

BEFORE THE DISTRICT CONSUMER DISPUTES REDRESSAL FORUM, AMBALA.

Complaint case no. : 299 of 2023

Date of Institution : 22.09.2023

Date of decision : 20.03.2024

Shri Dhruv Anand son of Sh. Sanjay Anand, resident of H.No.190, Defence Colony Sector D, Ambala Cantt, Ambala, Haryana-133001.

..... Complainant.

Versus

Pizza Wings, Through its Manager, Nicholson Road, Ambala Cantt. Haryana.

..... Opposite Party.

Before: Smt. Neena Sandhu, President.

Smt. Ruby Sharma, Member,

Shri Vinod Kumar Sharma, Member.

Present: Shri Gaurav Yadav, Advocate, counsel for the complainant

OP already ex parte vide order dated 15.11.2023

ORDER: SHRI VINOD KUMAR SHARMA, MEMBER.

Complainant has filed this complaint under Section 35 of the Consumer Protection Act, 2019 (hereinafter referred to as 'the Act') against the Opposite Party (hereinafter referred to as 'OP') praying for issuance of following directions to it:-

- i. To pay Rs.2,51,000/- as compensation for the mental agony and physical harassment suffered by him.
- ii. To pay Rs.30,000/- as litigation expenses
- iii. Grant any other relief which this Hon'ble Commission may deem fit.

Brief facts of the case are that on 09.08.2023 the complainant placed order to the OP of Paneer Korma Roll through Zomato (order I.D No.5089208) for Rs.229/- which was delivered by the Zomato Delivery Boy. It is difficult for the consumer to figure out that roll is made up of Paneer or something else and in consequences

of which and having faith in respondent, the complainant ate few bites of such ordered Roll without any inspection and later after few bites, the complainant realized that the said roll is not made up of Paneer rather it is made up of Chicken which disturbed the mental stage of complainant and destroyed the religious faith of the complainant because of negligence of OP. After finding out said ordered Roll is made up of chicken the complainant approached the OP through E-mail. In response to said E-mail the OP accepted that OP prepared such Chicken roll instead of ordered food and accepted its negligence of their employee that he had not read ordered food item sincerely. Because of negligence of the employee of OP, the faith of the complainant had totally destroyed as he never eaten non-veg food in his life and his mental peace has also been disturbed and sin had been levied upon him. The sentiments of the complainant have been deeply hurt and has regrets over himself for consuming chicken which he cannot even think to eat even in his dreams. The complainant also served legal notice upon the OP. This act of negligence of OP has caused harm to his religious sentiments and the complainant sought compensation of Rs.2,50,000/- on account of deficiency in service on the part of OP. caused a breach of trust, which amounts to deficiency in service. Hence, the present complaint.

3. Upon notice, none has appeared on behalf of the OP before this Commission, therefore, it was proceeded against ex-parte vide order dated 15.11.2023.

4. Learned counsel for the complainant tendered affidavit of complainant as Annexure CW1/A alongwith documents as Annexure C-1 to C-10 and closed the evidence on behalf of the complainant.

5. We have heard the learned counsel for the complainant and have also carefully gone through the case file.

6. Learned counsel for the complainant has argued that on 09.08.2023 complainant approached the OP for placing an order of Paneer Korma Roll of Rs.229/- through Zomato (Order Id No.5089208141) vide Annexure C-1 and Tax Invoice Annexure C-2. From the perusal of documents i.e. Annexure C-3 to C-6, it is evident that the OP has delivered chicken roll instead of Paneer Korma Roll, to the complainant. This act of negligence of OP caused mental harassment and destroyed his long life faith in Lord Krishan. However, OP has not contested the complaint and was proceeded against ex-parte, therefore, the contents enumerated in the complaint remained un-rebutted and thus, we have no other option, except to believe the version as well as documents submitted by the complainant, which are duly supported by affidavit. Since, the OP failed to deliver the Paneer Korma Roll to the complainant, therefore, OP is not only liable to compensate the complainant for the mental agony and physical harassment suffered by the complainant.

7. In view of the aforesaid discussion, we hereby allow the present complaint and direct the OP to pay lumpsum compensation and cost of litigation to the tune of Rs.5,000/- to the complainant within a period of 45 days from the date of receipt of the certified copy of the order, failing which it shall be liable to pay the said amount alongwith interest @8% p.a. from the date of default, till realization. Certified copies of the order be sent to the parties concerned as per rules. File be annexed and consigned to the record room.

Announced on:20.03.2024.

(Vinod Kumar Sharma)

Member

(Ruby Sharma)

Member

(Neena Sandhu)

President