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**BEFORE THE III ADDITIONAL BANGALORE URBAN
DISTRICT CONSUMER DISPUTES REDRESSAL COMMISSION
BENGALURU - 560027**

DATED THIS THE 19TH DAY OF AUGUST 2023

CONSUMER COMPLAINT NO: 63/2023

PRESENT:

SRI. SHIVARAMA. K : PRESIDENT
SRI. CHANDRASHEKAR.S.NOOLA : MEMBER
SMT. REKHA SAYANNAVAR : MEMBER

N.B. Sudheendra Rao,
Aged about 62 years,
Flat No.4 D, Sommet Block,
Jayant's Antis Esteem Northwood Lane,
Blue Berry Street,
Ramanashree California Gardens
Residential Layout, Behind
Ramanashree California Resort,
Doddaballapur Road,
Bangalore-560064.
(Party-in-Person)

..... **COMPLAINANT**

V/s

HOTEL HARSHA,
The FERN,
No.35/2A, Opposite Sharavathi
Dental College, Sagara Road,
Shivamogga
Rep. by its Manager.
(Ex-parte)

..... **OPPOSITE PARTY**

// JUDGEMENT //

BY SRI. CHANDRASHEKAR.S.NOOLA, MEMBER

- 01.** The present complaint is filed by the complainant Under Section 35 of the 2019 Consumer Protection Act, with the prayer to direct the opposite party to return an amount of Rs.50,000/-
- 02.** The complainant and his son Vijay Bhardwaj and Rachna (not mentioned the relation probably daughter-in-law) on 5th February 2023, made a booking for a stay at Hotel Harsha through the Agoda website, with the stay scheduled from 5th to 8th February. The booking was made by Sri. Vijay Bhardwaj whereas the complaint is filed by Sri. N.B.Sudheendra Aged 62 years. The purpose of this stay was to attend the bereavement occasion of his grandfather/father-in-law.
- 03.** Upon arrival at the hotel, it was noted that the third bed/mattress provided in the room was broken. This led to severe backaches for the Complainant, who already suffers from chronic pain due to age-related factors. The pain was so intense that he could not actively participate in the bereavement occasion and the associated rituals.
- 04.** Due to the ongoing rituals and protocols, the complainant and his associates ordered vegetarian food for the following day's arrangements. The order consisted of peanuts, a vegetarian burger, and a vegetarian sandwich. They have been lifelong vegetarians and adhere to the cultural values of our Brahmin community.



- 05.** Unfortunately, a lack of understanding regarding the preparation of non-vegetarian food led to a grave mistake. Mr. Vijay Bhardwaj, an associate of the complainant in a moment of unawareness, consumed a bite of the chicken burger, which he realized was not vegetarian. This incident caused extreme trauma as it went against their deeply ingrained cultural principles and values. Consequently, Mr. Vijay Bhardwaj experienced remorse, depression, guilt, mental distress, and suffered from severe digestion issues and stomach ailments. Medical treatment, including the prescription of cycloplasms and eldoper, was required for his recovery.
- 06.** Subsequently, they approached the hotel management to address their concerns. They requested that no charges be levied for their stay and that the room charges be reversed. However, the management's response was reluctant, and they offered an alternative compensation of another free meal (breakfast, lunch or dinner).
- 07.** In order to clarify the situation and address their concerns, they requested details from the management, including the kitchen's license number, the name of the chef, and a receipt for the order placed. These details were sought to verify the authenticity of the vegetarian food ordered.
- 08.** The notice was served to the opposite party but the opposite party remained absent.

