

**Distt Consumer Disputes Redressal Commission
Ladowali Road, District Administrative Complex,
2nd Floor, Room No - 217
JALANDHAR
(PUNJAB)**

**Complaint Case No. CC/481/2023
(Date of Filing : 07 Dec 2023)**

1. Twinkle D/o Sh. Sanjay Bisht
H.No. 112-A, Ekta Nagar, P.O. Chugitti, Jalandhar
jalandhar
PUNJAB

.....Complainant(s)

Versus

1. Fashion Insta by Shanaya(Clothig Brand)
New Majitha House Colony, 34-A, Rani Ka Bagh, Amritsar

.....Opp.Party(s)

BEFORE:

**Harveen Bhardwaj PRESIDENT
Jyotsna MEMBER
Jaswant Singh Dhillon MEMBER**

PRESENT: Sh. Sumit Verma, Adv. Counsel for the Complainant.
OP exparte.

.....for the Complainant
.....for the Opp. Party

Dated : 27 Jun 2024

**Final Order / Judgement
BEFORE THE DISTRICT CONSUMER DISPUTES
REDRESSAL COMMISSION, JALANDHAR.**

Complaint No.481 of 2023

Date of Instt. 07.12.2023

Date of Decision: 27.06.2024

Twinkle D/o Sh. Sanjay Bisht, R/o H. No.112-A, Ekta Nagar, PO Chugitti, Tehsil & Distt.
Jalandhar (Pb.)

.....Complainant

Versus

Fashion Insta By Shanaya (clothing brand), New Majitha House Colony, 34-A, Rani-Ka-Bagh,
Amritsar (Pb.)/through its Proprietor/Manager/Dealing Manager.

Complaint Under the Consumer Protection Act.

Before: Dr. Harveen Bhardwaj (President)
Smt. Jyotsna (Member)
Sh. Jaswant Singh Dhillon (Member)

Present: Sh. Sumit Verma, Adv. Counsel for the Complainant.
OP exparte.

Order

Jaswant Singh Dhillon (Member)

1. The instant complaint has been filed by the complainant, wherein it is alleged that the OP have an Instagram page under the name and style "*Fashion_insta_by_shanaya*" and deals in clothing wear i.e. for women. On 15.09.2023, the complainant approached the OP to purchase a women shirt/top-wear and asked OP for its price and the OP also replied for the same for the sum of Rs.900/-, in which complainant agreed to buy it on 16.09.2023. After the confirmation of purchase the article, complainant also took assurance from OP that the product will be of premium quality and OP also agreed for the same that the product is of imported quality. Allured from the benefits given by OP, the complainant believing on the sweet words and assurance given by OP, complainant agreed to buy article/product. Thereafter, complainant asked for the payment link to buy the product, in which OP send their QR code and Complainant paid the same through Paytm the sum of Rs.900/-. After the completion of the payment, OP also assured Complainant that the product will be delivered within 5 to 6 days, but the OP on that day showed their negligence towards Complainant. Then Complainant sent a text messages to OP's instagram on 25.09.2023 for verification of her article. On 26.09.2023, complainant received the said product. On 28.09.2023 when Complainant opened the above said parcel, she got surprised to see her article that article was defective i.e. only three buttons on the top-wear/ having chewing gum stick on shirt/rough defect on side/missing buttons, in which depicts the casual behavior of opposite party towards the quality of their product on OP part. The original defective shirt is also under the custody of complainant, if the Commission required, the complainant can produce the same. The complainant also text on OP's instagram ID on the same day, but OP neither replied, but keep on seeing the messages of complainant nor OP picked up complainant's call. Due to this incident complainant suffered great disappointment, mental tension and harassment which OP gave to complainant, because the complainant had purchased the said product with her hard earned. The complainant sent a legal notice dated 10.10.2023, but all in vain and as such, the present complaint filed with the prayer that the complaint of the complainant may kindly be accepted and OP be directed to give the full and final payment of the above said product i.e. 900/- (+) Pay Rs.1,00,000/- as compensation for Mental Tension, Pain,

Agony, Inconvenience for committing unfair trade practice and harassment caused and suffered by the complainant at the hands of OP, which is just and reasonable from the claim amount. Further, OP be directed to pay Rs.50,000/- as litigation expenses.

2. Notice of the complaint was given to the OP, who appeared through its counsel, but failed to file POA as well as Written Statement and ultimately, the OP was proceeded against *exparte*.

3. In order to prove his respective version, the counsel for the complainant has produced on the file his respective evidence.

4. We have heard the learned counsel for the complainant and have also gone through the case file very minutely.

5. The case of the complainant is that on 16.09.2023, the complainant has purchased a women shirt/top-wear, which is evident from Ex.C-2 and paid a sum of Rs.900/-, through Paytm, which is evident from Ex.C-4. The complainant has alleged that after completion of the payment, the OP assured that the product will be delivered within 5-6 days, but the same was not delivered. The complainant sent a text message to OP's instagram on 25.09.2023 for verification, which is evident from Ex.C-5. The product was received on 26.09.2023, but the same was defective as only three buttons on the top-wear/having chewing gum stick on shirt/rough defect on side/missing buttons. Photographs of the defective product are Ex.C-6 to Ex.C-9. The complainant sent a text message on OP's instagram ID on the same day, but the OP neither replied nor picked her call. The complainant sent a legal notice on 10.10.2023, but all in vain. Request has been made to allow the complaint.

6. On the other hand, the OP has not come to contest the case. So, the version of the complainant remained un-rebutted and un-challenged, even then the same is required to glance very deeply. The allegation of the complainant is supported by his own affidavit Ex.CW1/A and supported documents Ex.C-1 to Ex.C-17.

7. By going through the contents of the complaint as well as evidence led by the complainant very minutely, we have come to the conclusion that the product/article sent by the OP to the complainant is defective one and the same has been proved from the photographs. The complainant sent message on OP's instagram ID and made call, but the OP neither replied nor picked the call, which is a clear cut deficiency in service and negligence on his part. The OP also failed to appear in the Commission to contest the case. So, from all the angles, it is proved that there is a deficiency in service and unfair trade practice on the part of the OP and thus, the complaint of the complainant is partly allowed and OP is directed to refund the payment of Rs.900/- with interest @ 6% per annum from the date of payment till its realization. Further, OP is directed to pay a compensation of Rs.10,000/- for causing mental tension and harassment to the complainant and Rs.5000/- as litigation expenses. The complainant is directed to return the defective product/article to the OP at the time of receiving the award amount from the OP. The entire compliance be made within 45 days from the date of receipt of the copy of order. This complaint could not be decided within stipulated time frame due to rush of work.

8. Copies of the order be supplied to the parties free of cost, as per Rules. File be indexed and consigned to the record room.

Dated	Jaswant Singh Dhillon	Jyotsna	Dr. Harveen Bhardwaj
27.06.2024	Member	Member	President

[Harveen Bhardwaj]
PRESIDENT

[Jyotsna]
MEMBER

[Jaswant Singh Dhillon]
MEMBER