

Case Details

Case Details

| | |
|---------------|---|
| National ID | 21/2006 |
| Member State | Malta |
| Common Name | Dorianne u Alex konjugi Mangion vs Mondial Holidays |
| Decision type | Other |
| Decision date | 06/06/2008 |
| Court | Qorti ta' I-Appell (Appellate court) |
| Subject | |
| Plaintiff | |
| Defendant | |
| Keywords | |

Directive Articles

Package Travel Directive, [Article 5, 2](#).

Headnote

The obligation of the organizer to pay damages includes damages for moral sufferings resulting from a hurricane disturbing the voyage.

Facts

Consumers filed a claim before the Consumer Claims Tribunal asking for damages amounting to Lm1200 and for moral damages from defendant company. Consumers contended that they had booked a Caribbean cruise paying Lm600 per person for the cruise. When they arrived at their destination there was a hurricane and consequently they were required to spend four days in places which they considered to be degrading. Consumers also alleged that defendant company knew about the hurricane.

Defendant company contested these claims stating that it did not know of the hurricane beforehand and it was the American authorities who required that consumers stay in the said place for the duration of the hurricane. The Consumer Claims Tribunal observed that consumers certainly were not at fault that their holiday was at least in part cancelled whereas defendant company was claiming that it did not know of the hurricane and therefore should not be held responsible. The Tribunal decided in favour of consumers stating that their version was more credible and awarding Lm300 to each of the consumers (Lm600 in all). Mondial Holidays decided to contest the Tribunal decision before the Court of Appeal contending that this decision was contrary to the principles of natural justice since the reasoning of the Tribunal was contradictory given that the Tribunal did not give any explanation why it decided that the version of consumers was more credible. Defendants also argued that the Tribunal failed to indicate whether the damages awarded were material or moral damages. Consumers in their reply to this appeal argued that it was null since it went contrary to the provisions of article 22(2) of the Consumer Affairs Act in that the contestation that lack of proper motivation by the Tribunal for its decision did not fall under either of the instances in relation to which one can contest a decision of the Tribunal.

Legal issue

The Court of Appeal in its decision referred to two other decisions given in relation to similar cases in the names respectively of Josephine Magro vs Mondial Holidays (Rikors no. 19/06) and George Magro et vs Mondial Holidays (Rikors No. 20/06) both decided by the Court of Appeal on the 28th March 2007.

The Court in examining whether the Tribunal had actually acted contrary to the requisite of observing the principles of natural justice, noted that the Tribunal is at law required to decide cases according to the substantive merits and justice of the case and in accordance with equity. The Court said that though the Tribunal is not bound with the normal procedural rules that bind an ordinary court of law, it is still required to act in accordance with the principles of natural justice. The court noted that the evaluation of facts submitted to the Tribunal is not subject to the Court of Appeal's review unless it results that such evaluation by the Tribunal is not supported by a logical and congruent reasoning. The Court said that in the appeal under examination the reasoning of the Tribunal cannot be considered to be truly logical, the reasoning being contradictory. The Court held that if the Tribunal accepted defendant company's plea that it was not aware of hurricane Frances, then defendant company cannot be held responsible if this irresistible force of nature ruined consumers' vacation. The Court further noted that in such circumstances the statement of the Tribunal that it considered the version of consumers to be credible as lacking any plausible and intelligent explanation to justify the Tribunal's decision in favour of consumers.

The Court further observed that in various jurisdictions a traveller or tourist has the right to seek damages when his holiday is ruined and does not have the full enjoyment of his holiday. The Court said that such damages are of moral nature, noting that such damages must be related to the non-compliance and wrong execution by the tour organiser of his obligations towards the consumer. The Court noted that this did not happen in the case under appeal.

The Court for the above reasons decided in favour of defendant company Mondial Holidays.

Decision

Full Text: [Full Text](#)

Related Cases

No results available

Legal Literature

No results available

Result