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AIRLINE LIABILITY IN CASES OF LOST, DAMAGED AND DELAYED BAGGAGE

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ABSTRACT

India's size and diverse economic activity have made air travel indispensable for many individuals. This research seeks to examine the rights and protection offered to the passengers whose baggage is lost, damaged, or delayed while traveling by air in India. It follows a normative juridical methodology, utilizing secondary sources such as legislation, rules, and judicial decisions, which are subjected to qualitative analysis.

Recently, India's aviation industry has experienced tremendous growth due to increased demand and the involvement of domestic and foreign airlines. The quality of baggage handling is fast becoming one of the main concerns for customers, making airline liabilities in India a topic of considerable interest. The Indian aviation law on airline liability is mainly based on the Carriage by Air Act of 1972, including the rules and regulations of the Montreal Convention of 1999, and directives from the Directorate General of Civil Aviation.

In case the checked baggage is either lost, damaged, or delayed, compensation is payable by the airlines as per the limits stipulated within the legal framework governing such situations, usually in terms of Special Drawing Rights (SDRs) unless a higher value of the baggage has been declared before. However, in the case of unchecked baggage, responsibility may be fixed to an airline only if damage occurs due to the negligence of the airline. Although these are some of the existing legal provisions for compensation, there are many cases where passengers face difficulties.

The present study seeks to examine the efficacy of the existing legal framework governing compensation in India through the identification of certain loopholes within the system.

Keywords

Airline Liability, Baggage Claims, Montreal Convention 1999, Warsaw Convention 1929,

International Air Carriage, Special Drawing Rights (SDR)

INTRODUCTION

In the aviation sector, improper management of luggage has been a major problem that results in financial losses and hassles for passengers. The passenger's itinerary is impacted by this circumstance, which also results in additional expenses and difficulties when acquiring the required things when they cannot be returned. Additionally, airlines are liable for compensation resulting from the incident and pay additional operating expenses. As a result, it is crucial to control airline liability through legislation given the growing trend of air travel.

As one of the biggest countries with diverse cultures and economies, India has experienced a rapid development in its aviation industry due to the country's modernization, urbanization, and globalization. The increase in the number of flights in domestic and international routes has improved the connectivity within the country, yet the quality of the service also became a major concern. One particular problem that has occurred repeatedly is the mishandling of checked luggage.

In the international arena, the Montreal Convention, 1999, and the Warsaw Convention, 1929, outline the rules concerning liability and limit the amount of compensation that may be recovered against the carrier. The Carriage by Air Act, 1972, together with the directives of the Directorate General of Civil Aviation, governs the principles of airline liability in India. These regulations determine the extent of airline liability and provide means for seeking compensation from air carriers for complaints related to their luggage.

However, despite the presence of such legal provisions, travellers have found themselves facing various difficulties while pursuing their claims for compensation. Thus, there is a need to assess the efficiency of the legal framework.

The present research is aimed at examining the legal framework regulating airline liability in India and the measures available to passengers for compensation in situations where their baggage is damaged or delayed.

METHODOLOGY:

This research is a doctrinal research approach, which involves the examination of legal statutes, international convention, and regulatory systems. Major sources comprise multilateral agreements like the Montreal and Warsaw Conventions, in addition to national laws such as the Carriage by Air Act of 1972. Secondary sources include academic articles, legal analyses, court rulings, and case studies. A comparative method is employed to assess the effectiveness of

international and national legal frameworks in tackling airline liability. Moreover, actual occurrences of baggage mishandling are investigated to evaluate the application of legal principles in real-world scenarios.

CONTENT LEGAL GOVERNING AIRLINES LIABILITY LEGAL GOVERNING AIRLINES LIABILITY

International convention in aviation is very important for regulating air travel, passenger rights, holding safety standards, and airlines responsibilities. These create legal structures that are relevant to airlines, airports, and travellers across the globe. Conventions related to the Airlines liability in case of lost, damage and delayed baggage's are Montreal Convention (1999) and Warsaw Convention (1929). These two conventions help to battle the stress faced by the passengers who travelled in the flight due to lose, damage of the baggage's

