

**Consumer Disputes Redressal Commission  
Civil Station ,  
Kollam-691013.  
Kerala.**

**Complaint Case No. CC/161/2021  
( Date of Filing : 20 Jul 2021 )**

1. Mr.Arun G Krishnan,  
Arunodayam,Kudukkodu,Nedumoncavu.P.O, Kollam-  
691509.

.....Complainant(s)

Versus

1. Mr.Deepinder Goyal,  
CEO,Zomato Pvt.Ltd,22nd Floor,One Horizon Centre  
DLF Phase 5,Golf Course Road,Sector 43,  
Gurgaon,Haryana-1222003.

2. Mr.Ribu M Jacob,  
State head kerala, Zomato Pvt.Ltd,7th Floor,Alapatt  
Heritage Building,MG Road, Kochi-682 035, Kerala.

3. Mr.Ajish Ameer,  
Restaurant Owner, Kings Restaurant, Near Envestnet,  
Kuravankonam Junction,Trivandrum-695003.

.....Opp.Party(s)

**BEFORE:**

**HON'BLE MR. E.M.MUHAMMED IBRAHIM PRESIDENT  
HON'BLE MRS. SANDHYA RANI.S MEMBER  
HON'BLE MR. STANLY HAROLD MEMBER**

**PRESENT:**

**Dated : 29 Oct 2022**

**Final Order / Judgement  
IN THE CONSUMER DISPUTES REDRESSAL COMMISSION, KOLLAM**

**Dated this the 29<sup>th</sup> Day of October 2022**

**Present: - Sri. E.M.Muhammed Ibrahim, B.A, LL.M. President**

**Smt.S.Sandhya Rani, Bsc, L.L.B,Member**

**Sri.Stanly Harold, B.A.LLB, Member**

**CC.161/21**

Arun G Krishnan : Complainant  
Arunodayam  
Kudikkodu  
Nedumoncavu P.O  
Kollam-691509.

V/s

1. Mr.Deepinder Goyal(CEO) : Opposite parties  
Zomato Pvt. Ltd.22<sup>nd</sup> Floor  
One Horizon Centre, DLF phase 5  
Golf Course Road, Sector 43, Gurugram, Haryana.  
Email:order@zomato.com

2. Mr.Ribu M Jacob  
State Chief Kerala  
Zomato Pvt Ltd.  
7<sup>th</sup> Floor,Alappat Heritage Building  
MG Road, Kochi-682035.  
Email:order@zomato.com

3. Mr.Ajish Ameer  
Restaurant Owner, Kings restaurant

Near Envestnet, Kuravankonam Junction

Kowdiar, Ambalamukku

Trivandrum-695003.

### **FINAL ORDER**

**E.M.MUHAMMED IBRAHIM , B.A, LL.M, President**

This is a case based on a complaint filed u/s 12 of the Consumer Protection Act.

The averments in the complaint in short are as follows:-

The opposite parties No.1&2 representing Zomato India Pvt. Ltd engaged in on demand food delivery business with the help of a website [www.zomato.com](http://www.zomato.com) and by a mobile application by name Zomato delivering food items from restaurants with the assistance of their human network with the aid of GPS devices by charging service charge as well as price of delivery of food items. The 3<sup>rd</sup> opposite party is the manufacturer for food items including vegetarian, non-vegetarian, and liquid edible items which are being sold through the mobile application/website by opposite party no.1&2.

On 07.08.2019 at about 8.17 pm while the complainant was residing at Amrita Hostel, Tutors Lane, Statue Junction, Thiruvananthapuram for educational purpose the complainant ordered to purchase one Chicken salt and pepper and 3 Kerala Parotha from 3<sup>rd</sup> opposite party using Zomato online application by paying Rs.176/- to Zomato India Pvt Ltd with the order ID No.1363266067. But Zomato on behalf of opposite party No.1&2 neither delivered the food item to the complainant nor refunded the amount to the complainant paid against the order through ATM/Debit card from his bank account, even though the complainant demanded the same by making multiple communication to the representative of the opposite parties on the same day and later. Similar instance was experienced by the complainant from the opposite parties No.1&2 when he was staying at New Delhi. The non delivery of the product ordered and paid by the complainant, the opposite parties gave the complainant two reasons which are:-

1. They could not deliver the order as the complainant was unavailable to collect the food at the mentioned address.

2. The non delivery happened due to an issue with the address of the complainant and also directed to correct the address of the complainant in Zomato App.

