



Consumer Claims Tribunal

CCT/21/19/B

Henry Fenech Azzopardi
Vs
Vodafone Malta Ltd

Today, 17 February, 2020

The Tribunal:

Took cognisance of the Notice of Claim filed by Henry Fenech Azzopardi dated 25th February 2019 and the reply file by defendant on 29 March 2019

Examined the documentation filed and heard Claimant give evidence under oath and witness produced.

Took note of the note of submission filed by plaintiff on 16 July 2020

Took note of the note of submission filed by defendant on 19 September 2020

Considered:

That Claimant explained before this Tribunal that he enquired at defendant's offices in Birkirkara to verify whether the Travellers Scheme was applicable to California and Egypt since he intended to travel to both countries. Plaintiff explained that he was informed that the travellers' scheme was applicable and that this had to be applied via a contract with defendant. On the same day he was contacted and informed that the scheme was only applicable to Pre-Paid consequently the contract had been cancelled and his account was topped up by € 100.

Plaintiff noted that in California he had no issues and the scheme was applied at the agreed rate of € 6 per day. On his return, he visited Vodafone's outlet and informed them that this time he would travel to Egypt and topped up with € 80. On his arrival to Egypt and after a phone call he was informed that he was without any credit when according to the Travellers' Scheme he should have been charged at the rate of € 6 per day. Plaintiff was informed that Traveller's Scheme was not applicable to Egypt.



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Plaintiff explained that another person with who he was travelling confirmed that defendant's had informed them that the traveller's scheme was applicable since he was on a contract basis. Plaintiff stated that he was claiming € 1,394 since he was forced to utilise his other 'GO' mobile line when one of his customers had an accident with a firearm in Egypt and thus he was obliged to make telephone calls to Malta.

Raymond Azzopardi testified before the Tribunal who confirmed that he has a Vodafone business contract and that the bill presented Dok HFA 1 was his bill for the period when he travelled on tour with Mr. Fenech Azzopardi. Mr. Azzopardi confirmed that he had called Vodafone to confirm that the Traveller's scheme was applicable in Egypt at the rate of € 6/day and claimed that Vodafone's representative confirmed.

Tribunal Considers:

That plaintiff is requesting the Tribunal to award damages in the amount of € 1, 394 representing GO plc bill for usage by Plaintiff during his trip to Egypt. Plaintiff is claiming that he was assured by defendant that Traveller's Scheme was applicable in Egypt on to discover while in Egypt that this was not the case.

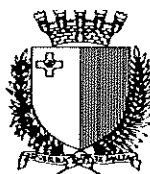
That Vodafone is contesting the claim on basis that the miscommunication with Plaintiff was remedied and that they had refunded his account by € 35.73 and was charged only as if he was using Traveller scheme.

That the Tribunal considers that Mr. Raymond Azzopardi's Bill (Dok HFA1) is irrelevant to the particular case. Plaintiff's argumentation of discrimination between the clients that is that the scheme was applied for Mr. Azzopardi but not in his regards cannot be upheld by this Tribunal. This Tribunal notes that Mr. Azzopardi has a specific business contract with defendant contrary to that of Plaintiff. The Tribunal considers that even the miscommunication whether the Traveller's scheme was applicable to pre-paid and/or contract based cannot be compared to that of Mr. Azzopardi because had plaintiff been on a contract with defendant's his contract would not be identical to Mr. Raymond Azzopardi's business contract.

That having noted the above this Tribunal will now examine whether this misdirection given by Defendant's employees caused damages to Plaintiff. It is being noted that Defendants have admitted fault through miscommunication with Plaintiff. In their reply they note:

"Our response is that whilst Customer was initially given incorrect information at Retail..."

In their note of submission they admit:



"As Agreed whilst there was verbal miscommunication these however were remedied by Vodafone namely by way of refund ..."

That the Defendant company counters' for the damages claimed by Plaintiff through the fact that:

(a) Multiple SMS's were sent directly to Customer these SMS's stated the correct World rates and Traveller website was available at all times including before the Customer left Malta

(b) Customer was also made aware through his daughter that the Traveller plan does not apply in Egypt for prepaid or contract lies and the correct World Rates that apply when roaming in Egypt; and

(c) In any case Customers was refunded € 35.73, thus being charged as if he was using Traveller¹"

That the Tribunal considers that there is no proof in the Acts that defendant sent multiple SMS' to Plaintiff prior to his departure. The Tribunal also notes that whilst the Traveller scheme terms and conditions were available on Defendant's website still Defendant had applied for the scheme upon confirming with Defendant at its retail that the Traveller scheme was applicable to Egypt. Consequently the consumer was expecting a service to be delivered whilst in Egypt which was promised to him by Defendant's employee's themselves.

That Defendant's miscommunication was only rectified when Plaintiff was already in Egypt thus, this Tribunal notes that Plaintiff was unable to remedy his telecommunication situation from Egypt when he had a legitimate expectation that Defendant would deliver the service as they promised to do prior to his departure.

That the refund presented by Defendant of € 35.73 was a voluntary act to remedy the miscommunication between its employees and Plaintiff however from Documents exhibit this refund was not in full and final settlement of all claims which Plaintiff had from this incident.

That this Tribunal cannot uphold Defendant statement that it cannot be held liable for damages suffered by Defendant. This Tribunal considers that at the moment of departure Plaintiff had applied and was re-assured by Defendant that the Traveller Scheme was applicable to Egypt. Plaintiff was assured that he would be able to communicate via his Vodafone line through the Traveller Scheme. It was only when in Egypt that Plaintiff

¹ Vide Defendant's reply



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discovered that the scheme was not applicable in Egypt. Vodafone's misrepresentation is evident through the fact that even Mr. Raymond Azzopardi had been informed that the Traveller's Scheme was applicable in Egypt.

That this Tribunal notes that Plaintiff, whilst in Egypt and after being informed that Traveller Scheme was not applicable in Egypt had no other other means of communication except through the use of his GO line. This Tribunal notes that Defendant's misrepresentation directly caused damages to Plaintiff who at that point had no other alternative but to utilise his other mobile phone.

That this Tribunal considers that the legitimate expectation which Plaintiff had prior to his travels to Egypt was that the Traveller Scheme was applicable in Egypt. This fact has been proved before the Tribunal and admitted by Vodafone itself that there was miscommunication with their client prior to his departure. Defendant's miscommunication directly contributed to the damages suffered by Plaintiff who had no other option but to utilise his alternate line.

That following careful examination of the documents presented and evidence tendered, the Tribunal is convinced that the claimant's claim deserves to be upheld after deducting the refund of € 35.73c which Defendant has already paid to Plaintiff.

Decision

Therefore, for the reasons hereinabove explained, after having seen Chapter 378 of the Laws of Malta as well as the circumstances of the case, the Tribunal decides to partially uphold claimant's claim and condemns Defendant to pay Claimant the sum of one thousand three hundred fifty eight Euro and seventeen cents (€ 1,358.17c)

The Tribunal further orders that Defendant is to pay costs of these proceedings.


Dr. Faul Borg
Arbiter