(1992) 12 NCDRC CK 0070

In the National Consumer Disputes Redressal Commission

INDIAN AIRLINES CORPORATION — APPELLANT

Vs

PATEL RAMUBHAI SHANKER LAL — RESPONDENT

Date of Decision : 10-12-1992

Acts Referred:

Citation : 1993 1 CLT 606 : 1993 2 CPJ 205 : 1998 1 CLT 674 : 1998 1 CPC 410 : 1998 2 CPJ 205

Hon'ble Judges : V.Balakrishna Eradi , A.S.Vijayakar , Y.Krishan , B.S.Yadav J.

Final Decision : allowed

Judgement

1. THE Indian Airlines Corporation which figured as the Opposite Party before the State Commission, Gujarat in Original Complaint No. 7 of 1990 on its file is the appellant in this appeal.

2. THE complainant in the case is a practising Chartered Accountant who has been frequently travelling by the aircraft belonging to the Indian Airlines Corporation. He brought the complaint alleging negligence on the part of the opposite party in operating its aircraft in different sectors and claiming compensation in respect of the inconvenience said to have been caused to him due to seven specific incidents of alleged deficient services of the opposite party. Of the seven separate incidents in respect of which compensation was claimed by the complainant, the State Commission has held that the complainant has failed to establish that there was any negligence on the part of opposite party in respect of five of those incidents. It has awarded compensation to the complainant holding that there was deficiency in service on the part of the opposite party with regard to the remaining two incidents only. The appeal is directed against the award of compensation in respect of the said two incidents.

The first of the two incidents in respect of which the State Commission has held against the appellant relates to alleged cancellation of a flight originally scheduled to operate from Bombay to Bhubaneswar and on which the appellant and his wife had booked their tickets for travel on March 6, 1990. With effect from March 5,1990, there was an alteration of the pattern of this route resulting in the appellant having to travel from Bombay to Calcutta and from there to Bhubaneswar instead of going directly from Bombay to Bhubaneswar. It is unnecessary for us to go into the correctness or otherwise of the conclusion recorded against the appellant by the State Commission in respect of this item of claim put forward by the complainant because as per the dictum laid down in the judgment of this Commission in the case of Indian Airlines Corporation and Ors. v. Consumer Education and Research Society, Ahmedabad and Anr., II (1991) CPJ 686 (NC), since no part of cause of action of the complainant in respect of this incident had arisen anywhere in the State of Gujarat and the Head Office of the opposite party being situated only in Delhi, the State Commission, Gujarat had no territorial jurisdiction to entertain a complaint in respect of this incident and conduct any adjudication over the same. On this short ground we set aside the order of the State Commission awarding compensation of Rs. 2,000/- against the appellant in respect of the alleged failure to operate Bombay-Bhubaneswar flight on March 6, 1990. We may mention in this context that no argument was advanced before us on behalf of the complainant that any part of the cause to action in respect of this item of claim had arisen in the State of Gujarat.

3. THE second incident in respect of which compensation has been awarded to the complainant relates to the wrong noting of the time of departure of flight No. IC-462 operating from Ahmedabad to Delhi in a ticket issued to the appellant for journey on June 6, 1990. In consequence of the time of departure having been wrongly noted in his ticket as 8.30 p.m., the complainant reported at the Ahmedabad Airport only at 7.10 a.m. but he was shocked to be told that his seat had already been allotted to the wait listed passengers since the correct departure time of the flight was 7.30 a.m. Consequently, he missed that flight and was unable to attend the meeting of the Executive Council of the Institute of Chartered Accountants to be held in Delhi in the forenoon on that day. In the proceedings before the State Commission the appellant had not impleaded the travel agent from whom he had purchased the air ticket. This Commission directed issue of notice in this appeal to the travel agent-M/s. Vyas Travels Pvt. Ltd., Ahmedabad-and the said party has filed its written submissions setting out its case as to why it should not be made liable for payment of any compensation.

4. THOUGH M/s. Vyas Travels Pvt. Ltd., was a ticketing agent authorised to sell Indian Airlines ticket and was in that capacity and to that limited extent an agent of the Indian Airlines, it was also functioning as an agent of the complainant engaged by him for booking his air ticket from Ahmedabad to Delhi. The authority conferred on the ticketing agent by Indian Airlines was only to sell and issue tickets in accordance with the flight operation schedules and timings notified by the Airlines. In making the wrong entry regarding the departure timing of the flight in question, the travel agent had manifestly acted contrary to the instructions of his principal namely, the Indian Airlines Corporation. The said wrongful act of the travel agent was beyond the scope of its limited authority and for any consequential loss to a third party arising there from, the liability will only be that of the travel agent and not of the principal. The complainant who had

hired the service of the travel agent has a legitimate claim against the said agent for the deficiency in service consisting of wrong noting in the ticket. THOUGH the second respondent has taken a plea that it had issued the ticket in a jacket on which it had been clearly mentioned that the passenger himself should check the correct timings, no specimen of the jacket was produced before us and there is nothing to show that as a matter of fact the ticket had been issued to the complainant in any such jacket. We are, therefore, unable to uphold this plea. While exonerating the Indian Airlines from liability for payment of compensation, we hold that the damages assessed by the State Commission at Rs. 1,000/- shall be payable by M/s. Vyas Travels Pvt. Ltd.-travel agent with interest at 18 per cent from the date of this order till the date of actual payment. The appeal is allowed in the manner indicated above. There will be an order against the second respondent directing payment by it of Rs. 1,000/- to the complainant with interest at 18 per cent as aforementioned within two months from this date. The parties shall bear their respective costs. Appeal allowed.

