

**DISTRICT CONSUMER DISPUTES REDRESSAL COMMISSION
ERNAKULAM**

Dated this the 19th day of August, 2023.

Filed on:12/05/2022

PRESENT

Shri.D.B.Binu

Shri.V.Ramachandran

Smt.Sreevidhia.T.N

President

Member

Member

C.C. No.245/2022

COMPLAINANT

George V.T., S/o V. A. Thomas, Vettusseri House, Vaduthala P.O.,
Ernakulam-682023.

(Rep. by Adv. T.J.Lakhmanan, Mega Arcade, Power House Road, Cochin
-18)

VS

OPPOSITE PARTY

Branch Manager, Canara Bank, Ayappankavu Kochi- 682018.

(Rep. by Adv. U. Jayakrishnan, 1st Floor, Vallamattom Estate, T.D. Road,
Ernakulam 682035)

FINAL ORDER

D.B. Binu, President.

1. A brief statement of facts of this complaint is as stated below:

The complaint was filed under Section 35 of the Consumer Protection Act, 2019. The brief facts, as averred in the complaint, are that the complainant holds an account with the opposite party bank, which had arranged a group health insurance plan. As part of this, the complainant received an insurance policy from HDFC Ergo Health Insurance Co. for the period from 01/03/2020 to 28/02/2021. The premium for this coverage was debited from the complainant's bank account. The bank later informed the complainant of a new insurance arrangement with Tata AIG Insurance Co. starting March 2021, promising a new insurance certificate for the period from 01/03/2020 to 28/02/2022. The bank had deducted Rs. 6944/- as the premium for this new policy.

However, the bank repeatedly failed to provide the new policy or insurance certificate despite multiple requests from the complainant. In December 2021, the complainant underwent medical treatment, incurring expenses of Rs.90,000/-, which he was unable to claim from the insurance due to the missing policy details. The complainant's



efforts to obtain the policy details were consistently ignored by the bank.

The complainant sent a registered letter to the bank on 04/02/2022, which was acknowledged, but the bank still did not address the issue. This lack of response and failure to provide the promised insurance coverage and certificate constituted a deficiency in service and unfair trade practice on the bank's part.

The complainant is seeking resolution through the consumer commission and has requested remedies including a direction for the opposite party to pay Rs. 90,000/- for medical expenses along with interest from the present date until the amount is realized, compensation of Rs. 50,000/- for a deficiency in service and unfair trade practices, and an additional Rs. 50,000/- to address mental distress, hardship caused to the complainant, and the costs of the proceedings.

2) Notice

The Commission issued a notice to the opposite party, but the opposite party failed to submit their version within the stipulated legal timeframe. Consequently, the opposite party is set as ex-parte.

3) . Evidence

The complainant had produced a proof affidavit and 6 documents that were marked as Exhibits-A-1 to A-6.

Exhibit A-1. Copy of account details of the complainant's bank account at Canara Bank.

Exhibit A-2- Copy of certificate of insurance issued by HDFC Ergo Health Insurance Co.

Exhibit A-3. Copy of the account statement of the complainant showing a debit of Rs. 6944/-.

Exhibit A-4. Copy of discharge summary issued from Medical Trust Hospital, Ernakulam.

Exhibit A-5. Copy of medical bills issued from Medical Trust Hospital, Ernakulam.

Exhibit A-6. Copy of the letter sent to the opposite party along with the postal receipt.

4) The main points to be analysed in this case are as follows:

- i) Whether the complaint is maintainable or not?
- ii) Whether there is any deficiency in service or unfair trade practice from the side of the opposite parties to the complainant?
- iii) If so, whether the complainant is entitled to get any relief from the side of the opposite parties?
- iv) Costs of the proceedings if any?



5) The issues mentioned above are considered together and are answered as follows:

In the present case in hand, as per Section 2(7) of the Consumer Protection Act, 2019, a consumer is a person who buys any goods or hires or avails of any services for a consideration that has been paid or promised or partly paid and partly promised, or under any system of deferred payment. The complainant had produced a Copy of account details of the complainant's bank account (**Exhibit A-1**). This document shows the payment made by the complainant to the opposite party for the trip. Hence, the complainant is a consumer as defined under the Consumer Protection Act, 2019, (Point No. i) goes against the opposite party.

In the present case, the complainant alleges instances of gross deficiency in service and unfair trade practices against the opposite party.

We heard Sri. T.J. Lakshmanan, the learned counsel appearing for the complainant. He submitted that the opposite party's commitment to providing insurance coverage and a certificate, coupled with their subsequent failure to fulfil this promise despite deducting the premium, signifies a clear deficiency in service and unfair trade practice. This lapse has caused the complainant significant hardship and emotional distress. The complainant, being an account holder of the opposite party, presents the account details (**Exhibit A1**). The opposite party bank had arranged a group health insurance plan, including an insurance policy from HDFC Ergo Health Insurance Co. for the period of 01/03/2020 to 28/02/2021, (Exhibit A2). The insurance premium was debited from the complainant's account, supported by the account statement (**Exhibit A3**). The opposite party bank communicated a new insurance arrangement with Tata AIG Insurance Co. and assured the issuance of a certificate, relying on which the complainant was charged Rs. 6944/-, confirmed by the aforementioned exhibits. Despite the assurance, the opposite party did not provide the policy document, leading to the complainant's difficulties.

