

Case Details

Case Details

National ID	2002 EWCA Civ 587
Member State	United Kingdom
Common Name	Mawdsley v Cosmosair Plc
Decision type	Other
Decision date	18/04/2001
Court	Court of Appeal Civil Division
Subject	
Plaintiff	
Defendant	
Keywords	

Directive Articles

Package Travel Directive, [Article 3, 1](#).

Headnote

1. Describing a hotel as having “lifts (in main building)”, when the restaurant was inaccessible by lift was misleading information in the terms of Regulation 4 of the Package Travel Regulations 1992.

Facts

This case was an appeal by the defendant (Cosmosair plc) from an earlier order made in County Court awarding damages in respect of personal injuries incurred during a holiday supplied by defendant. Claimant had booked a full board package holiday with her husband and their two young children in a hotel described in Cosmosair’s brochure as suitable for children and as having “lifts (in main building)”.

On arrival, it transpired that all routes to the hotel restaurant involved a minimum of 24 steps. Claimant was injured when she fell down a flight of stairs whilst carrying her child in a pushchair to the hotel restaurant. In claiming for damages, she alleged that the statement “lifts (in main building)” was misleading information and a breach of Cosmosair’s duty under the Regulations. In alternatives, she claimed damages for negligent misrepresentation and breach of contract.

Legal issue

Decision

The description “Lifts (in main building)” represents that all levels in the main hotel building can be accessed by lift, and a reader of Cosmosair’s brochure could be expected to take it as such. This was misleading information for the purposes of Regulation 4 of the Regulations, with the result that Cosmos is liable under that Regulation for all consequent damage. Regulation 6 of the Regulations provides that particulars in a travel brochure are implied warranties in the contract, and so Cosmos was also in breach of contract in this respect.

Although the misleading information regarding the lifts in itself does not render the hotel unsuitable for parents with

young children - other photographs in Cosmosair's brochure clearly illustrate stairs leading down to the swimming pool - there was a clear causal connection between Cosmos' misrepresentation that the restaurant could be accessed by lift and the accident which occurred on the stairs.

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Legal Literature

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Result
