

ARGUED BY : Sh. Arjun Dosanj, Advocate for complainant
: Sh. Saksham Arora, Advocate for OP No.1
: OP No.2 exparte.
: OP No.3 exparte.

Per Pawanjit Singh, President

1. The present consumer complaint has been filed by the complainant under Section 35 of the Consumer Protection Act 2019 against the opposite parties (hereinafter referred to as the OPs). The brief facts of the case are as under :-
 - a. It transpires from the averments as projected in the consumer complaint that on 3.9.2023 when the complainant and his mother were travelling from New Delhi to Chandigarh in train No.12045 namely NDLSW CDG SHTBDI vide ticket No. PNR No.2201073684 in Executive Class Coach No.E2 Seat No.9-10 and paid an amount of Rs.2296/- for booking the same they were served hot soup and bread by the on board catering staff of the OPs. After taking some soup, the complainant noticed a dead cockroach in the soup bowl and immediately called the catering staff and informed them regarding the same. The complainant also brought the said fact to the notice of the co-passengers who were also shocked to see the same and the complainant clicked the photographs of the same and lodged a complaint with IRCTC complaint booklet vide diary No.19243. Copy of the unhygienic/cockroach soup is annexed as Annexure C-2. The complainant without any delay requested the onboard staff to inform the same to the Train Incharge/TC. Thereafter the complainant checked the date of packaging of all the food items which were served and was flabbergasted to notice that the bread served alongwith the unhygienic/cockroach soup was expired as the same was useable best before 2.9.2023. The complainant also noticed that the expired bread were also served to other co-passengers and the complainant clicked photographs Annexure C-4 of the packaging of the bread. The complainant further lodged complaint qua the expired food item being served to the passengers in the complaint booklet and the copy of the same is annexed as Annexure C-5. The complainant had also twitted the said fact to the Railway Ministry on its official twitter account and the complainant was assured that action will be taken as per procedure and the copy of complaint on twitter and response is annexed as Annexure C-6. In this manner, as the OPs have served the unhygienic soup with dead cockroach and expired bread to the complainant and the co-passengers, the aforesaid act amounts to deficiency in service and unfair trade practice on the part of OPs. OPs were requested several times to admit the claim, but, with no result. Hence, the present consumer complaint.
 - b. OP No.1 resisted the consumer complaint and filed its written version and stated that the answering OP is dedicated and bound to the objective of ensuring absolute tourism experience to the buyers in the matter of utmost efficiency. It is further alleged that the issue in dispute has already been resolved/settled which fact has been concealed by the complainant and has filed false and frivolous complaint and the complaint is liable to be dismissed with cost. On merits, the facts as stated in the preliminary objections have been re-

iterated. The cause of action set up by the complainant is denied. The consumer complaint is sought to be contested

- c. OPs No.2&3 were properly served and when they did not turn up before this Commission, despite proper service, they were proceeded against ex-parte on 7.11.2023.
- d. In rejoinder, complainant reiterated the claim put forth in the consumer complaint and prayer has been made that the consumer complaint be allowed as prayed for.
- e. In order to prove their case, complainant tendered/proved their evidence by way of affidavit and supporting documents. However, as OP No.1 failed to file evidence despite grant of sufficient opportunity, therefore, vide order dated 2.2.2024 of this Commission, opportunity to file the same was closed.

2. We have heard the learned counsel for the contesting parties and also gone through the file carefully.

- i. At the very outset, it may be observed that when it is an admitted case of the complainant that he was travelling alongwith his mother in the subject train from Delhi to Chandigarh and during journey he was served soup and bread and while taking the soup the complainant noticed a dead cockroach in the soup and also found that the bread served was expired one regarding which he lodged a complaint in the complaint booklet as is also evident from Annexure C-3 and C-5, the case is reduced to a narrow compass as it is to be determined if the OPs have served unhygienic food items to the complainant and the co-passengers and the aforesaid act of the OPs amounts to deficiency in service and the complainant is entitled for the relief as is the case of the complainant or if the dispute already stands settled and the complaint being not maintainable liable to be dismissed as is the defence of the OP No.1.
- ii. Perusal of Annexure C-1 clearly indicates that the complainant and his mother had purchased the ticket for their journey from Delhi to Chandigarh on 3.9.2023. Annexure C-2 indicates that a dead cockroach was found in the soup served to the complainant. Annexure C-3 and C-5 are the copies of complaint having been lodged by the complainant. Annexure C-4 is the packing of the bread served to the complainant and other co-passengers which show the date of expiry till 2.9.2023 whereas the said breads were served to the complainant on 3.9.2023 when the usage of the same has already expired..
- iii. Thus, one thing is clear from the documentary evidence as discussed above that the OPs have served unhygienic food to the complainant and his mother as a dead cockroach was found in the soup which was served to the complainant and his mother and even expired bread was served to them and the aforesaid act of OPs amounts to deficiency in service and unfair trade practice on their part, especially when the entire case set up by the complainant in the consumer complaint as well as the evidence available on record is un rebutted by the OPs..
- iv. As far as the plea of the OP No.1 that the dispute has already been settled with the complainant and the complaint is not maintainable is concerned, as nothing has come on record that the complainant has settled the dispute with the OPs qua the act of the OPs to serve unhygienic food to the complainant, it is unsafe to hold that the complaint is not maintainable being the matter already settled. Thus, this plea of OP No.1 stands rejected. Hence, the instant consumer complaint deserves to be allowed.

3. In the light of the aforesaid discussion, the present consumer complaint succeeds, the same is hereby partly allowed and OPs are directed as under :-
 - i. to pay an amount of ₹10,000/- to the complainant as compensation for causing mental agony and harassment to him;
 - ii. to pay ₹5,000/- to the complainant as costs of litigation.
4. This order be complied with by the OPs within 45 days from the date of receipt of its certified copy, failing which, they shall make the payment of the amounts mentioned at Sr.No.(i) above, with interest @ 12% per annum from the date of this order, till realization, apart from compliance of direction at Sr.No.(ii) above.
5. Pending miscellaneous application(s), if any, also stands disposed off.
6. Certified copies of this order be sent to the parties free of charge. The file be consigned.

Announced

6/03/2024

mp

Sd/-

[Pawanjit Singh]

President

Sd/-

[Suresh Kumar Sardana]

Member