

DISTRICT CONSUMER DISPUTES REDRESSAL COMMISSION, PALAKKAD
Near District Panchayath Office, Palakkad - 678 001, Kerala

Complaint Case No. CC/158/2019
(Date of Filing : 15 May 2019)

1. K.P. Abbas

S/o. Hamza, Kolliparambil House, Kallamala Village, Agali
Panchayath, Mukkali Post, Mannarkkad Taluk, Palakkad Dist.
Pin- 678582

.....Complainant(s)

Versus

1. Indane, Indian Oil Corporation Limited

India Oil Bhavan G-9, Aliyayarjung Marg., Bandra (EAST)
Mumbai, India-400 051 Represented by its Manager

2. Indane, Indian Oil Corporation Limited

Area Office, Second Floor, PMK Tower, Civil Station Post,
Wayanad, Kozhikkode, Kerala State , India, Pin- 673028
Represented by its Manager

3. Matha Indane

Anakatty Road, Agali Post, Attappadi, Mannarkkad Taluk,
Palakkad Dist, Kerala State , India, Pin- 678581 Represented
by its Manager

4. Manager

United India Insurance Company Limited, Pazheri
Plaza, Kodathipadi, Mannarkkad of Mannarkkad Taluk

.....Opp.Party(s)

BEFORE:

HON'BLE MR. Vinay Menon.V PRESIDENT
HON'BLE MRS. Vidya A MEMBER
HON'BLE MR. Krishnankutty. N.K MEMBER

PRESENT:

Dated : 24 Aug 2023

Final Order / Judgement

DISTRICT CONSUMER DISPUTES REDRESSAL COMMISSION, PALAKKAD

Dated this the 24th day of August, 2023

Present : Sri. Vinay Menon V., President

: Smt. Vidya A., Member

: Sri. Krishnankutty N.K., Member

Date of Filing: 14/05/2019

CC/158/2019

K.P. Abbas

S/o. Hamsa,

Kolliparambil House,

Kallamala, Agali, Mukkali (PO),

Mannarkkad, Palakkad - 678 582

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Complainant

(By Adv. K.P. Noupchal)

Vs

1. Indane, Indian Oil Corporation Ltd.,

Indian Oil Bhavan,

G-9, Aliyayarjung Marg, Bhandra (E),

Mumbai – 400 051

Rep. by its Manager

2. Indane, Indian Oil Corporation Ltd.,

Area Office, 2nd Floor, PMK Tower,

Civil Station Post, Kozhikod, Kerala – 673 028

Rep. by its Manager.

3. Matha Indane,

Anakatti Road, Mannarkkad,

Palakkad - 678 581, Rep. by its Manager

4. United India Insurance Co.Ltd.,

Pazheri Plaza, Kodathipadi,

Mannarkkad, Rep. by its Manager

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Opposite parties

(OPs 1 & 2 by Adv. M/s. Menon & Pai

OP3 by M.P.Ravi & K.K.Jaideep

OP4 by Adv.M.Krishnadas)

ORDER

By Sri. Vinay Menon V., President

1. The complainant, a consumer of the household LPG filled by the 1st and 2nd OPs and distributed by the 3rd OP had to suffer an explosion of a cylinder which destroyed part of his residential building causing losses, which he has estimated roughly at Rs.20 lakhs. Even though the opposite parties were informed, they failed to grant any relief to the complainant. The explosion caused as a result of the substandard quality of the cylinder and the unscientific manner in which the gas was filled in the cylinder. The complainant is entitled to be compensated. The additional 4th OP is the Insurance Company who has insured the 3rd OP. This complaint is filed seeking Rs.20 lakhs and incidental reliefs.
2. O.P.s 1&2 and 3 filed versions in similar veins stating that upon inspection by expert it was found that the explosion was caused due to external factors. The cooking gas of the complainant was kept in a kitchen whereby a fireplace using fire wood was also lit. Explosion occurred as fire spread from the fireplace. At the time of explosion the cylinder did not contain fuel in full. Explosion was caused due to the carelessness on the part of the complainant himself. There is no negligence attributable to the opposite parties.
3. Additional OP4 filed version contenting that in so far as the policy agreement between OP3 and OP4 was concerned, OP4 had undertook to indemnify the 3rd OP only for damages caused in the premises of the 3rd OP and does not extent to damage occurred to the premises of any customers.
4. The following issues were framed for consideration:
 1. Whether the complainant has succeeded in proving that the cylinder/method of filling was defective in nature ?
 2. Whether there is any deficiency in service on the part of OPs ?
 3. Whether the complainant is entitled to any reliefs sought for?
 4. Any other reliefs?
5. (i) Complainant filed proof affidavit and marked Exts. A1 to A4(a).

