

(2004) 09 NCDRC CK 0069

**NATIONAL CONSUMER DISPUTES REDRESSAL COMMISSION****Case No:** None

R.K. AGGARWAL

APPELLANT

Vs

GENERAL MANAGER, NORTHERN  
RAILWAYSRESPONDENT

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**Date of Decision:** Sept. 17, 2004**Citation:** 2005 1 CPC 615 : 2005 1 CPJ 282**Hon'ble Judges:** J.D.Kapoor , Rumnita Mittal J.**Final Decision:** Appeal allowed

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**Judgement**

1. TWO identical complaints were filed. One by Mr. R.K. Bansal and another one by Shri R.K. Aggarwal seeking compensation on account of deficiency in service on the part of Railway Department inasmuch as the bogey in which the appellant was travelling there was no water in taps, window shutters of the toilets were lying broken and the seat allotted to him was broken and nails emerging from various places. Ceiling fans were not working properly. The complaint of Mr. R.K. Bansal was allowed vide order dated 3.12.1997 whereby the compensation of Rs. 1,000/- for the inconvenience was awarded to him besides Rs. 200/- as costs of litigation. However, the complaint of the appellant was dismissed merely on the ground that the stand taken by the respondent in R.K. Bansal case was not correct whereas in the case of the appellant, the affidavit filed on behalf of Northern Railway states that the concerned coach was owned by the Eastern Railway and its base depot was Sealdah, the respondent Northern Railway was responsible for drying cleaning and watering attention during the lie over of the rake at Delhi. The concerned coach was an old designed coach without provisions of cushion on the berth. Such coaches are stated to be in service on different trains as sleeper coaches along with cushioned coaches of the latest design plying together on the same route. The concerned berth which was allotted to the appellant was a wooden seat but it was not broken nor any nails were emerging at places.

2. THE affidavit was filed by the person who is Head of the Department of maintenance of the choaches viz., the Division Engineer and since he has filed his reply from the official record concerning the maintenance of the coaches. THE Divisional Engineer was not present nor had he personally seen the coach of the berth. THE affidavit of the concerned maintenance official was the only proper affidavit as he was only person who could have repelled the allegation of the appellant. Even otherwise the condition of the berth coach projected by the Divisional Engineer shows that train and coach seats were old fashioned and in very bad condition and for the sake of it no passenger would take up the trouble to approach the District Forum had he not been caused inconvenience because of the aforesaid deficiency of the respondent railways. In view of the aforesaid reasons, we find the respondent guilty of deficiency in service and allow the appeal and award the same compensation as was awarded by the District Forum in R.K. Bansal case. THE appellant is awarded Rs. 1,000/- towards compensation and Rs. 200/- towards costs of litigation which shall be payable within four weeks. Appeal allowed.