

Date of Filing:23.02.2024**Date of Disposal:30.04.2024****BEFORE THE IV ADDL DISTRICT CONSUMER DISPUTES
REDRESSAL COMMISSION BENGALURU****1ST FLOOR, BMTc, B-BLOCK, TTMC BUILDING, K.H ROAD,
SHANTHINAGAR, BENGALURU - 560 027.****PRESENT:-****Hon'ble Sri.Ramachandra M.S., B.A., LL.B., President****Sri H.N.Shrinidhi, B.com, LL.B., Member****Smt.Nandini H Kumbhar, B.A., LL.B., LL.M., Member****ORDER****C.C.No.77/2024****Order dated this the 30th day of April 2024**

Sri Ishan Patel,
S/o Alpaben Kiranbhai Patel,
Aged about 28 years,
R/a No.33, 3rd cross,
Regency park layout,
Nagenahalli,
Bengaluru-560077.
(Smt.Lavanya.A.Udupi, Adv.,)

COMPLAINANT/S**- V/S -**

TVS Motor company Ltd.,
6th floor, 610, Sundaram
Clayton Ltd.,



Suriya Kiran Building, 19 KG Marg, New Delhi-110001 (Ex-parte)	OPPOSITE PARTY/S
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ORDER

SMT.NANDINI.H.KUMBHAR, MEMBER

1. This complaint is filed by the complainant under section 35 of the C.P.Act, 2019 against the OP alleging deficiency of service and direct the OP pay a sum of Rs.50,000/- as compensation mental harassment and sufferings caused to the complainant and such other reliefs.
2. The brief facts of the case is as follows:

This is the case of the complainant that the complainant ordered A TVS Helmet Lock Double-Black, worth of Rs.317/- through OP on-line shopping platform within the TVS connect App and subsequently, 27.12.2023 the complainant received email notification with shipping details for the said order No.12368. The



complainant tracked the shipment by using shipment ID and while tracking the ship an error was encountered indicating the order did not belong to the complainant and then the complainant intimated the issue to OP customer service and unfortunately the complainant was redirected to 2-3 departments, with each department claiming that only the "parts" team handled such requests. The complainant submits that after making repeated attempts OP provided another contact and requested to send a query to email ID and on 05.01.2024 the sent mail detailing the discrepancy and seeking resolution and in the revert mail the OP's support team stated that agent would contact the complainant within 24-48hours, but no such contact has been made and even after multiple efforts the complainant received only automated responses reiterating the same promise of contact within 24-48 hours. Due to the act of the OP, the complainant with no choice, got issued legal notice on 22.01.2024 and



even after issue of notice on 23.01.2024 the OP have refunded Rs.317/-. Aggrieved by the act of the OP, the complainant was forced to initiate present complaint seeking relief as prayed in the complaint.

3. Notice to the OP duly served, OP remained absent and they have been placed ex-parte.
4. Complainant filed chief examination affidavit along with relevant documents in support of their contentions.
5. Heard arguments and matter is reserved for orders.
6. The points that arise for our consideration are;
 - 1) **Whether the Complainant prove that there is deficiency of service on the part of the OP as alleged in the complaint and thereby prove that he is entitled for the relief sought?**
 - 2) **What order?**

7. The findings on the above points are as under:

- Point No.1** : **Partly Affirmative**
Point No.2 : **As per final order.**



REASONS

8. **POINT NO.1:-** The complainant filed chief examination affidavit by re-iterating the complaint averments and also produced relevant documents, which are mainly the details of shipping of the order and the copy of order invoice dt.25.12.2023 and also email communications of the complainant with OP. The grievance of the complainant with all details before the OP with order of a TVS Helmet Lock-Double, black worth of Rs.317/- through OP's on-line platform. However, the complainant received a email from the OP giving him a delivery shipment ID. Upon attempting to track the shipment using the tracking number, an error was encounter indicating that, the order did not belongs to the complainant and the same was reported to OP's customer care service and despite of redirected and after persistent efforts the complainant also sent legal notice dt.22.01.2024, subsequently the OP has refunded a sum



of Rs.317/-, but the act of the OP in not delivering the said product.

9. From the series of correspondences between the complainant and the OP, it becomes ample clear that the act of the OP's are completely unprofessional and malafide nature. Such action of the OP has put the complainant too much strain and stress both physically and mentally, for which the complainant maintained present complaint seeking for compensation with other reliefs.

10. Under these circumstance, the commission is of the clear finding that despite of receiving the amount for said product, OP has failed to provide satisfactory and quick response to its customer/complainant. Apart from this, OP has purposefully delayed to deliver the said product giving lame reason that there is error was encounter indicating that the order did not belong to the complainant and refunded a sum of Rs.317/- for non-

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delivery of product. This commission holds that the OP is responsible for both counts of unfair trade practice and deficiency in service for not providing the said product as ordered by the complainant.

11. In the absence of the OP and not chosen to contest the matter by participating in the proceedings of the complaint is fatal to the case on hand. Their absence in the complaint and not filing version and affidavit is a clear admission from their side that, whatever the complaint allegations are as against OP is to be held as proved fact.

12. Under these circumstances, the commission comes to the conclusion that the OP is squarely to be blamed for the inconvenience, physically suffering and mental agony to the complainant. For which the OP is held liable for deficiency in service to the complainant. Accordingly, we answer **Point No.1** in **partly in Affirmative**.



13. **POINT NO.2:-** In the result, for the forgoing reasons, we passed the following:

ORDER

1. The complaint hereby allowed in part.
2. The OP is directed pay a sum of Rs.2,000/- as compensation to the complainant for deficiency in service along with Rs.2,000/- towards cost of litigation.
3. The OP is directed to comply this order within 45 days from the date of this order
4. Furnish free copy of this order to both the parties.

(Dictated to the Stenographer, got it transcribed, typed by him and corrected by me, then pronounced in the Open Commission on 30th April 2024)


(RAMACHANDRA M.S.)
PRESIDENT


(NANDINI H KUMBHAR)
MEMBER


(SHRINIDHI.H.N)
MEMBER

Witness examined on behalf of the complainant by way of affidavit:

Sri Ishan Patel- Who being the complainant.

Documents produced by the complainant:

1	C1: Copy of Rental Agreement dt.06.02.2014
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2	C2: Copy of Aadhar Card
3	C3: Copy of Invoice dt.25.12.2023
4	C4: Copy of email dt.27.12.2023
5	C5: Copy of Phone call history
6	C6: Copy of email communications
7	C7: Copy of Legal notice dt.22.01.2024
8	C8: Copy of email dt.23.01.2024

Witness examined on behalf of the OP way of affidavit: Nil

Documents produced by the OP: Nil


(RAMACHANDRA M.S.)
PRESIDENT


(NANDINI H KUMBHAR)
MEMBER


(SHRINIDHI.H.N)
MEMBER

SKA*

