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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% ***Date of Decision: 21st October, 2024***

+ CM(M) 3649/2024 & CAV 519/2024 & CM APPL. 61469-61470/2024

ETHIOPIAN AIRLINES

.....Petitioner

Through: Mr. Anil K. Kher, Senior Advocate
with Mr. Kunal Kher and Mr. Ankur
Gosain, Advocates

versus

NITIN DEWAN

.....Respondent

Through: Mr. Rajat Bhalla, Advocate

CORAM:

HON'BLE MR. JUSTICE MANOJ JAIN

J U D G M E N T (oral)

CM APPL. 61470/2024 (exemption)

Exemption allowed, subject to all just exceptions.

CM(M) 3649/2024, CAV 519/2024 & CM APPL. 61469/2024

1. Respondent Mr. Nitin Dewan, a Non-Resident Indian (NRI), had booked a ticket in *business-class* with the petitioner airlines i.e. Ethiopian Airlines for travel from Nigeria to India by a non-stop flight on 02.06.2012. When he landed in Delhi, he learnt that his one of the bags, which was containing important documents and other expensive belongings, was missing. He lodged a complaint with the airlines but did not receive any concrete reply.

2. Admittedly, the airlines had, initially, offered some amount towards loss of baggage but feeling dissatisfied, a complaint was filed before the learned *State Consumer Disputes Redressal Commission, Delhi*.



3. Learned State Consumer Disputes Redressal Commission, Delhi, vide order dated 03.12.2018 came to conclusion that there was negligence on the part of said airlines and directed them to pay a total sum of Rs. 5.50 lacs to the complainant within 45 days.
4. Feeling aggrieved, Ethiopian Airlines filed appeal before the learned National Consumer Disputes Redressal Commission (in short '*NCDRC*').
5. Such appeal was registered as First Appeal No. 867/2019.
6. Said appeal was accompanied with an application seeking condonation of delay but fact remains that after six years of filing of said appeal, the appeal has been dismissed, merely on the ground of limitation.
7. Admittedly, there is delay of more than 50 days in filing the appeal and according to airlines, delay had taken place as the office of counsel of the airlines was being shifted.
8. When the aforesaid appeal was taken up by the learned NCDRC on 15.05.2019, it stayed the operation of the impugned order while also directing the airlines to deposit the entire decretal amount. Such amount has already been deposited.
9. Mr. Rajat Bhalla, learned counsel for respondent/caveator Mr. Nitin Dewan appears on advance notice and states that for the alleged deficiency of service which took place in the year 2012, the complainant has not got anything so far.
10. Learned counsel for respondent also submits that in order to put quietus over the matter, he would have no objection if the complainant is merely awarded half of such amount. It is submitted that he would not claim anything beyond said amount. It is, however, stated that such statement is otherwise without prejudice to his rights and contentions and merely in order



to close the chapter, for once and all.

11. Mr. Anil K. Kher, learned Senior Counsel for petitioner, on instructions, states that in view of the above, he does not press his present petition anymore and would have no objection if the complainant restricts his claim to half of the decretal amount with accrued interest on said 50% of amount deposited with learned NCDRC and the balance amount with proportionate interest is returned to airlines.

12. The petition is accordingly disposed of in view of the aforesaid statements and let 50% of the said amount i.e. Rs. 2,75,000/- along with accrued interest be released to the complainant Mr. Nitin Dewan towards full and final satisfaction of his claim in the complaint and the balance amount, with interest accrued thereupon, be withdrawn by the petitioner herein i.e. Ethiopian Airlines.

13. This Court acknowledges the excellent efforts made by learned counsel for both the sides in order to amicably resolve the matter. Since the claim stands satisfied in aforesaid terms, execution petition filed if any, would also stand disposed of in the aforesaid terms, once the amount is accordingly withdrawn by both the sides in the aforesaid terms.

(MANOJ JAIN)
JUDGE

OCTOBER 21, 2024/dr