

(1997) 02 NCDRC CK 0023

NATIONAL CONSUMER DISPUTES REDRESSAL COMMISSION

Case No: None

AIR India Ltd.

APPELLANT

Vs

R. NAGARAJAN

RESPONDENT

Date of Decision: Feb. 14, 1997

Citation: 1997 2 CPJ 163

Hon'ble Judges: E.J.Bellie , Angel Arulraj J.

Final Decision: Order modified

Judgement

1. M/s. Air India Ltd. against which an award has been passed by the District Forum, Chennai-South is the appellant. The Ist complainant Mr. Nagarajan is the father-in-law and the 2nd complainant is the son-in-law. The case of the complainants (respondents herein) is that on 27.5.95 the Ist complainant purchased two tickets from the opposite party for the Sector Madras-Kuwait with confirmed status for travel by the 2nd complainant and his wife i.e. the daughter of the 1st complainant, on 29.8.95. The tickets were issued with confirmed status 23 days in advance. The cost of the tickets was Rs. 51,030/-. On the date of travel when the 2nd complainant and his wife went to the Airport they were offloaded with a sudden announcement that they could not be accommodated because of overbooking. According to the complainants, on account of this, they underwent great hardship, mental pain and suffering. The 2nd complainant who was a Chief Executive had to be in his company in Kuwait the next day and his wife who was a temporary teacher in a popular school there also should have been present there the next day; but they could not do so. On these allegations the complaint has been filed.

2. THE opposite party contended that because of over-booking some of the passengers could not be accommodated and the 2nd complainant and his wife are two of them. Some such passengers preferred to go by the next flight and they were accommodated but the 2nd complainant and his wife refused to do so. However, they were sent in the flight the next day. In these circumstances, it cannot be said that there was any deficiency in service on their part and, therefore, the complaint is liable to be dismissed.

The District Forum, on consideration of the pleadings and evidence, came to the conclusion that there was deficiency in service on the part of the opposite party. On the quantum of compensation it held that the petitioners are entitled for a sum of Rs. 51,030/-spent by them for the tickets for the flight in question, and for mental agony and pain they are entitled to Rs. 10,000/-. An award was passed for these amounts. It also ordered costs of Rs. 1000/-.

Now in the appeal, it is contended that the District Forum has fallen into error in directing the opposite party to pay the flight charges of Rs. 51,030/-because the 2nd complainant and his wife had travelled on 1.9.95. This contention of the appellant/opposite party appears to be quite reasonable because there is no loss for them and for the amount spent for flight charges they have travelled to Kuwait. The Ist complainant who appeared before us however argued that because his son-in-law and daughter could not travel on the scheduled date i.e. 29.8.95 they could not get the reimbursement of this amount from their employers. But there is no such plea in the complaint. No evidence also has been adduced in this regard. Therefore this argument of the Ist complainant cannot be accepted. It, therefore, follows that the order of the District Forum directing the opposite party to pay a sum of 51,030/-cannot be maintained. As regards a sum of Rs. 10,000/-compensation awarded for mental agony and sufferings, we are clearly of the view that in the circumstances of the case, this is quite reasonable and it must be paid. One can easily understand the mental agony of the concerned, passengers who went to the Airport with all preparations to fly as far as Kuwait when they were suddenly off-loaded at the Airport. Certainly they should have suffered lot of mental agony and pain. Hence we are of the view that the said sum of Rs. 10,000/-has been correctly ordered and that should be paid by the opposite party.

3. THEREFORE, in the result, the order of the District Forum is modified into that the opposite party shall pay to the complainants a sum of Rs. 10,000/-for mental agony; as regards the order for payment of a sum of Rs. 51,030/-for refund of flight charges, it is set aside; as regards the cost ordered by the District Forum, it will

remain. The Appeal is accordingly ordered. There will be no order as to costs in the Appeal. Order modified.