

**BEFORE THE DISTRICT CONSUMER DISPUTES REDRESSAL  
COMMISSION, SOUTH MUMBAI  
Puravatha Bhavan, 1<sup>st</sup> Floor, General Nagesh Marg, Near Mahatma  
Gandhi Hospital, Opp. M.D. College, Parel,  
Mumbai – 400 012.**

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Consumer Complaint No:124/2023

Date of Filing : 17/08/2023

Date of Order: 04/04/2024

**SHAHIN RAIYAAN JOGADIYA,**

Garib Nawaz Building,  
J.B.Shah Marg,Khadak,  
Mumbai,Maharashtra.400009.

**.....Complainant.**

**V/S**

**VLCC HEALTH CARE LTD.**

NKM International House,  
Backbay Hall, Nariman Point,  
Mumbai.Maharashtra.400020.

**.....Opposite Party.**

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**BEFORE: HON'BLE INCHARGE PRESIDENT SHRI.P. G. KADU.  
HON'BLE MEMBER SMT. S. A. PETKAR.  
HON'BLE MEMBER SMT. G. M. KAPSE.**

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**ADVOCATE ON RECORD:**

Complainant In-person.  
For Opposite Party: Ex-parte.

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**J U D G M E N T**  
**(Decided on:-04/04/2024)**

**HON'BLE MEMBER SMT. S. A. PETKAR.**

- 1) This complaint under section 35(1)(a) of the Consumer Protection Act 2019 is filed by complainant named above alleging deficiency in service on the part of the Opposite Party. The complaint of Complainant is as under:-
- 2) The complainant had taken a treatment from the opposite party for her **Laser Hair Reduction** on 22/12/2022, for the treatment

the complainant had paid of Rs 17,700/- vide Bill No.MUM0223P00000532,ClientID:CLMC/22/180000000199.

- 3) During 3rd session of the treatment the laser radiation was so high that it has burnt the complainant whole chin and because of that all water bubble came out on the complainant chin and it was very dangerous and painful to the complainant.
- 4) The complainant contacted to the respondent several times for refund, but the respondent informed to the complainant every time to take another service but after this treatment the complainant was not interested to avail any further treatment from the Opposite party that for the Opposite party's treatment the complainant had faced so much pain and mental harassment also. Therefore the complainant instructed the respondent to initiate the full refund to the complainant as soon as possible that several times the complainant had contacted the respondent regarding the refund of the amount though till date there is no proper response or vivid resolution from the opposite party.
- 5) As per that the opponent have done unfair trade practice with complainant intentionally harassed to the complainant by way of unfair trade practice as well as deficient in service.
- 6) In the circumstances aforesaid, the Complainant left with no other alternate and efficacious remedy, than to approach this Hon'ble Commission. Therefore present complaint filed and prayed the Opposite Party be directed:-
  - a) To pay Compensation of Rs.50,000/- to the complainant.
  - b) To pay the Legal Expenses to the complainant.
  - c) Any other order and/or direction be given as the nature and circumstances of the case may require in the spirit of justice, equity and good conscience
- 7) The complainant has filed a attested copy of documents as per a list of document of the complaint at the page no 10.
- 8) After the complaint was admitted, a notice was issued by Commission to the opposite party. Though notice duly served upon opposite party, remain absent. Hence Ex-parte order

passed and matter preceded Ex-parte against the Opposite party.

- 9) In order to prove her side the complainant has filed documents in the form of affidavit of evidence. Heard oral argument of the complainant.
- 10) In the light of averment, evidence, of the complainant, following points arise for consideration. We have recorded our finding thereon for the reason stated below.

<b>Sr.No.</b>	<b>POINTS</b>	<b>FINDINGS</b>
1.	Whether the complainant is consumer of opposite party and this is consumer dispute?	...Yes.....
2.	Whether the complainant has proved that the opposite party has given deficient service and used Unfair trade practice to the complainant?	...Yes...
3.	Whether the complainant is entitled for relief sought?	...Yes.....
4.	What Order?	As per Final Order.

### **REASON FOR FINDINGS**

#### **POINT NO-1**

- 11) Heard oral argument of complainant, perused documents on record.
- 12) The opposite party remain absent in the proceeding hence evidence produce against him remain unchallenged.
- 13) The complainant had started treatment for Laser hair reduction from the opposite party for that purpose she paid rupees 17,700/- to the opposite party as a consideration amount

the invoice receipt regarding the same is at page number 11 of the complaint. As per that there exist relations between both as a consumer and service provider. As the complainant taken two sittings and at the time of 3 rd session dispute mentioned in the complaint arised regarding the services for which complainant had paid as per that it is considered as a consumer dispute.

