

**CONSUMER DISPUTES REDRESSAL COMMISSION  
KARANTHUR PO,KOZHIKODE**

**Complaint Case No. CC/189/2016  
( Date of Filing : 27 Apr 2016 )**

1. SMT.VASANTHA P  
POONTHURITHIL HO, CHELAVOOR, CALICUT 673571 .....Complainant(s)

Versus

1. ASIANET SATELITE COMMUNICATION LTD  
MEDICAL COLLEGE (KAD3), NEAR CHEST HOSPITAL  
BUS STOP, P O DEVAGIRI, MEDICAL COLLEGE, CALICUT  
673008 .....Opp.Party(s)

**BEFORE:**

**HON'BLE MR. P.C .PAULACHEN , M.Com, LLB PRESIDENT  
HON'BLE MR. V. BALAKRISHNAN ,M TECH ,MBA ,LLB, FIE Member  
HON'BLE MRS. PRIYA . S , BAL, LLB, MBA (HRM) MEMBER**

**PRESENT:**

**Dated : 13 Sep 2023**

**Final Order / Judgement**

**DISTRICT CONSUMER DISPUTES REDRESSAL COMMISSION, KOZHIKODE**

PRESENT: Sri. P.C. PAULACHEN, M.Com, LLB : PRESIDENT

Smt. PRIYA.S, BAL, LLB, MBA (HRM) : MEMBER

Sri.V. BALAKRISHNAN, M Tech, MBA, LL.B, FIE: MEMBER

Wednesday the 13<sup>th</sup> day of September 2023

CC.189/2016

**Complainant**

Vasantha . P

W/o Late Damodharan

Poonthurithil (House)

Chelavoor,

Kozhikode 673571

(By Adv. Sri. P.B. Sajith)

**Opposite Party**

1. Asianet Satellite communication Ltd,  
Medical College (KAD3)  
Near Chest Hospital Bus Stop,  
P.O. Devagiri Medical College,  
Calicut 673008

(By Adv. Sri. P.S. Murali)

**ORDER**

By Sri. P.C. PAULACHEN – PRESIDENT.

This is a complaint filed under Section 12 of the Consumer Protection Act, 1986.

2. The case of the complainant, in brief, is as follows:

The opposite party is engaged in the business of telecasting digital TV services. The complainant had availed digital TV (set top box) connection from the opposite party as per subscriber ID No. KA 92002794. She used to

pay the subscription annually and for the year 2015-16, she had paid Rs. 2,600/- covering the period of September 2015 till August 2016. But surprisingly, the telecast to her house went off by December 2015 and on that day itself the complainant had approached the opposite party in person and lodged a complaint. Though it was assured by the opposite party that the problem would be solved on that day itself, nothing happened. Time and again the complainant contacted the opposite party, but no positive action was taken to bring the connection back to live.

3. On 22/02/2016 a complaint was made through the customer service and thereupon it was informed that the connection was resumed. But the connection remained disconnected. Again on 27/02/2016 the complainant made a complaint to the opposite party, but in vain. On 7/03/2016 once again the complainant made a complaint, to which, the opposite party replied that there was no picture complaint and kept mum to the queries regarding the error. The TV Connection to her house is still not resumed. The complainant was not able to watch major events and the news and various other programmes on the TV. There was deficiency of service on the part of the opposite party causing mental agony, pain and suffering to the complainant. Hence the complaint claiming return of the amount of Rs. 2,600, being the

subscription collected by the opposite party for the period from 2015 to 2016 and compensation of Rs. 1,00,000/- for the mental agony and inconvenience suffered.

4. The opposite party has resisted the complaint by filing written version wherein all the allegations and claims made against them in the complaint are denied. According to the opposite party, the complaint is not maintainable before this commission. The complainant was a customer of Asianet Cable connection, who has paid a sum of Rs. 2,600/- as advance subscription for the period September 2015 to August 2016. The address to which the connection

was provided was “Vasantha.P, Poonthurathil House, Chelavur, Calicut”. Even though the address is Chelavur, the house of the complainant is situated within the medical college campus on the boarder of Asianet cable connection medical college network area. On 7/03/2016 an application was made by the complainant for shifting the cable connection to her newly constructed house, which is about 40 to 50 meters away from her old house. Actually the connection to the old house was taken from Tap (connection point) at the terminal of medical college network area. The cable from the said tap was crossing through the property of another person. For giving new connection to the new address, the cable has to be re-routed through another post and through the property of yet another person. Consent from the two property owners has to be obtained by the complainant. The technical team of Asianet Cables who inspected the site had requested her to obtain consent letter from the adjacent property owners. Without obtaining such consent, the opposite party cannot do anything. Even though the complainant had agreed to obtain consent, she could not get it. Even though on receipt of the shifting application the set top box was temporarily disconnected, on 14/03/2016 it was again activated to the old connection address and the complainant had been using it till 21/10/2016, by which time, the subscription period for which she had made remittance of Rs. 2,600/ was over. It was on 21/10/2016 that the complainant again requested for disconnection and by that time she had approached this Commission with the present complaint.

