IN THE DISTRICT COURT OF THE

HONG KONG SPECIAL ADMINISTRATIVE REGION

PERSONAL INJURIES ACTION NO. 145 OF 2001

|  |  |  |
| --- | --- | --- |
| BETWEEN | Stephen Graham Olding | Plaintiff |
|  | And |  |
|  | Singapore Airlines Limited | Defendant |

Coram: H H Judge Carlson

Date of Hearing: 30 May 2002

Date of Ruling: 30 May 2002

Present: Plaintiff in person

Mr N Watkins, of Stevenson, Wong & Co., for the Defendant

R U L I N G

1. In this matter the defendants wish to put in evidence a statement by a flight steward on this particular flight. This steward was assigned to work in the section of the aircraft where the plaintiff and his secretary, Miss Cecilia Choi, were seated. The case of course is that the plaintiff says that he ingested fragments of glass which were in a pineapple juice drink, and that he felt he was ingesting something which was out of the ordinary and then when he looked down at what remained of the drink in its plastic container, he saw that there were fragments of glass at the bottom of the container. He then drew this to the attention of the steward who was working in his section of the aircraft. It is said that Mr Bukkah Seng-koon was that steward.
2. His statement is to the effect that he has no recollection of any passenger making a complaint of this nature, and that had such a complaint been made, he would have immediately had to notify the chief steward who would then be obliged to make a note of the incident in the voyage report. He is informed that there is no reference of such a complaint in the voyage report.
3. That statement is also followed up by one made by the in-flight supervisor on the flight and his name is Chen Kek-Nguang and his short statement is also to the effect that no such complaint was made to him and that had such a complaint been made, he would have been under a duty to record it in the cabin voyage report.
4. The plaintiff requires the attendance of the steward. In the ordinary course of events he would have had to served a counter-notice to require his attendance and the matter could have been considered in good time, certainly before the start of the trial. But I am prepared to excuse this, as I am entitled to, simply because the plaintiff himself is a layman and one ought to give him consideration because of that.
5. What the plaintiff says is that this is a crucial witness. He has a number of questions that he wishes to put to that witness and that it would not be fair to merely let his statement go in and then consider its weight in all the circumstances of the case.
6. I think the plaintiff is right about this. This is a potentially fundamentally important witness and if the defendants wish to rely on his evidence, then they ought to produce him.
7. I bear in mind that of course he is employed by the airline who are an airline who have a number of flights from Singapore into Hong Kong. The trial is now going to go part-heard to 12 June, so they have got about just under two weeks in which to organise his schedule and make him available. And so I am going to say that the defendants will not be entitled to rely on this evidence unless he is made available for cross-examination and I think to do otherwise would not be in the interests of justice in the circumstances of this case.
8. So that is the order I make but I also think that I ought to direct Mr Watkins that you produce a photograph. I mean, if in fact the plaintiff looks at the photograph and says, “Well, this isn’t the man”, then quite clearly the order that I have just made would not bite in the circumstances. But if Mr Olding said, “Yes, this is the fellow”, then the order that I make is the one that is to be effective.

Ian Carlson

District Court Judge