(2002) 09 NCDRC CK 0032

In the National Consumer Disputes Redressal Commission

I.J.S. AHLUWALIA, ADVOCATE — APPELLANT

Vs

AMERICAN EXPRESS TRAVEL RELATED SERVICES — RESPONDENT

Date of Decision : 18-09-2002

Acts Referred:

Citation : 2003 2 CPJ 131 : 2003 3 CLT 528 : 2004 1 CPC 143

Hon'ble Judges : D.P.Wadhwa , J.K.Mehra , Rajyalakshmi Rao , B.K.Taimni J.

Final Decision : Complaint dismissed

Judgement

1. IN this complaint filed under Section 21 of the Consumer Protection Act, 1986, complainant, a practising Advocate at Patiala House, New Delhi has claimed Rs. 65,40,000/- from the respondent-opposite parties on account of loss of his travellers cheques in US Dollars. His claim has been denied by the opposite parties.

2. COMPLAINANT alleged that when he was in Hongkong, a Company by the name Madim Exchange Company, Hongkong paid him US$ 49,500 on the instructions of his client. From this money he said that he had purchased travellers cheques from the American Express Bank in Hongkong itself. COMPLAINANT then came down to Bangkok on 14.4.1998 where he said that he lost the travellers cheques in a taxi and there he lodged a First Information Report. He lodged a claim for the loss of these travellers cheques with the American Express Bank at Bangkok. Thereafter the matter was taken up at in India by the complainant. Complainant said that he had gone to Hongkong for his professional work. By letter dated 10.9.1998 opposite parties repudiated the claim of the complainants stating "Based on our extensive investigations and information obtained by American Express, pertaining to the circumstances of this file, we are not in a position to approve your claim".

Complainant strongly protested to this letter of the opposite parties. He said that he was not associated with the investigation and further that rules of natural justice have been violated. He wanted the matter to be reviewed. Opposite parties agreed.

3. HOWEVER, again by letter dated January 1, 2001 opposite parties affirmed their earlier decision and stated that "Subsequently after extensive investigation, we would like to advise you that our previously advised decision not to approve the claim still stands". This led the complainant ultimately to file this complaint. We may also notice that the complainant also approached Reserve Bank of India who told that they have instructed American Express Bank Ltd., Mumbai to take a decision in the matter. This was by letter dated 2.12.2000 of the Reserve Bank of India. As a matter of fact, there is no claim or any deficiency of service alleged against the Reserve Bank of India. After the matter was agreed to be reviewed by the opposite parties they wrote to the Reserve Bank of India and informed the Bank that the purpose of purchase of US $ by the complainant was "this amount was to be used by a group of lawyers who were to go to United States and few European Countries for conducting academic studies in respect of ''Comparative studies'' in Criminal Trial". This statement of course would be on the basis of what complainant informed the opposite parties. Reserve Bank of India wanted to know from the opposite parties the name of the remitters who had issued instructions to Madina Exchange Company, Hongkong to hand over the travellers cheques to the complainant and the purpose of the payment. When the opposite parties asked the complainant they were told by him as under : "The amount was handed over to me by the Madina Exchange Company, Hongkong under instructions from my client. I was assigned the professional job by my clients in respect of a criminal trial in which my client suspected the hand of US Government in causing the death of a convict in U.S.A. The amount in question was to be used by the undersigned involving the professional fees, expenses and fees of the other professionals to be engaged by me in the assigned matter. It shall be against the professional ethics to disclose the name of the client who actually engaged the undersigned in the assigned matter. Professional privilege is available to the attorneys/lawyers under the Indian Evidence Act to maintain secrecy in this regard. Had the amount not lost, I would have been out of the country for a period of minimum of 6 months. As per prior arrangement, the file of the assigned matter was handed over to me at Bangkok by the representative of my client which is still in my possession."

When complainant is not disclosing the name of the client perhaps he is relying on Section 126 of the Evidence Act which deals with professional communications. It is not clear to us that even the name of the client would come under the professional communications.

4. THE case on the face of it raises complex questions of law and facts which it may not be possible for the National Commission to decide in summary jurisdiction. We would, therefore, reject this complaint and leave the complainant to knock the door of the Civil Court or any other Forum for seeking relief as claimed in the complaint. Complaint dismissed.