5. If the area where new connection is outside their range, they cannot be compelled to provide connection to that place as otherwise the customer will not get proper signals. In view of the technical difficulties mentioned above, the opposite party requested the link operator Mr. Sabi to provide connection to the complainant at her new residence. However she was not willing to take connection from the link operator and insisted on taking extension from the old connection which the opposite party could not have provided due to technical reasons. The complainant had been availing cable connection service till 21/10/2016 and the entire amount paid by her as advance subscription had exhausted by then. It is understood that she has now installed a dish antenna at her new residence. On receipt of the lawyer notice the technical staff had inspected the site and apprised the complainant of the practical and technical difficulties in extending the connection to the new house. There has been no deficiency of service on the part of the opposite party. The complainant has suppressed material facts. None

of the reliefs sought for is allowable. With the above contentions, the opposite party prays for dismissal of the complaint.

6. The points that arise for determination in this complaint are;

(1). Whether the complaint is maintainable?

(2). Whether there was any deficiency of service on the part of the opposite party, as alleged?

(3)Reliefs and costs

7. Evidence consists of the oral evidence of PW1 and Exts A1 to A3 on the side of the complainant. RW1 was examined and Exts B1 and B2 were marked on the side of the opposite party. The commission report was marked as Ext C1.

8. Heard. Brief argument note was filed by the complainant.

9. **Point No. 1:** The opposite party has taken a contention in the written version that the complaint is not maintainable and this Commission has no jurisdiction to entertain the complaint since the service availed by the complainant comes under the purview of the Telegraphs Act where a separate forum has been constituted for the adjudication of such disputes. In this connection, it may be noted that the complainant is alleging deficiency of service on the part of the opposite party. Section 3 of the Consumer Protection Act, 1986, clearly specifies that the provisions of this said Act are in addition to and not in derogation of the provisions of any other law for the time being in force. The remedy under the Consumer Protection Act is in addition to other remedies provided under other Acts. In Trans Mediterranean Airways Vs. Universal Exports and Another - 2011 KHC 4862- the Honourable Supreme court has held that “remedies under the Consumer Protection Act are in addition to the remedies available under any other statute”. So we have no hesitation to hold that this commission has ample jurisdiction to entertain the complaint and that the complaint is perfectly maintainable before this Commission.

10. **Point No.2:** The complainant had availed digital TV (Set top box) connection to her house provided by the opposite party and was in payment of subscription and her grievance is that the relay to her connection went off by December 2015 and the opposite party failed to resolve the issue and to bring the connection back to live despite her repeated requests and thereby there was gross deficiency of service on the part of the opposite party, which has resulted in mental agony and hardship, besides monetary loss to the complainant.

11. In order to substantiate her case, the Power of Attorney holder and son of the complainant was examined as PW1, who has filed proof affidavit and deposed in terms of the averments in the complaint and in support of the claim reiterating that there was neglect on the part of the opposite party to bring back the connection to live in spite of repeated requests made including through lawyer notice. Ext. A1 is the receipt dated 26/08/2015 showing payment of the subscription for the period September 2015 to August 2016, Ext. A2 series are the annual subscription receipts for the period 2011 to 2014 and Ext. A3 is the lawyer notice, postal receipt and postal acknowledgment card.

12. The opposite party has denied any deficiency of service on their part. According to them, on 7/03/2016 the complainant had lodged a request for shifting the cable connection to her newly constructed house which required rerouting of the cable through another post and the property of yet another person, for which, the consent from the property owners was needed and the complainant failed to obtain the consent letter. Their case is that, on receipt of the shifting

application, the set top box was temporarily disconnected and on 14/03/2016 it was again activated to the old connection address and the complainant had been using it till 21/10/2016, by which time, the subscription period for which she had already made remittance of Rs. 2,600/- as per Ext. A1 was over. The area customer service officer of the opposite party was examined as RW1. RW1 has filed proof affidavit and deposed supporting and reiterating the contentions in the version. Ext. B1 is the details of the payments made by the complainant and Ext. B2 is the downloaded copy of the CRM status.

