

(2001) 01 NCDRC CK 0069

In the National Consumer Disputes Redressal Commission

JANTA TRAVELS PRIVATE LIMITED

APPELLANT

Vs

NAMITA NIGAM

RESPONDENT

Date of Decision : 22-01-2001

Acts Referred:

Citation : 2002 1 CPJ 430

Hon'ble Judges : K.C.Bhargava , D.D.Bahuguna J.

Final Decision : Appeal allowed

Judgement

1. THIS is an appeal against the judgment and order dated 10.8.1992 passed by District Consumer Forum, Lucknow in Complaint Case No. 134 of 1990.

2. THE facts of the case stated in brief are that the complainant has filed the complaint for refund of excess amount of fare charged from the complainant for air ticket from London to New York. This was on account of the unutilized flight ticket purchased through the opposite party for a sum of Rs. 16,306/- at Lucknow on 25.11.1989. According to the complainant he started from New Delhi by Air from Delhi to London. Because the visa was not given to the complainant for New York and hence she could not continue the journey from London to New York. THE refund is claimed for this journey. The opposite party did not file any written statement inspite of service on it. The opposite party had also taken time for filing written statement, but did not file its version.

The learned District Forum, after considering the case of the complainant, decreed the claim for Rs. 11,000/- against the opposite party.

3. AGGRIEVED against this order, the opposite party has come in appeal and has challenged the correctness of the order. None of the parties were present when the appeal was taken up for hearing even though they were sent notice through postal service stamps.

4. THE appellant in the grounds of appeal has alleged that the Air India has not been made a party to the proceedings and the ticket was purchased from Air India, which is liable to refund the amount. It is true that the travel agent merely

assists the traveller to take a ticket from the Airlines. In the present case the opposite party-complainant obtained a ticket from the appellant for Air India. Unless the Air India had been made a party to the proceedings, no liability can be passed on to the opposite party. THE opposite party merely charges his commission which is paid to it by the Airlines. THE entire amount of the ticket is transmitted to the concerned Airlines and no part of it is retained by the travel agent, opposite party. THEREfore, in face of these matters, it is not possible to decree the claim against the opposite party. THE complainant should have made Airlines a party and then the Airlines would have been liable to refund the fare claimed by the complainant for unutilised ticket. Therefore, the judgment and order of the District Forum are not correct and are liable to be set aside. ORDER The appeal is allowed and the judgment and order of the learned District Forum are set aside and complaint is dismissed. No order as to the costs. Let copy as per rules be made available to the parties. Appeal allowed.