- 09.** The complainant filed affidavit in the form of evidence in chief in EX P1 to EX P3. The complainant submitted Receipt of the website who booked the rooms for the complainant and his associates in hotel Harsha. EX-P2 & P3 are FIR and complaint lodged in the police station for serving non veg instead of vegetarian food.
- 10.** The notice of this complaint was duly served upon the opposite party but remained absent.
- 11.** The complainant filed his evidence affidavit and got marked EX-P1 to EX-P3.
- 12.** Heard the arguments.
- 13.** The points that would arise for consideration are as under:-
- (1) Whether there is deficiency of service and unfair trade practice on the part of the opposite parties?
 - (2) Whether the complainant is entitled for the relief as sought?
 - (3) What order?
- 14.** Our findings on the aforesaid points are as follows:
- Point No.1:** In Affirmative.
- Point No.2:** Partly In Affirmative.
- Point No.3:** As per the final order for the following;

REASONS

- 15.** The complainant, complains that both the complainant and his son have suffered as a direct consequence of the actions of the opposite party. The complainant experienced

significant inconvenience due to the subpar quality of the bed provided, which subsequently hindered his ability to partake in the necessary rituals associated with their stay at the hotel. It is important to note that the complainants adhere to a strictly pure vegetarian dietary regimen, and their profound religious sentiments, practices, and long-standing sanctified traditions have been deeply aggrieved by the serving of non-vegetarian food. This transgression has caused immeasurable emotional distress and anguish.

- 16.** The complainant has furnished a Certificate under Section 65B of the Indian Evidence Act, along with receipts verifying the payment made to the hotel, and copies of the First Information Report (FIR) and the formal complaint registered with the police station.
- 17.** In light of the provisions outlined in the Consumer Protection Act of 2019, where the term "complainant" encompasses "one or more consumers, where there are numerous consumers having the same interest," it is abundantly evident that the present complaint is valid and merits due consideration.
- 18.** The Consumer Protection Act of 2019 underscores the paramount importance of safeguarding the rights and interests of consumers. In this instance, it is evident that the opposite party has exhibited a moderate explanation but not entirely definitive. The said legislation bestows upon consumers the entitlement to seek both relief and

compensation for the harm incurred as a direct result of the opposite party's negligent conduct. However, the evidence presented does not entirely measure to the required standard. In the light of the absence of direct evidence, this commission is left to weigh the veracity of the facts provided. The commission is left with the task of assessing the matter based on the information provided.

19. In consonance with the principles enshrined in the Consumer Protection Act, it is incumbent upon this Commission to uphold the spirit of the statute and provide appropriate restitution to the consumer. This shall entail the issuance of an order for compensation and the implementation of necessary corrective measures against the opposite party. Thus, it is imperative that this Commission grants the requisite relief to the consumer, inclusive of compensation and any other remedies pertinent to the Act.
20. In consideration of the aforementioned discussion, the commission resolves to award a consolidated sum of Rs.15,000/- to be paid to the complainant.

ORDER

This commission hereby issues the following directives:
The Opposite party is directed to remit a lump-sum Rs.15,000/- to the complainant within a period of 45 days from the date of this order.



If the payment is not complied within the specified time-frame, the opposite party shall be liable to an interest of 9% per annum from the expiration of the stipulated period until the date of realization of the compensation.

Applications pending, if any, stand disposed of in terms of the aforesaid judgment.

Supply free copy of this order to both the parties and return extra copies of the pleading and evidence to the parties.

(Dictated to the Stenographer, typed by her, the transcript corrected, revised and then pronounced in the open commission on **19th day of August 2023**).


19/08/2023.

(REKHA SAYANNAVAR)
MEMBER



(CHANDRASHEKAR.S.NOOLA)
MEMBER


19/08/23

(SHIVARAMA. K)
PRESIDENT

*ARN

//ANNEXURE//

Witness examined for the complainant side:

-NIL-

Documents marked for the complainant side:


1. Copy of booking receipt dated: 05.02.2023. EX-P1.
2. Copy of FIR lodged, Thunga PS, Shivamogga. EX-P2.
3. Copy of the draft complaint dated: 08.02.2023. EX-P3.

Witness examined for the opposite party side:

-NIL-

Documents marked for the opposite party side:

-NIL-


19/08/2023.

(REKHA SAYANNAVAR)
MEMBER


19/08

(CHANDRASHEKAR.S.NOOLA)
MEMBER


19/08/23

(SHIVARAMA. K)
PRESIDENT