INTERNATIONAL LAW-ACCIDENTS IN INTERNATIONAL AIR TRANSPORTATION-LIMITATION OF LIABILITY

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INTERNATIONAL LAW—Accidents in International Air Transportation—
Limitation of Liability—Plaintiff, known professionally as Jane Froman, sought
damages of one million dollars for injuries received when defendant's transatlantic
plane crashed at Lisbon, Portugal. Before the flight, defendant prepared tickets
for plaintiff and other passengers scheduled to entertain troops overseas and de­
livered them to a USO Camp Shows' employee in charge of arranging transporta­
tion for the group. Plaintiff had not expressly authorized the USO employee to
receive the ticket in her behalf. She was unaware of the plane's exact destination.
Held, a ticket invoking the liability limitations of the Warsaw Convention was
N.E. (2d) 880 (1949).¹

The International Air Transportation Convention signed at Warsaw is the
only treaty limiting liability of air carriers to which the United States is a party.²
When applicable, the treaty overrides local laws denying limitation of the amount
recoverable for accidents occurring in the course of transportation.³ The conven­
tion operates when a passenger ticket is “delivered”⁴ calling for passage in “inter­
national transportation.”⁵ The majority of the court held that the “contract made

¹ Also found in 1949 U.S. Av. REP. 168.
² 49 Stat. L. 3000 et seq. (1934). The text is also found in U.S. TREATY SERIES 876
(1934), 5 HUDSON, INTERNATIONAL LEGISLATION 100 (1936). See, in general, RYHNE,
AVIATION ACCIDENT LAW (1947); GOEDHUIS, NATIONAL AIR LEGISLATIONS AND THE
WARSAW CONVENTION (1937); 4 HACKWORTH, DIGEST OF INTERNATIONAL LAW 369-376 (1942);
ORR, "The Warsaw Convention," 31 VA. L. REV. 423 (1945); KNAUTH, "Some Notes on the
⁴ The convention provides that the carrier may not avail itself of the liability limitations
"if the carrier accepts a passenger without a passenger ticket having been delivered." 49 Stat.
L. 3000 at 3015, art. 3 (1934).
⁵ Id. at 3014, art. 1. For purposes of the convention, international transportation means
"any transportation, in which, according to the contract made by the parties, the place of
departure and the place of destination . . . are situated either within the territories of two of
the High Contracting Parties, or within the territory of a single High Contracting Party if
there is an agreed stopping place within a territory . . . of another power, even though that
power is not a party to this convention." The ticket in the instant case called for carriage from
New York via Lisbon to London. Thus, the ticket itself, qualifies as "international transpor­
tation," even though Portugal is not a party to the convention.
by the parties" was for "international transportation," and the rules limiting liability had automatic impact if the condition of delivery was met. It then decided there was either implied authority to accept delivery of the ticket or issuance of the ticket was ratified by boarding the plane. The dissent pointed out that plaintiff, being unaware of her precise destination, could reasonably have assumed she was going to a place where the convention was inapplicable. Therefore, they reason, a question of fact was presented whether plaintiff authorized another to accept delivery of a "Warsaw ticket." In effect, the dissent would search the intent of each passenger to see if carriage constituting "international transportation" was contemplated. In view of the comprehensive coverage desired by the convention and the technicalities of defining "international transportation," it is doubtful if such an interpretation would coincide with the design of the signatory powers. Criticism of the inadequate amount recoverable should not compel a result contrary to the purpose of the framers. It does not appropriately seem the carrier's concern "what the arrangements were between the passengers and the person who took delivery of the ticket."

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6 Another case involving the same disaster and holding that an identical passenger ticket called for "international transportation" was referred to by the court. Garcia v. Pan American Airways, 295 N.Y. 852, 67 N.E. (2d) 257 (1946), cert. den. 329 U.S. 741, 67 S.Ct. 79 (1946).

7 Discussed in 85 N.E. (2d) 880 at 892 (1949). The dissent also contended there could be no ratification, since plaintiff lacked knowledge of all the material facts.

8 One reason for the broad scope of the convention was to foster the widespread reduction of insurance rates which would follow liability limitation. S.D., ex. G, 73d Cong., 2d sess., p. 3 (1934). "International transportation" has been interpreted broadly by the courts. See Grein v. Imperial Airways, Ltd., 1 K.B. 50 (1937), commented on in 22 Corn. L.Q. 561 (1937).


11 Principal case at 886.