1. WARSAW CONVENTION (1929)

The Warsaw Convention 1929, formally known as the Convention for the Unification of Certain Rules Relating to International Carriage by Air, was an international treaty that established rules and liability limits for airlines in cases of passenger injury or death, baggage loss, and cargo damage during international air travel. The responsibility of airlines regarding baggage loss, damage, or delay is governed by international agreements, mainly the Warsaw Convention (1929). The Warsaw Convention was the foundation for international agreement to oversee airline liability, establishing standard regulations for air carriers. It has some limitation particularly in terms of compensation limits and burden of proof on passengers. According to the Warsaw Convention, airlines were responsible for lost or damaged checked baggage but restricted to 250 francs per kilogram (approximately \$20 per kg), indicating that even if a passenger's suitcase held valuable items, compensation could only be claimed to its weight instead of its actual worth. For unchecked (carry-on) baggage, airlines were only liable if the passenger could make the proof that the airline was responsible. Similarly, for delayed baggage, passengers needed to prove the airline's negligence in handling their luggage to receive compensation, complicating the process for passengers seeking fair reimbursement. Another notable limitation of the Warsaw system was that liability caps were outdated and did not keep pace with the rising value of personal belongings and travel costs. Additionally, the convention failed to clearly specify rules for delayed baggage, creating complexities in claims. Consequently, passengers frequently incurred financial losses from lost

or delayed luggage without sufficient compensation. The Warsaw Convention continued to be in effect for numerous years but was ultimately regarded as inadequate in safeguarding passenger rights, prompting modifications and the implementation of a more passenger-oriented treaty, the Montreal Convention (1999).

2. MONTREAL CONVENTION (1999)

The Montreal Convention 1999 is strict liability for airlines regarding baggage loss, delay, or damage during international flights. The airline must compensate passengers up to a specified financial limit, irrespective of fault, unless it can prove that all reasonable measures were taken to prevent the issue. Under this convention there are many articles but the articles related to the liability of lost and damages of baggage are article 17,19 of Montreal Convention (1999). Under Article 17 of the Montreal Convention (1999), airlines are responsible for lost, damaged, or destroyed checked luggage, with compensation limited to 1,288 Special Drawing Rights (SDRs) per travellers (approximately \$1,750 USD in 2024). The airline is automatically held accountable unless the luggage was already faulty or improperly packed. However, for unchecked (carry-on) luggage, airlines are only liable if the damage was due to their negligence, such as when a flight attendant accidentally damages a passenger's carry-on baggage. This guarantees that passengers receive compensation for their losses while also safeguarding airlines against excessive claims. For instance, if an airline misplaces a suitcase containing valuable items, the passenger can seek compensation, but the total is limited to 1,288 SDRs, irrespective of the true worth of the lost items. This limitation helps ensure a balance between airline accountability and passenger entitlements.

Under Article 19, airlines are accountable for delayed luggage, allowing passengers to request reimbursement for essential expenses such as clothing, toiletries, or other essentials during the delay, with a maximum limit of 1,288 SDRs. For instance, if a traveller's baggage is late by two days, the airline is required to compensate them for necessary buys made in that timeframe. However, airlines may escape liability if they can prove that they took all reasonable steps to avoid the delay, such as in situations of severe weather or security-related delays that are out of their control. Airlines are not liable in some situations, such as when baggage is defective, not packed correctly, or damaged as a result of security or customs checks. Moreover, there are strict deadlines for making claims: damaged baggage needs to be reported within 7 days, delayed baggage within 21 days, and lost baggage is officially declared as lost after 21 days, enabling passengers to seek compensation. In addition, passengers are required to file a lawsuit within two years from the date the flight arrived (or was due to arrive). These regulations

guarantee that passengers have a reasonable chance to seek compensation while preventing fraudulent or excessive claims against airlines. The Montreal Convention has greatly improved passenger rights compared to previous agreements, offering clearer regulations and increased compensation limits for baggage-related claims in international air travel.

Exceptions to Airline Liability for Baggage Issues Under the Montreal Convention (1999)

While Airlines are generally responsible for the lost, damage and delayed baggage's of the passengers under the Montreal Convention 1999, there are specific situation where they can limit and avoid liabilities.

1. Inadequate Packing

One of the primary reasons that an airline may reject liability is insufficient or poor packing by the passenger. If a suitcase is not packed securely and its contents suffer damage, the airline has the right to deny compensation. For example, if a traveller includes fragile items like glass bottles, electronics, or ceramics in their checked luggage without adequate cushioning and those items break during transport, the airline might not be liable. Passengers are required to take sensible precautions, such as utilizing bubble wrap, protective cases, or durable luggage, to avoid damage. Furthermore, if a suitcase opens up due to being overstuffed or having a defective zipper, the airline could claim that the damage was caused by improper packing rather than mishandling

2. Security-Related Losses

Airports and government conduct strict security examinations on luggage, which may involve screening, opening, and examining bags for disallowed or questionable items. If security staff take possession of an item due to safety guidelines—like sharp instruments, liquids exceeding the permitted amount, or prohibited materials the airline holds no obligation to reimburse the passenger. Moreover, if security officials accidentally harm luggage during inspection, the passenger is required to submit a claim to the appropriate security organization instead of the airline. For instance, if airport security official cuts open a secured suitcase to check its contents and inflicts damage, the airline is not liable for the ensuing loss.

