

**NATIONAL CONSUMER DISPUTES REDRESSAL COMMISSION
NEW DELHI**

CONSUMER CASE NO. 1447 OF 2015

1. ABHIMANYU SINGH
R-8/109, RAJ NAGAR,
GHAZIABAD,U.P.

.....Complainant(s)

Versus

1. RIZVANA AMUSEMENT & 2 ORS.
(THROUGH ITS PROPRIETER ISMAIL @ KUDDUS)
MOHALLA, VYAPARIAN, KASBA RAINWALL,
JAIPUR

2. RAM LEELA COMMITTEE, GREATER NOIDA
(THROUGH ITS PRESIDENT & SECRETARY) NS-20,
GAMA-II, GREATER NOIDA,
GAUTAM BUDH NAGAR,U.P.

3. ISHAN INSTITUTE OF MANAGEMENT &
TECHNOLOGY
CHAIRMAN CUM MANAGING DIRECTOR,
GREATER NOIDA,UP

.....Opp.Party(s)

BEFORE:

HON'BLE MR. JUSTICE A. P. SAHI,PRESIDENT

FOR THE COMPLAINANT : MR. UMESH ARORA, ADVOCATE

FOR THE OPP. PARTY : NEMO

Dated : 28 November 2023

ORDER

1. Heard learned counsel for the complainant.
2. The complainant was a student of PGDM course at the Ishan Institute of Management and Technology, Greater Noida. He along with his two friends visited a fair on the occasion of Dussehra organised by the opposite party no.2. The contention raised is that this tour was organized by the opposite party no.3 and it is through their services that the complainant and his two friends went to visit the said fair where he and his two friends purchased tickets for having a ride on the Dancing Chairs which was an amusement device operated by the opposite party no.1.
3. Unfortunately during the said ride an accident occurred and this resulted in serious injuries to the complainant as well as his two friends.
4. The narration of these facts and the nature of the complaint is no longer a matter of speculation and on law is no longer res integra as one of the friends of the complainant, Aditya Bhati, who suffered injuries in the same incident, filed CC/216/2014 that has been allowed by this Commission on 13.08.2015, recording all findings regarding the lapse on the part of the opposite party no.1 and the deficiency of service. Mr. Aditya Bhati was awarded a sum of Rs.25,00,000/- as pecuniary damages and Rs.10,00,000/- as non-pecuniary compensation to be paid accordingly.

5. In order to ascertain as the status of the aforesaid proceedings as to whether they had become final, and had not been agitated any further, I had summoned the file pertaining to the case of Aditya Bhati and from the same it is evident that the execution was filed being EA/42/2016 which came to be dismissed for want of prosecution on 28.06.2023.
6. There is nothing on record to indicate that the final order of this Commission in the case of Aditya Bhati was appealed against or taken further.
7. Be that as it may, in the present case a slight improvement has been made in the array of parties and the complainant has also impleaded the Institute of which he was a student contending that since the Institute had organised the said visit to the fair, therefore, they were also liable for compensation due to deficiency on their part. Apart from this, the position with regard to the status of the injury and the compensation awarded has been pleaded to be similar to that in the case of Aditya Bhati. It may be noticed from the file of the case of Aditya Bhati that the Institute was not arrayed as a party therein.
8. The claim was also allowed as against the amusement proprietor who is the opposite party no.1 in the present case as well.
9. The opposite party no.1 was issued notice in this complaint on admission on 16.02.2016 but in spite of the notices having been served the opposite party no.1 did not choose to appear and the postal remarks indicated that he had left. There was no fresh address filed as a result whereof the complainant made a request that he may be permitted to publish a public notice in the locality of the address of the opposite party no.1. This was allowed on 07.09.2017 and on 08.03.2018, the proof of service was filed, whereupon taking notice of the same this Commission accepted service through substituted methods and then passed an order to proceed ex-parte both against the opposite party no.1 and the opposite party no.3.
10. The opposite party no.2 that is the Ramleela Committee filed a written version but no one has been appearing on behalf of either of the three parties on the previous occasions and consequently the Commission is left with no option but to examine these facts with the help of pleadings as well as the orders passed in the case of Aditya Bhati (CC/216/2014) decided on 13.08.2015.
11. Having perused the pleadings on record as also the aforesaid facts including the file of CC/216/2014, so far as the opposite party no.3 is concerned, it is the Institute which had organised the visit of the students to the fair. There is no contract between the complainant and the Institution that any deficiency in service of an amusement provider at the fair would also be covered so as to indemnify, if they suffer any damage or loss, while availing of any amusement services at the fair. The visit was to facilitate an outing with no anticipation or any control of the Institute over the amusement provider. As a matter of fact the complainant has nowhere pleaded or proved that the Institute had arranged for a Dancing Chair ride or had promised one. It is also not the case that there was any permission sought or granted by the Institute for such a ride. The amusement sought was the personal voluntary choice of the complainant, who purchased a ticket and then had a ride. It was thus the liability of the amusement provider only and the opposite party no.3 cannot be held liable for any such indemnity as prayed for. Consequently no relief would be available as against the opposite party no.3.
12. The opposite party no.2 was the organizer of the fair and from a perusal of the order in the case of Aditya Bhati, on which reliance has been placed, the entire liability has been found to be that of the opposite party no.1 and not of the opposite party no.2.

13. In the given circumstances and applying the ratio of the order already passed in the case of Aditya Bhati (supra) this complaint being at par also deserves to be allowed on the same terms with the same reliefs.
14. The complaint is accordingly allowed. The amount of Rs.25,00,000/- is awarded to Aditya Bhati and damages to the extent of Rs.10,00,000/- is awarded for the same reasons as in the case of Aditya Bhati. The complaint is accordingly allowed and stands finally disposed of. The file with regard to CC/216/2014 and its execution case shall now be returned back to the record room.

.....J
A. P. SAHI
PRESIDENT