13. It is not disputed that the complainant was a customer of the opposite party. She was in regular payment of the subscription. The payment of subscription by the complainant is admitted. The grievance projected in the complaint is that from December 2015, the telecast to her house went off and her repeated requests to the opposite party to solve the error proved futile. Finally she issued Ext. A3 lawyer notice dated 26/03/2016 which was received by the opposite party. The receipt of the lawyer notice by the opposite party is further evidenced by the postal acknowledgment card produced by the complainant. Going by the averments in the written version, it can be seen that there is no denial that there was interruption to the relay to the complainant's house in the year 2015. While in the box, RW1 has admitted that the complainant had come to their office in person and complained that the connection to her house was disconnected. RW1 has admitted in the cross examination that the opposite party had not verified the complaint raised by the complainant. It is also admitted by RW1 that the reason for the disconnection was not informed to the complainant. Thus it is in evidence that the relay to the complainant's connection was interrupted and stopped in 2015. PW1 has given evidence that despite repeated requests, no positive action was taken by the opposite party to redress her grievance. There is no reason to disbelieve PW1 in this regard.
14. Another circumstance to be noted is that the opposite party has not sent any reply to Ext-A3. If the contention of the opposite party that the connection was alive is true and correct, nothing prevented them from sending a reply to Ext-A3 stating the true facts. But that was not done. This is also a circumstance which goes against the opposite party.
15. Ext. C1 is the report filed by the Advocate Commissioner appointed in this case. The learned Advocate Commissioner inspected the site only on 2/07/2018. The state of affairs of the connection as on the date of filing of the complaint (27/04/2016) is not known to the learned Advocate Commissioner. The report is mainly about shifting of the connection to the new house. The Ext-C1 is not helpful to decide the dispute involved in this case.
16. From the evidence in hand, it can be seen that though the complainant had remitted the subscription fee of Rs. 2,600/- covering the period from September 2015 till August 2016, she was not able to enjoy the TV due to the disconnection and there was neglect on the part of the opposite party to rectify the error and bring the connection back to live, despite repeated requests. The inaction and negligence on the part of the opposite party amounts to gross deficiency of service.
17. Undoubtedly, the complainant was put to intense mental agony and inconvenience due to the irresponsible act and conduct of the opposite party, for which, she is entitled to be compensated adequately. Considering the entire facts and circumstances, we are of the view that a sum of Rs. 20,000/- will be reasonable compensation in this case. The complainant is also entitled to get Rs. 5000/- as cost of the proceedings.
18. **Point No. 3:-** In the light of the finding on the above point, the complaint is disposed of as follows;

a) CC.189/2016 is allowed in part.

b) The opposite party is hereby directed to pay a sum of Rs. 20,000/- (Rupees Twenty thousand only) as compensation to the complainant.

c) The opposite party is directed to pay a sum of Rs. 5,000/- (Rupees Five Thousand only) as cost of the proceedings to the complainant.

d) The payment as afore stated shall be made within 30 days of the receipt of the copy of this order, failing which, the amount of Rs. 20,000/- shall carry an interest of 6% per annum from the date of this order till actual payment.

**Pronounced in open Commission on this, the 13<sup>th</sup> day of September, 2023.**

**Date of Filing: 27/04/2016**

Sd/-	Sd/-	Sd/-
PRESIDENT	MEMBER	MEMBER

### **APPENDIX**

#### **Exhibits for the Complainant :**

Ext.A1 –Receipt dated 26/08/2015 showing payment of the subscription for the period September 2015 to August 2016,

Ext. A2 Series - Annual subscription receipts for the period 2011 to 2014

Ext. A3 - Lawyer notice, postal receipt and postal acknowledgment card.

#### **Exhibits for the Opposite Party**

Ext B1 - Details of the payments made by the complainant

Ext. B2 - Downloaded copy of the CRM status.

#### **Commission Exhibits**

Ext.C1- Commission report

Witnesses for the Complainant

PW1 - Ganesh Lalu (Power of attorney holder of the Complainant)

Witnesses for the opposite parties

RW1 - Rajeev .V.M

	Sd/-		Sd/-
Sd/-			
MEMBER	PRESIDENT	MEMBER	

True copy,

Sd/-

Assistant Registrar.

**[HON'BLE MR. P.C .PAULACHEN , M.Com, LLB]  
PRESIDENT**

**[HON'BLE MR. V. BALAKRISHNAN ,M TECH ,MBA ,LLB, FIE]  
Member**

**[HON'BLE MRS. PRIYA . S , BAL, LLB, MBA (HRM)]  
MEMBER**