3. Force Majeure

Airlines are not held liable when loss or damage to baggage occurs because of act of God that are outside their control, also referred to as force majeure events. These events may include

natural disasters (like earthquakes, hurricanes, floods), political turmoil (such as wars, terrorism, riots), airport shutdowns, and technical malfunctions that exceed the airline's control. For instance, if an earthquake interferes with airport functions, causing a baggage handling system to fail and resulting in lost luggage, the airline can avoid responsibility by demonstrating that it implemented all reasonable efforts to protect passenger baggage. Similarly, if a war or terrorist incident forces an airline to redirect flights, resulting in baggage being lost, passengers might not have the right to compensation.

DOMESTIC REGULATION ACT

1. *Carriage by Air Act, 1972*

The Carriage by Air Act, 1972 is an important law that controls air travel in India. It explains the responsibility of airlines towards passengers, baggage, and cargo during domestic and international flights. The law was introduced to make Indian aviation rules similar to international standards followed around the world. It also includes principles from important international agreements like the Warsaw Convention and the Montreal Convention.

One of the main purposes of this Act is to protect passengers when problems happen during air travel. After a passenger gives baggage to the airline at check-in, the airline becomes responsible for taking care of it until it is safely returned. If the baggage is lost, damaged, or delayed, the passenger can ask the airline for compensation.

In many cases, airlines compensate passengers based on the weight of the baggage and not according to the actual value of the items inside. This system is followed to maintain fairness and avoid disputes. However, if passengers carry valuable items, they can inform the airline about the higher value of the baggage while checking in. By paying an extra amount, they may receive higher compensation if the baggage is lost or damaged.

The Act also covers situations where baggage is damaged because of careless handling by airline staff. A broken suitcase, damaged lock, or spoiled belongings may give passengers the right to claim compensation. Similarly, delayed baggage can create difficulties for travellers, especially when they need clothes, medicines, or important personal items. In such cases, airlines may have to compensate passengers for reasonable expenses caused by the delay.

Another important point under this law is that passengers must report baggage problems within the time mentioned by the airline rules. Proper documents such as baggage tags, tickets, and complaint receipts are usually required while making a claim.

Overall, the Carriage by Air Act, 1972 helps create a balance between passenger rights and airline responsibilities. It gives legal protection to travellers and encourages airlines to provide

better and more responsible services.

Directorate General of Civil Aviation (DGCA)

The Directorate General of Civil Aviation, commonly known as the DGCA, is the main authority that manages civil aviation in India. It works under the Ministry of Civil Aviation and ensures that airlines follow safety rules and passenger protection guidelines. The DGCA plays an important role in solving issues related to baggage loss, damage, delay, and passenger complaints.

The rules followed by the DGCA are based on international aviation standards and Indian laws such as the Montreal Convention, 1999 and the Carriage by Air Act, 1972. These rules explain how airlines must handle baggage-related problems and the compensation passengers can receive.

When checked-in baggage is lost during travel, the airline has a duty to compensate the passenger. Usually, the compensation amount depends on the weight of the baggage. International rules also fix a maximum limit for compensation using a system called Special Drawing Rights (SDRs). This system helps maintain a common standard for airlines across different countries.

Passengers carrying expensive items can also declare the value of their baggage at the airport before travelling. If they pay an additional fee for this declaration, the airline may provide compensation based on the declared value if the baggage is lost or damaged later.

The DGCA also protects passengers when baggage is delayed. Many travellers face inconvenience when their baggage does not arrive on time. They may need to spend money on clothes, toiletries, medicines, or other necessary items. In such situations, airlines may be required to repay reasonable expenses suffered by passengers because of the delay.

Apart from baggage protection, the DGCA ensures that airlines provide proper customer support. Airlines must respond to passenger complaints within a reasonable time. If passengers are unhappy with the airline's response, they can approach consumer courts or higher authorities for further action.

At the same time, the DGCA also understands that airlines cannot always control every situation. Problems caused by natural disasters, security risks, or emergencies may reduce the airline's responsibility in certain cases.

In conclusion, the DGCA plays an important role in protecting air passengers in India. Its rules help passengers receive fair treatment and compensation while also making airlines more careful and responsible in their services.

Case Studies

1. United Airlines v. Passenger Compensation Case Facts

A passenger traveling with Unites Airlines experienced an issue with their checked baggage.it was either lost, delayed, or damaged. When the passenger asked for the compensation for the lost baggage, the airline refused or provided in sufficient reimbursement, leading to legal action.

