

CC.No.248/2023
Disposal Date:19.06.2024

Date of Filing:31.08.2023

Date of Order:19.06.2024

**BEFORE THE BANGALORE I ADDITIONAL DISTRICT
CONSUMER DISPUTES REDRESSAL COMMISSION**

SHANTHINAGAR BANGALORE - 27.

CONSUMER COMPLAINT NO. 248/2023

DATED ON THIS THE 19th JUNE 2024

PRESENT

Sri.B. Narayanappa, M.A., LL.B. - PRESIDENT

Smt.Jyothi N, B.A, LL.B. L.L.M. MEMBER

Smt.Sharavathi S.M, B.A, LL.B., MEMBER

COMPLAINANT :

**Mrs. Tahara,
W/o. Ameerjan,
Aged about 56 years,
R/at: # 801, 7th Main Road,
Rajendranagar,
Kormangala 2nd Stage,
Bengaluru - 560 047**

Adv: Vaseemuddin

Vs

**OPPOSITE PARTY No. 1 M/s Udupi Garden Restaurant,
(Represented by its owner),
Mr. Sudhakar**

Adv: Rawley Muddappa

**OPPOSITE PARTY No. 2 The Manager,
M/s Udupi Garden Restaurant**

**OPPOSITE PARTY No. 3 The Cashier/Waiter,
M/s Udupi Garden Restaurant.**

*Jyothi-N
19/6/24*

All Opposite parties are at
Office address:
No.26/3A, NH-48, Nelamangala,
Bengaluru Rural - 562123

Exparte

Nature of complaint	Deficiency in service
Date of filing of complaint	31.08.2023
Date of Issue notice	06.09.2023
Date of Order	19.06.2024
Duration of Proceeding	09 Months 20 Days

ORDERS PASSED BY SMT. JYOTHI. N. MEMBER

1. This is the complaint filed by the complainant against the OP (herein referred to as OP) under Section 35 of the Consumer Protection Act, 2019 for the deficiency of service and prays to direct OP to compensate a sum of Rs.5,00,000/- to the complainant and grant such other reliefs as this Commission deems fit to grant under the facts and circumstances of this case.

BRIEF FACTS OF THE CASE:

2. The complainant states that on 30.07.2022, the complainant availed services of M/s Udupi Garden Restaurant, while travelling through NH-48 on the way to Hassan for a family trip. Then the complainant availed services of OPs along with her family by eating breakfast at around 9 am in the morning in M/s Udupi Garden Restaurant.

Jyothi N
19/6/24

3. It is further states that, the complainant and her family had an utter disappointment after getting the food as the food was very cold and not fresh and no taste at all and after giving special instructions also for hot food it was served cold. Hence, OPs broke the promise and the trust, after repeated request from the complainant there was no response from the waiters and cashiers and said there is no hot food available that too in a Rude Manner.
4. The complainant is a high blood pressure patient and on medication for this and due to this incident complainant didn't had her food nor her medicines and whole day complainant suffered from high blood pressure and all the family trip was ruined as complainant health was damaged for all this OPs are responsible.
5. It is further states that the complainant issued a legal notice on 17.09.2022 to the OPs and the same was served on 28.09.2022. Although the notices were served, the OPs have neither paid compensation nor replied. Hence, compelled the complainant to approach this Hon'ble Commission for redressal of his grievance and compensation. This Hon'ble Commission is having

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19/6/24

territorial jurisdiction as well as pecuniary jurisdiction to adjudicate this dispute. Hence, this complaint.

6. After registration of this complaint, notice was ordered to be issued to OP. In spite of service of notice upon OP, OP does not turn up. Hence, OP was placed, *ex parte*.

7. The complainant has filed his affidavit by way of examination in chief, the same was taken as PW-1 and got marked EX.P-1 to Ex.P-2. Complainant counsel has filed written arguments.

8. The point that would arise for our consideration are as under:-

1. **Whether the complainant proves that the alleged deficiency in service on the part of the opposite parties?**
2. **Whether the complainant is entitled to the reliefs as sought for?**
3. **What order?**

21. Our finding on the aforesaid points are as follows:

Point No. 1: In the Affirmative.

Point No. 2: Partly in Affirmative.