The complainant's admission to Medical Trust Hospital, Ernakulam on 13/12/2021, diagnosis, and treatment details, along with the incurred expenses of Rs. 90,000/-, (**Exhibit A4**) and (**Exhibit A5**). The complainant's inability to claim cashless benefits due to the opposite



party's failure to provide the promised insurance policy resulted in a personal financial burden. The complainant's efforts to secure the policy document through communication and a registered letter (Exhibit A6), were disregarded by the opposite party, leading to allegations of deficiency in service and unfair trade practice.

The evidence presented included an ex-parte proof affidavit filed by the complainant, and it was unchallenged by the opposite parties. Therefore, the complainant's claims were considered credible and supported by the evidence.

The evidence presented includes an ex-parte proof affidavit filed by the complainant, and it is claimed that the OPs did not challenge the complainant's claims. Therefore, the complainant requests the commission to grant the relief sought, including compensation for mental agony and unfair trade practices.

The opposite parties' conscious failure to file their written version in spite of having received the Commission's notice to that effect amounts to an admission of the allegations levelled against them. Here, the case of the complainant stands unchallenged by the opposite parties. We have no reason to disbelieve the words of the complainant as against the opposite party. **The Hon'ble National Commission held a similar stance in its order dated 2017 (4) CPR page 590 (NC).**

The opposite parties, despite being served with the notice, did not challenge the allegations made by the complainant. This conscious failure to file their written version is considered an admission of the allegations against them. As per legal precedent, this stance of the opposite parties is not credible, and we have no reason to disbelieve the complainant's claims in this matter.

Considering the evidence, the complainant's unchallenged contentions, and the serious deficiency in service caused by the opposite parties, we find the issues in favour of the complainant. The opposite parties' actions amount to unfair trade practices and deficient services, deceiving and enriching themselves with the complainant's money and that of the public.

Despite these assurances and deductions, the bank repeatedly failed to provide the new insurance policy or certificate, leading to the complainant's inability to claim cashless benefits for incurred medical expenses. The complainant's attempts to obtain the policy details were



persistently ignored by the bank. Even after sending a registered letter on 04/02/2022, the bank failed to address the issue.

Upon careful consideration of the evidence and arguments presented by the complainant, and given the lack of response from the opposite party despite being served with notice.

The actions of the opposite party, i.e., their assurance of providing insurance coverage and a certificate, coupled with their subsequent failure to fulfil this promise despite deducting the premium, signify a clear deficiency in service and unfair trade practice. This deficiency in service has led to the complainant's inability to claim cashless benefits for medical expenses incurred, resulting in substantial hardship and emotional distress.

The opposite party's consistent failure to respond and address the complainant's grievances, even after acknowledging the registered letter, indicates their negligence and non-compliance with their commitments. This not only amounts to a deficiency in service but also an unfair trade practice.

Considering the evidence, the complainant's unchallenged contentions, and the serious deficiency in service caused by the opposite party, it is evident that the opposite party is liable for unfair trade practices and deficient services. As a result, the complainant has suffered considerable inconvenience, mental distress, hardships, and financial losses.

The opposite party bank's consistent failure to fulfil its assurances, address grievances, and comply with commitments demonstrates a glaring lack of transparency, responsibility, and a disregard for the consumer's rights and well-being, thereby constituting a clear affront to the principles of fair and ethical business practices.

In conclusion, the complaint is deemed maintainable, and the opposite party is found to have engaged in unfair trade practices and deficient services.

We find the issue Nos. (II) to (IV) are also in favour of the complainant for the serious deficiency in service that happened on the side of the opposite party. Naturally, the complainant had suffered a lot of inconvenience, mental agony, hardships, financial loss, etc. due to the negligence on the part of the opposite parties.

In view of the above facts and circumstances of the case, we are of



the opinion that the opposite parties are liable to Hence the prayer is partly allowed as follows:

- I. The Opposite Party shall pay Rs. 90,000/- to the complainant being the amount incurred by the complainant as medical expenses.
- II. The Opposite Party shall pay Rs 50,000/- towards compensation for the deficiency of service committed by the opposite parties, and for the mental agony and physical hardships sustained by the complainant.
- III. The Opposite Parties shall also pay the complainant Rs. 10, 000/- towards the cost of the proceedings.

The Opposite Party be liable for the above-mentioned directions which shall be complied with by the Opposite Party within 30 days from the date of the receipt of a copy of this order. Failing which the amount ordered vide (i) and (ii) above shall attract interest @9% from the date of receipt of a copy of this order till the date of realization.

Pronounced in the Open Commission on this the 19th day of August,
2023

Sd/-
D.B.Binu, President

Sd/-
V.Ramachandran, Member

Sd/-
Sreevidhia T.N., Member

Forwarded/by Order

Assistant Registrar

Appendix

Complainant's evidence

Exhibit A-1. Copy of account details of the complainant's bank account at Canara Bank.

Exhibit A-2- Copy of certificate of insurance issued by HDFC Ergo Health



Insurance Co.

Exhibit A-3. Copy of the account statement of the complainant showing a debit of Rs. 6944/-.

Exhibit A-4. Copy of discharge summary issued from Medical Trust Hospital, Ernakulam.

Exhibit A-5. Copy of medical bills issued from Medical Trust Hospital, Ernakulam.

Exhibit A-6. Copy of the letter sent to the opposite party along with the postal receipt.

Opposite parties Evidence

Nil

Despatch date:

By hand: By post

kp/

CC No. 245/2022

Order Date: 19/08/2023