Issues:

1. Whether United Airlines was legally responsible for compensation the passengers
2. Whether the passenger was entitled to the full value of their lost baggage only a limited amount as per the convention's guidelines.

Judgement

The Court ruled under The Montreal Convention (1999) the United Airlines must compensate the passenger. According to the convention, the airline's highest responsibility for lost, delayed, or damaged luggage is 1,288 Special Drawing Rights (SDRs), equating to about \$2,080 USD (the precise figure fluctuates with exchange rates). For domestic flights in the U. S, compensation may reach up to \$4,700 USD, in accordance with U. S. Department of Transportation regulations.

Implication: The United Airlines v. Passenger Compensation Case highlights the legal obligation of airlines to reimburse passengers for lost luggage. The decision emphasizes that airlines must comply with compensation limits set by the U. S. Department of Transportation (DOT) for domestic travel (up to \$3,800) and the Montreal Convention for international flights (approximately \$1,750). It also ensures that airlines cannot impose arbitrary limitations, such as refusing compensation based on the length of delay or limiting reimbursements to a specific percentage of the claimed amount. This case strengthens passenger rights by making airlines accountable for luggage mishandling and establishes a legal foundation for future claims. Furthermore, it requires increased clarity in baggage policies, compelling airlines to transparently convey compensation guidelines to passengers. The case highlights the importance for passengers to understand their rights and for airlines to improve luggage tracking systems to prevent legal disputes

2.Indian Airlines Ltd. vs. Prakrithi Shetty case Facts:

In 1992, Prakrithi Shetty flew with Indian Airlines from Bangalore to Bombay, and upon

reaching her destination, her checked luggage was delayed and later discovered to have been tampered with, leading to the loss of precious jewelry and other belongings.

Issue:

The main concern was whether Indian Airlines could be held responsible for the loss of valuables resulting from tampering and theft from checked luggage, and whether their liability limitation clauses would shield them from such losses.

Judgement:

The consumer forums, such as the District Forum and the National Consumer Disputes Redressal Commission, decided in favor of Prakrithi Shetty, finding Indian Airlines at fault for lack of service. The courts concluded that the airline held responsibility for the security of checked baggage and was accountable for the theft incurred due to tampering, irrespective of the increase in baggage weight, and that standard liability limitations did not free them from responsibility for theft committed by their personnel.

Implication:

This case set a precedent making airlines accountable for the security of checked baggage, especially in incidents involving tampering and theft. It emphasizes the necessity for airlines to implement measures to avoid such occurrences and enhances consumer rights by illustrating that airlines cannot escape liability for staff theft through typical liability provisions. It also underscores the vital importance of evidence and quick reporting in baggage loss claims.

Ways that the airlines can control lost, damaged, and delayed baggage in airlines. For Airlines:

To manage lost, damaged, and delayed baggage in airlines, specific measures need to be taken by both airlines and passengers. Airlines should adopt sophisticated baggage tracking technologies, including RFID (Radio Frequency Identification) and GPS tracking, to offer real-time information on baggage location. Baggage handling that relies on AI can further reduce human mistakes.

Effective baggage handling procedures, comprising strict protocols for baggage transfers during layovers and automated sorting, assist in avoiding mishandling. Enhanced coordination between airlines and airports guarantees seamless baggage claims and lessens delays. Airlines should also improve customer service by dispatching immediate notifications regarding

baggage status and simplifying the compensation process through digital claims. Compliance with international standards, such as ICAO and IATA guidelines, and adherence to Montreal Convention policies ensure equitable compensation and responsibility.

For Passengers:

Passengers may also take measures to safeguard their luggage by utilizing smart luggage tags equipped with Bluetooth or GPS tracking, accurately labelling and securing bags, and keeping valuable items such as electronics and documents in their carry-on bags. Arriving early at the airport and checking baggage tags during check-in and layovers can assist in avoiding misrouting.

Furthermore, buying travel insurance offers financial coverage for lost, delayed, or damaged baggage. By integrating technology, effective management, and passenger vigilance, the likelihood of baggage mishandling can be greatly minimized, enhancing overall travel experiences.

Conclusion

Baggage mishandling remains a significant concern for air travellers worldwide. However, international agreements and national regulations provide structured mechanisms to ensure passengers receive fair compensation in cases of lost, delayed, or damaged baggage. The Montreal Convention serves as the foundation for defining airline liability, while domestic legal frameworks enhance passenger protection. Understanding one's rights and adhering to proper claim procedures can significantly improve the likelihood of receiving appropriate compensation. Airlines must also ensure compliance with legal standards to maintain customer confidence and service reliability.

Strengthening regulatory enforcement and increasing passenger awareness will be key to reducing baggage-related disputes in the future

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