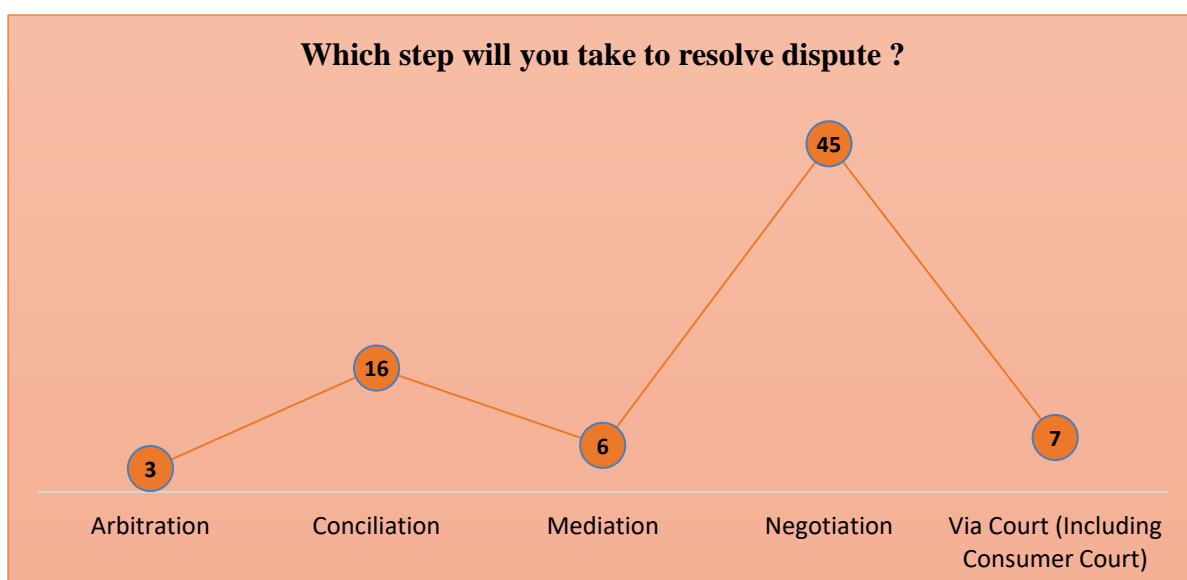
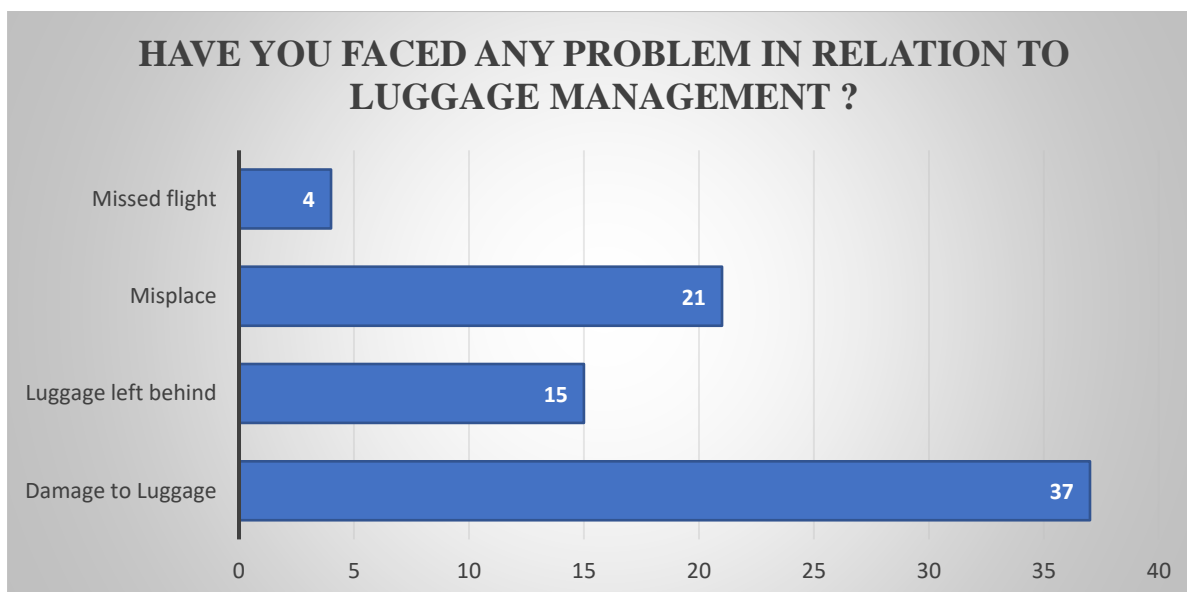
### CONSUMER DISPUTES REDRESSAL COMMISSION

The act has the provision of the establishment of the Consumer Disputes Redressal Commissions (CDRCs) at the national, state and district levels.

