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**(1991) 10 NCDRC CK 0021**

**In the National Consumer Disputes Redressal Commission**

SHARADA RUDRA

APPELLANT

Vs

COMMERCIAL MANAGER, AIR INDIA

RESPONDENT

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**Date of Decision :** 28-10-1991

**Acts Referred:**

**Citation :** 1992 3 CPJ 471

**Hon'ble Judges :** R.G.Desai , K.R.Ramaswamy Iyengar J.

**Final Decision :** Complaint dismissed

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**Judgement**

1. THE complainant and her husband purchased tickets for travelling by Air from Bangalore-New York-London-Bombay-Bangalore providing a halt at London on return journey by the plane of the opposite party No. 1 by paying Rs. 12,638/- each. THEy left Bangalore and reached New York on 20.6.1987. Both of them together carried 4 baggages. After seeing their old friends and relatives and giving dance-drama performances at various places in U.S.A., they got their return journey confirmed at Manhattan Office of the opposite party No. 1 on 18.8.1987 for flight No. AI-116 leaving New York on 11.10.87. THEy reached London on 12.10.1987 and they were to leave London on 17.10.1987 by flight No. AI-110. On 13.10.1987 the complainant went to Air India Office at London and got the return journey on 17.10.1987 reconfirmed. After giving dance-drama performance at Bharatiya Vidya Bhavan, at London on 16.10.87, the complainant and her husband went to Heathrow airport at London at 7.30 a.m. on 17th October 1987 to Board AI-110. THE complainant and her husband were ready to check in, but the official of the opponent No. 1 raised objection regarding the weightage of the baggages carried by them and stated that each passenger should carry only 20 kgs. and not two pieces of baggage irrespective of their weight. So the complainant and her husband had to leave behind the baggages of 20 kgs. each and pleaded with the officials to keep the excess baggage which could be picked up later by their friend by name Mr. Yakub who had already left after dropping them at the Air-Port. But the officials of the Air Port were not agreeable to that. THE complainant offered to pay the freight charges on extra luggage in Bombay in Indian currency. That suggestion was also turned down by

the officials of the opponent No. 1. Instead a suggestion was made to them to take the after-noon flight at 2.30 p.m. on the same day and in the meanwhile Mr. Yakub was requested over the phone to pick up the extra baggage. After that, the complainant and her husband were allowed at about 9.30 a.m. to check in their baggages under 20 kgs. limit. THE complainant was allotted Seat No. 19A and her husband was allotted Seat No. 19B for 2.30 p.m. flight. Identification cards and boarding cards were issued to them. Mr. Yakub arrived at the Air Port and collected the extra baggages. When the complainant and her husband were ready to take 2.30 p.m. flight and were about to proceed to complete the immigration formalities, the complainant's husband was called on the public address system and was requested to appear at the Air Port counter of Air-India. When he walked up to the counter, he showed the two boarding tickets and they were snatched by the same officer who earlier had issued them. Without giving any explanation their baggages were checked out and they were asked to report at the Heathrow Air Port of the opposite party No. 1 at 10.00 a.m. on Monday the 19th October 1987 for explanation. Despite repeated requests and pleadings of the complainant to the effect that her husband was a heart patient having high blood pressure, the officials of the opposite party No. 1 at the Air-port were absolutely callous and refused to even respond. THE tickets held by the complainant were to expire on 18-10-1987. THE complainant and her husband were already committed to a programme on 20-10-1987"at Ravindra Natya Mandir, Bombay and any absence on their part would have rendered them liable to pay damages to the organisation concerned. On the morning of 18.10.1987 the complainant went to Air India counter at Heathrow Air Port and requested the duty officer of the opponent No. 1 to provide tickets to them to return to Bombay taking into consideration the incidents of the previous day and the disgraceful conduct of the opposite party No. 1. But their requests were not heeded. So the complainant and her husband had to make alternative arrangements for their return and they returned to Bombay on the early morning of 20-10-1987 by flight No. 178 of Kuwait Airways. THE complainant's husband was a heart patient and could not withstand the humiliating experience and after his return to Bangalore he had to undergo treatment for mental stress. He had to be shifted in the month of February 1988 and he was treated for high blood pressure and subsequently he expired on 4.4.1988. THE complainant's husband was aged 56 years old and his health deteriorated after the humiliating experience at the hands of the officials of the opposite party No. 1 and so his death is directly attributable to the mental stress and anxiety caused by the conduct of the officials of the opposite party No. 1. As their claim for compensation was not considered by opposite party No. 1, the complainant has filed this complaint for the following reliefs:- a) for a direction to opponent No. 1 to pay air fare on Kuwait Airways London Bombay , for the complainant and her husband - Rs. 38,012/- b) direct the opponent No. 1 to pay stay expenses at London on 17th & 18th October 1987 - Rs. 6,800/- c) to direct the opponent No. 1 to pay local travel expenses of - Rs. 3,400/- d) to direct the opponent No. 1 to pay local international phone calls - Rs. 3,400./- e) to direct the opponent No. 1 to pay for

accompanied extra baggage paid to M/s. Mehaboob (Travel & Export Ltd.) - Rs. 12,410/- f) to direct the opponent No. 1 to pay Air fare from Bombay Bangalore - Rs. 856/- g) to direct opponent No. 1 to pay compensation for mental stress and pain, discomfort, un acvenience and anxiety of the complainant and her husband - Rs. 60,000/- h) to pay compensation for premature death of her husband - Rs. 1,00,000/-.

2. NO relief is claimed as against Respondent NO. 2. The complaint is resisted by respondent NO. 1 by contending inter-alia that as the action by filing this complaint is not brought within two ears reckoned from the date on which the carriage stopped, the right, if any, for damages stood extinguished in law and, therefore, the complaint is barred by time. We heard the Learned Counsel for the parties on the question of limitation.

It is not disputed that the ill-treatment of the complainant and her husband at the hands of the officials of the opponent No. 1 was on 17.10.1987 and 18.10.1987. It is also not disputed that the complainant and her husband arrived in Bombay Air-port on 20-10-1987. According to Section 29 of the Carriage by Air Act, 1972, the right of 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. In this case, the complainant and her husband were to arrive at Bombay on 20-10-1987 and they did arrive at Bombay on that day and they gave performance in the Ravindra Natya Mandira, Bombay on that day. So the cause of arose on 20-10-1987. The complaint ought to have been filed within two years i.e., on or before 20-10-1989. But the complaint has been filed on 27.3.1991. It is hard to believe the complainant's version that her husband died on 4.4.1988 due to the harassmt meeted out to him by the officials of the opponent No. 1 on 17.10.1987 and 18.10.1987 especially as it is admitted that the complainant and her husband gave a dance programme in Ravindra Natya Mandira at Bombay on 20-10-1987. Hence, this complaint for damages on account of the harassmt meeted out to the complainant and her husband on 17-10-1987 and 18-10-1987 is clearly barred by lime. In that view of the matter, it is unnecessary for us to go into other contentions.

3. IN the result, the complaint is dismissed. However, opponent No. 1 may consider the question of refunding the fare paid by the complainant and her husband for their travel from London to Bombay on humanitarian ground although it is time barred, if it is otherwise refundable. Parties to bear their own costs. Complaint dismissed.