**POINT NO-2**

- 14) As per the pleadings and documents on record, it reveal that the complainant had paid rupees 17,700/- to the opposite party for "Laser hair red chin treatment" on dated 22/12/2022. During third session of "Laser hair chin treatment" **the chin of the complainant burnt**, photographs filed on record at page no. 16 also, page no. 17 E-mail is regarding the bad service sent by the complaint to the opposite party, legal notice dated 09/06/2023 send by the complainant to the opposite party. reflects the same from the abovesaid documentary evidence it is it comes to the knowledge that the opposite party has given bad services to the complainant.
- 15) A bare perusal of the E-mail dated 16/06/2023 of opposite party adduced by the complainant would Reveal that the opposite party had finally admitted the fault on their part and by offering Paid amount of Rs. 17,700/- tried to cover it.
- 16) From the evidence produce on record and apology asked by the opposite party, deficiency as well as negligence confirmed on the part of the opposite party.
- 17) This is not a case that the opposite party only failed to provide proper service, but while taking services complainant injured due to the negligence of the opposite party. Therefore now the question for compensation before us is for what compensation the complainant is entitle for.
- 18) The word "compensation" is of very wide connotations, it may constitute actual loss or expected loss and may extent to compensation for physical mental or even emotional suffering insult or injury or loss.
- 19) There is no doubt that the women are very cautious and careful with regard to their face and look, The face of the person

is identity which shows personality of the person, They spend a handsome amount on keeping the Face in good looking condition. They are also emotionally attached with their face, as per that in this matter due to negligence of the Opposite Party chin burnt of the complainant and because of that the complainant suffered a lot of pain, it is possible that the complainant had under gone the depression, trauma and anxiety which changed her lifestyle and shattered her dream to be a good looking person. Also the complainant could not continue her "Laser hair red chin treatment" as per mail dated 01/06/2023 of complainant the burnt mark was on complainant face from last one month.

- 20) The beauty of face is primary acceptance of Society, if any person have damaged to the external appearance of face is definitely cause of agony. Considering the Indian Society this also need of a woman to keep herself in a pleasant and acceptable appearance. The defective treatment by the opposite party to the complainant has permanent damage to the skin and face of the complainant. Hence, she deserves the remedy as she expect.
- 21) On 3<sup>rd</sup> session the complainant's chin was burnt due to negligence of the opposite party, which was admitted by him, but initially the opposite party was with the word that there is no refund policy, after that they tried to offer credit note to the complainant, and offer only 10,000/- rupees and after continue follow up and the legal notice send to the opposite party, the opposite party agreed to refund total paid amount which shows unfair trade practice on the part of the opposite party.
- 22) The following observations by a three Judge Bench of the Hon'ble Supreme Court in Charan Singh v. Healing Touch Hospital & Ors., (2000) 7 SCC 668 is relevant:

**“ While quantifying damages, Consumer Forums are required to make an attempt to serve the ends of justice so that compensation is awarded, in an established case, which not only serves the purpose of recompensing the individual, but which also at the same time, aims to bring about a qualitative change in the attitude of the service provider. Indeed, calculation of damages depends on the facts and circumstances of each case. No hard and fast**

**rule can be laid down for universal application. While awarding compensation, a Consumer Forum has to take into account all relevant factors and assess compensation on the basis of accepted legal principles, on moderation. It is for the Consumer Forum to grant compensation to the extent it finds it reasonable, fair and proper in the facts and circumstances of a given case according to the established judicial standards where the claimant is able to establish his charge."**

- 23) Keeping in mind the observation of the Hon'ble Apex Court in abovesaid judgment with respect to awarding compensation, and observation of this commission, we are of the considered view that the reasonable and just compensation is to be awarded to the Complainant.

**POINT NO-3 & 4**

- 24) For the aforesaid discussion, the Complaint is fully allowed and we are of the considered view that it would meet the end of justice in case the Complainant is granted compensation for deficiency in service, mental agony and cost of complaint of 50,000/-. Hence, we direct the Opposite Party to pay a compensation of 50,000/- to the Complainant within a period 30 days from the date of this order. **Hence we proceed to allow the consumer complaint with the following order.**

**FINAL ORDER**

1. The **Consumer Case No. 124 /2023** is hereby Fully allowed.
2. It is declared that the Opposite Party has given deficiency in service and used unfair trade practice to the Complainant.
3. The Opposite Party is directed to pay the total amount of Rs.50,000/- to the Complainant.
4. The abovesaid order shall be complied within 30 days from the date of order. If failed to do so, then 9% interest will be applicable on the

said amount from the date of 04/05/2024 till realization of entire amount.

5. The copy of order be send to both the party with free of cost.

Place- South Mumbai

Date – 04/04/2024

**(SMT. S. A. PETKAR) (SMT. G. M. KAPSE) (SHRI.P. G. KADU)**  
**MEMBER MEMBER IN-CHARGE PRESIDENT**  
**SOUTH MUMBAI DISTRICT CONSUMER DISPUTES**  
**REDRESSAL COMMISSION**