The CDRCs will entertain complaints related to;

- i. Overcharging or deceptive charging
- ii. Unfair or restrictive trade practices
- iii. Sale of hazardous goods and services which may be hazardous to life.
- iv. Sale of defective goods or services





**Table No. 1**  
**Positive Responses From Authority**

Particulars	Yes (%)	No (%)	Total (%)
Luggage Management	57	43	100
Check in/ Out	48	52	100
Cab/ Auto/ Other	43	57	100
Amenity Management	48	52	100
<b>Mean</b>	<b>49</b>	<b>51</b>	<b>100</b>

**Table No. 2**  
**Method of Dispute Resolution**

Particulars	Negotiation (%)	Conciliation (%)	Mediation (%)	Arbitration (%)	Court (%)	Total (%)
Luggage Management	56	11	10	12	11	100
Check in/ Out	60	16	10	12	2	100
Cab/ Auto/ Other	75	9	6	7	3	100
Amenity Management	58	21	7	9	5	100

Mean	62.25	14.25	8.25	10	5.25	100
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#### Explanation of the tables, and findings:

- 94.6 % respondents travelled by air so we can say that primary data collected for research are reliable.
- 57% of respondent faced overcharged by cab drivers.
- 39% solved dispute directly via negotiation method, 33% approach to authority and 24% used Let-Go method.
- 56 % got positive response from authority but at the same time 44% did not get response properly on time.
- 75% parties will used/ used negotiation method to resolve dispute.
- 85% passengers found difficulties in time consuming during check in/ out process.
- 48% passengers found their luggage's with minor damages as well 27% luggage's left behind. And many passengers missed flight due to luggage's miss placed.
- Lack of sitting space, overcharging and quality compromise found by passengers at airports.

#### FINDINGS

- Most of the passengers found time consuming process during check in at airports.
- Most of the passengers prefer to resolve their dispute via negotiation method of dispute settlement.
- Authorities are not responding well on time because 50% passengers are not satisfied.
- Very rear passenger wants to resolve their dispute via court because it is time consuming process.
- At airport, amenities are not in favorable conditions and most of the passengers found the amenities to be unhygienic especially in case of foods items.
- Airline and airport operators are addressing most of grievances within time limit. In addition, a consumer complaint may be filed under the Consumer Protection Act 1986 for deficiency of services.
- Consumer Protection Act, 1986 is a highly beneficial and benevolent legislation and seeks better protection of interests of consumers as a class and was brought on the statute book pursuant to Consumer Protection Resolution passed by the U.N. General Assembly on April 9, 1985 for achieving and maintaining adequate protection for the population as consumers and maintaining high levels of conduct and standard for those engaged in the production and distribution of goods and providing various kinds of services to the consumers.
- With a growing number of complaints being received on a daily basis, a special cell called SUGAM has been set up within DGCA to address the difficulties faced by the passengers
- A dedicated email ID, '[sugam@dgca.nic.in](mailto:sugam@dgca.nic.in)', has been created in the DGCA website for loading complaints.

#### SUGGESTIONS

Aviation is the most fast growing business in the future India and world. The success depends on the positive responses from their stakeholders time to time. To increase the efficiency of airports we need to address the following suggestions:

- ❖ The process of cab booking must be more secure with airport authority via code or use of AI.
- ❖ A centralized authority for each department with mutual coordination should be established to resolve dispute faster.
- ❖ Even small Complaints must be taken very seriously and should be resolved via technical mechanism.
- ❖ A message should be received by passengers before the flight takes off for luggage boarding in the same flight to avoid leaving the luggage behind.
- ❖ Different size handling bags for luggage should be provided to avoid any damage.
- ❖ Facilities provided at airports should be at a cheaper cost with quality, so that everyone can enjoy.
- ❖ Most importantly, at airport the food served must be hygienic and fresh.
- ❖ Check in/ out is a time consuming process and it is increasing day by day due to increase in passengers, and we need to resolve this big problem via smart technological applications.

#### CONCLUSION

The present study will help to understand the major disputes and their resolution mechanism between passenger and airports. Researcher suggested the benefits of new dispute mechanism practice in that area and their favorable impact on the passengers and airports revenue. It will provide information to government (State and Central) in future polices making on aviation.

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