

Date of filing: 23.01.2024
Date of Disposal: 14.06.2024

**BEFORE THE III ADDITIONAL BANGALORE URBAN
DISTRICT CONSUMER DISPUTES REDRESSAL
COMMISSION, BENGALURU – 560 027.**

DATED THIS THE 14th DAY OF JUNE, 2024

CONSUMER COMPLAINT NO.30/2024

PRESENT:

SRI. SHIVARAMA K : PRESIDENT
SRI. CHANDRASHEKAR S NOOLA : MEMBER
SMT. REKHA SAYANNAVAR : MEMBER

Dr. Sonali.R, PT
D/o. Dr.Rudrappa.S
No.202, A Block,
Ramapriya Brundavan Gardenia,
4th Main, 4th Cross, Arehally,
Bengaluru-560061.
(Party In-Person)

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COMPLAINANT

V/s

Manager, Body fit Chairs
No.1, Pooja Plaza, 949,
24th Main Road, Sarakki,
2nd Phase, J.P.Nagar,
Bengaluru-560078.
(Absent)

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OPPOSITE PARTY

// JUDGEMENT //**BY SRI. CHANDRASHEKAR S NOOLA, MEMBER**

The complainant filed this complaint under the Consumer Protection Act 2019. The complainant prays this commission to direct the opposite party to either replace or refund an amount of Rs.30,000/- for the purchase of a body fit foot calf and thigh massager.

The brief facts of the case are as under:

The complainant, Dr.Sonali.R, filed this complaint against the opposite party, Body Fit Chairs. The complainant states that she purchased a body fit foot calf and thigh massager from the opposite party by paying an amount of Rs.30,000/- on 21.11.2023. The complainant states that the massager, when used, hurts the thigh during massaging, creating a scar wound in the area where the massager was used. It compresses the toes with more than the required pressure. As per the opposite party, a sensor is there to monitor the massage area automatically according to the requirement. However, that was not happening, and when the machine is used for more than 20-25 minutes, the massaging becomes very slow, and its efficiency gets reduced. Due to these reasons, the complainant has filed this case in this commission.



2. The opposite party was served notice on 13.02.2024 and remained absent.

3. The points that would arise for consideration are as under:

i) Whether there is deficiency of service on the part of the opposite party?

ii) Whether the complainant is entitle for the relief sought ?

iii) What order?

4. Our findings on the aforesaid points are as follows:

Point No.1:In affirmative

Point No.2:partly in affirmative

Point No.3:As per the final order for the following;

REASONS

5. **POINT NO.1 & 2:-** The point No 1 & 2 are taken together in order to avoid repetition of facts. The complainant authorized her father to file evidence on her behalf, and the authorized person has filed an affidavit and marked the documents from P1 to P5. Upon perusal of the



documents, this commission has observed that the complainant paid Rs.30,000/- (Ex.P2) and purchased a body fit foot calf and thigh massager on 21.11.2023, which has a guarantee of four years of free service and, after five years, an exchange offers for a massage chair. In Ex.P4, the complainant has produced a letter addressed to the opposite party requesting a refund as the product massager was not working properly.

6. The opposite party did not participate in the proceedings of this commission and remained absent. The malfunctioning of the massager, causing pain, improper pressure, and reduced efficiency, constitutes a deficiency in service under Section 2(11) of the Act. The opposite party failed to provide the promised features and functionality of the product. In light of the above discussions, this commission sees there is a deficiency in service by the opposite party.

7. In conclusion, this commission directs the opposite party to either replace the massager with a new one or refund Rs.30,000/- to the complainant. Further, the opposite party is directed to pay Rs.5,000/- towards inconvenience and litigation expenses.

8. **POINT No.3:-** In view of the discussions made above, we proceed to pass the following;



ORDER

This complaint is allowed in part. The opposite party is directed to Replace with a new Body Fit Calf & Thigh Massager or refund an amount of Rs.30,000/- to the complainant. Further, the opposite party is directed to pay a sum of Rs.5,000/- towards compensation, inconvenience and cost of litigation.

2. Failing to comply with the above order within 45 days from the date of this order the opposite party is liable to pay interest of 9% per annum on the above said amount of Rs.35,000/- from the date of order of this commission till realisation.

3. Applications pending, if any, stand disposed of in terms of the aforesaid judgment.

4. Supply free copy of this order to both the parties and return extra copies of the pleading and evidence to the parties.

(Dictated to the Typist to online computer and typed by her and corrected and then pronounced in the open Commission on **14th day of June, 2024**)


14/06/2024. 
(Rekha Sayannavar) (Chandrashekhar S Noola) (SHIVARAMA K)
MEMBER MEMBER PRESIDENT

//ANNEXURE//

Witness examined from the side of complainant:

Dr. Rudrappa.S, the complainant (PW-1).

Documents marked from the side complainant:



1. Notarized GPA is marked as Ex.P1.
2. Xerox copy of Invoice dt.21.11.2023 is marked as Ex.P2.
3. Xerox copy of extract of messages is marked as Ex.P3.
4. Xerox copy of letter from the complainant to opposite party is marked as Ex.P4.
5. Xerox copy of postal track consignment details is marked as Ex.P5.

Witness examined from the side of opposite party:

-Nil-

Documents marked from the side of Opposite Party:

-Nil-


14/06/2024. 
(Rekha Sayannavar) (Chandrashekhar S Noola) (SHIVARAMA K)
MEMBER MEMBER PRESIDENT