(ii) OPs 1 & 2 filed proof affidavit and marked Exts. B1 & B2. OPs marked B3 to B5. OP4 marked Ext.B6. Marking of Exts. B3 to B5 were objected to on ground that they are photocopies. Marking of Ext. B5 is further objected to by OP4 on the ground that it is only a part of document leaving out other parts.

In so far as the objections of the parties being that Ext.B3 to B5 are photostat copies, we hold that since this Commission not bound by the rules of Indian Evidence Act and in the absence of any pleading that the said documents are forged or fabricated, we overrule the said objections. OP4 has also objected stating that Ext.B5 is a part of document. Ext.B5 is an LPG Traders Policy bearing

no. 10120526189115378321. The said document is pages 1,3,4 & 5 out of 12 pages. We find merit in the objection of OP4. Ext.B5 stands rejected as being part of a whole document.

(iii) Ext.C1 is the Commission Report filed by the expert commissioner appointed by this Commission. Ext.C1 (a) is a sketch of the residential building which suffered damages.

(iv) Complainant had filed IA 389/2023 seeking sanction to cross examine the opposite parties, which was dismissed. Evidence required is scientific proof to come to a conclusion regarding the 1st Issue. Complainant had already taken out an Expert Commissioner who has filed his report. Complainant has no objection regarding the said report which was marked as Ext. C1. Therefore oral evidence of OPs 1 to 4 will not carry weight.

Issue No. 1

6. Crux of the allegation revolves around the pleading of the complainant that the explosion was caused as a result of the weak cylinder/faulty refilling and counter pleading of the opposite party that explosion occurred as a result of external causes, namely, a burning firewood causing heating up of cylinder and resultant explosion. No one has any dispute with regard to the fact the complainant's residential building suffered damages. The only dispute percolates to the question regarding the integrity of the cylinder.

7. In order to substantiate his case the complainant took out an Expert Commissioner. His report was marked as Ext.C1. Ext.C1 is conclusive in so far as the damages that was caused to the residential building of the complainant is concerned. But it does not offer any explanation whatsoever with regard to the cause of explosion. Therefore, Ext.C1 report proves to be a damp squib in assisting us reach a conclusion as to the cause of explosion.

8. We therefore hold that the complainant has failed to prove that explosion of the cylinder was due to manufacturing defect or due to the lack of integrity of the construction material of the cylinder or faulty refilling of the cylinder.

Issue Nos. 2

9. We therefore hold that there is no deficiency in service on the part of the opposite parties.

Issue Nos. 3 &4

10. Pursuant to the findings above we hold that the complainant is not entitled to any of the reliefs sought for.

11. Considering the facts and circumstances of the case, parties are directed to suffer their respective costs.

12. With the aforesaid findings and orders, we dismiss the complaint.

Pronounced in open court on this the 24th day of August, 2023.

Sd/-

Vinay Menon V

President

Sd/-

Smt. Vidya A.

Member

Sd/-

Krishnankutty N.K.

Member

APPENDIX

Exhibits marked on the side of the complainant :

Ext.A1 – Screenshot of refill receipt

Ext.A2 – Copy of communication dated 16/4/2019 from complainant to Secretary, Agali GP

Ext.A3 – Copy of complaint dated 13/4/2019 from complainant to SI of Police, Agali PS

Ext.A4 – Series of 18 photographs

Exhibits marked on the side of the opposite party:

Ext.B1 – Copy of policy schedule bearing No.4008/148542022/00/000

Ext.B2 – Copy of agreement dated 13/1/2015

Ext.B3 – Copy of valuation of damage portion of building

Ext.B4 – Copy of accident investigation report

Ext.B5 – Copy of LPG Traders Policy Schedule

Court Exhibit:

Ext.C1 – Report from expert commissioner

Ext.C1(a) - Sketch

Third party documents: Nil

Witness examined on the side of the complainant: Nil

Witness examined on the side of the opposite party: Nil

Court Witness: Nil

NB : Parties are directed to take back all extra set of documents submitted in the proceedings in accordance with Regulation 20(5) of the Consumer Protection (Consumer Commission Procedure) Regulations, 2020 failing which they will be weeded out.

**[HON'BLE MR. Vinay Menon.V]
PRESIDENT**

**[HON'BLE MRS. Vidya A]
MEMBER**

**[HON'BLE MR. Krishnankutty. N.K]
MEMBER**