It is further alleged that since the restaurant had already started preparing the order of the complainant the opposite parties could not refund the amount of this order. The complainant had suffered such similar experience before this incident. The above act of the opposite parties amounts to deficiency in service and unfair trade practice. As the opposite parties could not add delivery charge they canceled the order by giving complainant and false contradictive explanations and extorted the complainant's money by fraud. Mr.Ashraf, manager of 3<sup>rd</sup> opposite party Kings Restaurant has admitted to the complainant over the telephonic conversation on 13.07.2021 at 11:34 am that he is aware of such unfair, restrictive, fraudulent trade practices of Zomato India Pvt Ltd and other food delivery service providers and they will be doing these kinds of illegal things in some times having heavy rush, rain etc.

In the circumstances the complainant prays to issue direction to the opposite parties to refund the entire amount paid to them along with interest at market rate and also to pay Rs.1,50,000/- as compensation to the complainant in lieu of loss of value of money, harassment, mental pain, agony etc. suffered by him and his family members and also to pay Rs.10,000/- as costs of the proceedings.

Notice sent to opposite party No.1&2 through post returned unserved. Notice sent to 3<sup>rd</sup> opposite party served but remained absent and hence 3<sup>rd</sup> opposite party set exparte. Notice to opposite party No.1&2 sent through e-mail which was not seen rejected hence deemed as served. Opposite party No.1&2 also remained exparte.

The case was posted for recording exparte evidence. The complainant filed affidavit and sent 5 documents along with list of documents through post praying to accept the same in evidence. The above 5 documents are marked as Ext.A1 to A5. Ext.A1 is the certified copy of the bank statement evidencing that the complainant has paid Rs.176/- on 07.08.2019 at about 8.17 pm and on the same day the complainant has paid Rs.186/- at about 9.27 pm. The above two amount has been seen debited to the bank account of the complainant. Ext.A2 is the statement declaring the order placed by the complainant. On perusal of records it is seen that the complainant has ordered one chicken salt and pepper worth Rs.200/- and 3 Kerala Paratha for Rs.36/- and the total price of the order is Rs.236/- out of which Rs.60/- has been given as discount as sale promotion and the balance amount debited from the bank account of the complainant is Rs.176/-. Ext.A3 is another screenshot of the food order history status relating to the 2<sup>nd</sup> order placed on the same day at 9.27 pm. Ext.A4 is the download copy of e-mail communication from Zomato received at the registered e-mail id of the complainant stating non delivery and denying refund of the amount paid as per 1<sup>st</sup> order. Ext.A5 is the download copy of e-mail communication from Zomato to

the complainant in his registered e-mail id regarding the order as per I.D No.1444021267 for Rs.186/-.

In view of the unchallenged averments in the complaint, proof affidavit coupled with Ext.A1 to A5 documents the case of the complainant against opposite party No.1 to 3 stands proved. Therefore the complainant is entitled to get refund Rs.362/- (176+186) with interest reasonable compensation and costs.

In the result complaint stands allowed with modification in the following terms.

- a. The opposite parties No.1 to 3 are directed to refund Rs.362/- (Rs.176+186) with interest @ 9% p.a from the date of order till realization.
- b. The opposite parties No.1 to 3 are further directed to pay Rs.5000/- as compensation for mental agony sustained by the complainant.
- c. Opposite party No.1 to 3 are also directed to pay Rs.3000/- to the complainant as costs of the proceedings.

Opposite party No.1 to 3 are directed to comply with the directions within 45 days from today failing which the complainant is entitled to recover the amount with interest @12% except for costs from opposite party No.1 to 3 jointly and severally and from their assets.

Dictated to the Confidential Assistant Smt. Deepa.S transcribed and typed by her corrected by me and pronounced in the Open Commission this the 29<sup>th</sup> day of October 2022.

E.M.Muhammed Ibrahim:Sd/-

S.Sandhya Rani:Sd/-

Stanly Harold:Sd/-

Forwarded/by Order

Senior Superintendent

## **INDEX**

Witnesses Examined for the Complainant:-Nil

### **Documents marked for the complainant**

Ext A1: Statement of account dated 28.04.2022.

Ext A2: Screenshot of food order ID No.1363266067.

Ext.A3: Screenshot of food order ID No.1444021267 .

Ext.A4 : Downloaded copy of the E-mail communication from Zomato with ID No.1363266067.

Ext.A5 : Downloaded copy of the E-mail communication from Zomato with ID.1444021267.

Witnesses Examined for the opposite party:-Nil

Documents marked for the opposite party:-Nil

**[HON'BLE MR. E.M.MUHAMMED IBRAHIM]  
PRESIDENT**

**[HON'BLE MRS. SANDHYA RANI.S]  
MEMBER**

**[HON'BLE MR. STANLY HAROLD]  
MEMBER**