
(2002) 07 NCDRC CK 0032

In the National Consumer Disputes Redressal Commission

Raj Travels and Tours Ltd

APPELLANT

Vs

JITUBHAI GANDHI

RESPONDENT

Date of Decision : 31-07-2002

Acts Referred:

Citation : 2008 1 CPJ 288

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

Final Decision : Appeal disposed of

Judgement

1. -APPELLANT was the opposite party before the State Commission.
2. APPELLANT is a tour operator. Complainants who were three couples wanted to spent holidays together and for that purpose they engaged services of the appellant and paid to it Rs. 58,654. Complainants approached the appellant as it had advertised a package tour for various places abroad and India at reasonable rates and with additional facilities. Complainants wanted to visit Nepal. They complained that their tour was not properly organized and they had suffered a great deal. The amount paid by them was full and final payment for total expenses for package tour to Nepal which included air fair, total charges for sight seeing and other charges. It was with trust that complainants have agreed to the tour organized by the appellant. Complainants say when they reached Khatmandu by Indian Airlines flight they checked in Hotel Taj Annapurna. For going to Chitwan they were promised 8 seater luxury coach which was not so provided and they were packed in a dilapidated bus for long and arduous journey of 4-1/2 hours to the mountains. The bus met with an accident as the driver who drove the bus was in a drunken condition. Journey to Chitwan was aborted and after waiting on the road side complainants came back to Khatmandu in a lorry. Complainants in their complaints narrate in detail how the appellant breached agreement of enjoyable package holidays. They claimed extra amount which they had to pay for hotel and other expenses incurred which were included in the agreement and they also claimed Rs. 2. 00 lakh towards mental torture and harassment they had undergone. Complaint was supported by evidence showing

the receipts of expenses which the complainants had to incur. Though the appellant was ex parte before the State Commission in spite of its having been served, it allowed the complaint and directed the appellant to pay Rs. 2,21,525 to the complainants. Appellant was also ordered to pay Rs. 2,000 as costs.

Mr. S. K. Sharma, learned Counsel for the appellant submitted that the appellant was wrongly proceeded ex parte as he had not been served with the notice of the proceedings which led to erring in passing the impugned order by the State Commission.

3. MS. Geeta Handa Khanuja, learned Counsel for the complainants, however, brought on record proceedings before the Consumer Forum showing on each date what transpired. From this it is quite clear that appellant had been served and it chose not to appear. Appellant was also aware of the proceedings pending against it. There is a letter on record where the appellant admitted that it was aware of the proceedings pending against it. Yet another objection raised was that the agreement was with Raj Travels and not with the appellant which is a limited company. This argument has no leg to stand. Raj Travel is nothing but the name in which appellant functions. If we see the letter head of the appellant, Raj Travel is in bold letters and the words "tour Ltd. " is in smaller print. Lastly, Mr. Sharma submitted that the award of damages was on the higher side. That does appear to us some somewhat excessive. The expenses the complainants had to incur which though were included in the tour programme comes to Rs. 20,585 and for the suffering which the complainants underwent, we are of the view that a sum of Rs. 15,000 each would meet the ends of justice. Accordingly, we direct the appellant to pay to the complainants Rs. 11,08,585 from the date of filing of the complaint which is 12. 11. 1992 till payment. There shall be no order as to costs. Appeal disposed of.