

(2002) 10 NCDRC CK 0075

In the National Consumer Disputes Redressal Commission

M.Duraisamy

APPELLANT

Vs

GENERAL MANAGER, KLM DUTCH AIRLINES

RESPONDENT

Date of Decision : 10-10-2002

Acts Referred:

Citation : 2002 3 CPJ 344 : 2003 1 CPC 218

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 claims damages to the tune of Rs. 26.00 lakhs from the KLM Royal Dutch Airlines, an international carrier. The claim is for delayed delivery of baggage of the complainant by the Airlines.

2. COMPLAINANT went abroad by the opposite party-Airlines. The Airlines was to take him to United States, United Kingdom and Europe. The journey was from 22.6.2002. His baggage was not delivered to him in time and it was a case of delayed delivery. Complainant on arriving back to India, took up the matter with the Airlines claiming damages and sent a legal notice. He also sent a letter to the Airlines on 12.7.2000. However, by letter dated 9.8.2000 Airlines informed the complainant that it was ready to pay Rs. 24,000/- in full and final settlement of the damages suffered by the complainant due to delay in delivery of the baggage. Airlines also expressed their apology. Relevant portion of this letter of the Airlines is as under : "With regard to the reimbursement towards the loss incurred to you due to the delay we offer an amount of rupees twentyfour thousand as full and final settlement. This settlement is done only for the delay caused as put down by Article 16.1.b. of General Conditions of Carriage. As per the Article an Airline is not liable for indirect, incidental or consequential damages. Please sign the enclosed Final Release Form of rupees twentyfour thousand and sent it to us at the earliest. This is to enable us send a demand draft as soon as we get the signed form."

To this complainant replied by his letter dated 15.9.2000. However, again by

letter dated 23.9.2000, Airlines expressed its inability to agree to any further compensation than what was stated by it in its letter dated 9.5.2000, though the complainant had brought on record, two letters of the Airlines dated 9.8.2000 and 23.9.2000 he has not filed copy of the legal notice. his letter dated 12.7.2000 and dated 15.9.2000. This complaint was filed on 20.9.2002.

3. LIMITATION for filing a claim for damages is contained in Clause 30 of Schedule-II to the Carriage by Air Act, 1972, which we reproduce : "30. (1) The right to damages shall be extinguished if an action is not brought within two years, reckoned from the date of arrival at the destination, or from the date on which the aircraft ought to have arrived, or from the date on which the carriage stopped. (2) The method of calculating the period of limitation shall be determined by the law of the Court seized of the case."

From the reading of this clause it would mean that the claim should have been filed within two years of the complainant coming back to India and that was in the first week of July, 2000. Even assuming that the Airlines did not admit its liability by its letter dated 9.8.2002, this complaint has been filed on 20.9.2002 which is barred by limitation. We, therefore, dismiss this complaint. Complaint dismissed.