

(2005) 08 NCDRC CK 0012

NATIONAL CONSUMER DISPUTES REDRESSAL COMMISSION

Case No: None

AIR INDIA LIMITED

APPELLANT

Vs

Tallapaneni Sreedhar

RESPONDENT

Date of Decision: Aug. 11, 2005

Citation: 2005 4 CPJ 531

Hon'ble Judges: I.VENKATANARAYANA , M.SHREESHA J.

Judgement

1. THE opposite party is the appellant.

2. AGGRIEVED by the orders of the District Forum -II, Hyderabad in O.P. No. 279 of 1996 dated 23.8.2001, the present appeal has been filed under Section 15 of the Consumer Protection Act, 1986.

The factual matrix leading to the filing of this appeal is set out as hereunder.

3. THE complainant travelled by Air India from Chicago to Hyderabad on 18.1.1996 and entrusted two registered baggages No. DL 618641 and DL 618642. In the transit baggage was lost and he was informed that the baggage was not received and subsequent efforts made by the opposite party was futile in recovering the baggage. On a claim made by the complainant, the opposite party paid a compensation of Rs. 43,280 which the complainant received without prejudice to his

rights and claims to claim further compensation under law. It is the case of the complainant that the baggage weighed 64 kgs. and the opposite party admitted the weight of the baggage. The opposite party also admitted its liability under Carriage by Air Act to pay compensation for two items @ 32 kgs. i.e., for a total of 64 kgs. but the only dispute is about that amount payable. The complainant during the course of inquiry confined his claim to 16,000 France Francs which on conversion comes to Rs. 1,20,000. The contention of the opposite party is that they are payable only @ 20 US \$ per kg. and accordingly he paid the amount. The opposite party in their counter relied on the Air Carriage Act and Warsaw Convention.

4. THE District Forum conducted a detailed inquiry and considered the Carriage by Air Act and other connected rules and allowed the complaint directing the opposite party to pay Rs. 66,720 and also compensation of Rs. 10,000 and costs of Rs. 1000.

Aggrieved by the said order the present appeal has been filed.

5. THE learned Counsel appearing for the appellant submitted that the liability of the complainant is confined to the provisions of Air Carriage Act and Warsaw Convention. They also further submitted that the loss of weight per kg multiplied by 20 \$ has to be calculated.

6. WE have gone through the entire record. In an identity case in B.P. Maiti v. Air India, Hyderabad, 1992 (2) ALD (CON.) 138, the A.P. State Consumer Disputes Redressal Commission held that the liability of Airways was governed by Rules 22 and 23 of Second Schedule Carriage by Air Act, 1972 and the liability of the Airways was 250 Francs per kg. Based on the judgment the District Forum has rightly held that the complainant is entitled to compensation towards the loss of baggage at 16,000 French Francs which on conversion works out to Rs. 1,20,000. The opposite party has already paid Rs. 43,280. Hence, the District Forum directed the opposite party to pay 16,000 French Francs minus the amount already paid. The order in our

opinion is well reasoned order and does not suffer from any infirmity so as to call for any interference by this Commission in exercise of its appellate powers. Hence, the appeal is devoid of substance and is liable to be dismissed.

In the result the appeal is dismissed. Time for compliance 6 weeks. Appeal dismissed.