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

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19/6/24*

::REASONS::

22. Point No. 1 and 2:- Both the points inter related hence, both the points are taken for common discussion.

23. On perusal of pleadings and complaint the facts are the complainant and her family were travelling on NH-48 on the way to Hassan for a family trip in the middle of the way that on seeing the advertisement given by Udupi Garden Restaurant they went to OP's restaurant to have breakfast and order for supply for breakfast, the breakfast supplied by the OP was not fresh and no taste and also not provided a hot food. The complainant was not satisfied with the food supply by OP. Since, the complainant was a BP patient after having breakfast at OP's restaurant the complainant suffered uncontrollable BP and stress. The complainant issued legal notice to OP on 17.09.2022.

24. Perused the complaint and affidavit evidence and documents produced by the complainant which remained unchallenged. Hence, there is no reason to disbelieve the evidence and documents submitted by the complainant. In this case as we have stated above OP did not appear to contest the claim of the complainant by way of filing the version. Hence, placed exparte. Under such circumstances, non-appearance and non-filing of version can be drawn an

Jyothe M
19/6/24

adverse inference that the OP has admitted the claim of the complainant in light of decision reported in 2018 (I) CPR 314 (NC) in the case of M/s. Single Builders and Promoters Ltd., Amarn Kumar Garg. Wherein it is held that

**“Non-filing of written
Statement complaint before the
Forum, amount to admission of
The allegation leveled against
Him in consumer complaint”.**

25. Anyhow, we place relevance on available material on records, the complainant and his family had breakfast on 30.07.2022 and they paying the bill of Rs.425/-, as per Ex.P1 but it was tasteless and was not served hot and even it was not fresh. The complainant availed service of Udupi Garden Restaurant was utterly disappointed after getting the food as the food was very cold and not fresh and also tasteless the complainant requested the OP to serve hot food by repeatedly requesting the OP there was no response from the waiters and cashier and said there is no hot food available that to in a rude manner.

26. Due to the incident the complainant did not have food and medicine and the whole day complainant suffered from the high BP and all the family trip was ruined as complainant health was damaged for all this OP's behavior and service. The OP is a service provider and the

Jyoti
19/6/24

complainant and her family was the consumer. Therefore, the OP has not provided with the proper service to the complainant and her family it amounts to deficiency of service on the part of OP. The OP is liable to pay the compensation of Rs.5,000/- to the complainant for the deficiency of service and also for the complainant and suffered from High blood pressure and ruined the complainant health was damaged by the OP. **Hence, we answer the Point No.1 and 2 in the affirmative.**

27. **Point No.3** : For the aforesaid reasons, we proceed to pass the following;

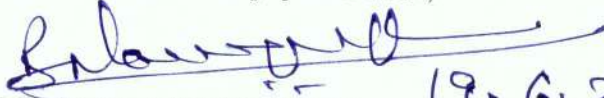
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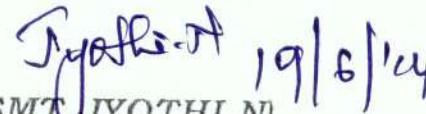
1. **The complaint is allowed in part with cost.**
2. **The OP is directed to pay the compensation of Rs.5,000/- to the complainant for the deficiency of service and also for the complainant and suffered from High blood pressure and ruined the complainant health was damaged by the OP along with the interest of at the rate of 9% till the date of realization.**
3. **OP is also directed to pay the sum of Rs.2,000/- towards litigation expenses also within two months from the date of this order, failing which the said amount carries interest at 9% p.a. till payment.**

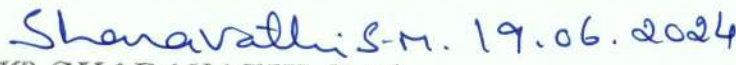
Jyothi M
19/6/24

4. Send a copy of this order to both parties free of cost.

(Dictated to the Stenographer transcribed, typed by his, corrected by us and then pronounced in Open Commission on this the 19th day of June 2024)


(SRI. B NARAYANAPPA) 19.6.2024
PRESIDENT


(SMT. JYOTHI.N) 19/6/24
MEMBER


(SMT. SHARAVATHI.S.M) 19.06.2024
MEMBER