

BEFORE THE DISTRICT CONSUMER DISPUTES REDRESSAL COMMISSION, KARNAL.

Complaint.No.463 of 2023

Date of instt.17.08.2023

Date of Decision:27.02.2024

Inder Pal son of Sh. Data Ram, resident of House No.1910, Sadar Bazar, Gandhi Chowk, Karnal.

.....Complainant

Versus

Lemon & Tree Holidays Resorts Pvt., Ltd., having its office at: 252, Sai Plaza, building, 4th floor, Sant Nagar, East of Kailash, New Delhi-110065, through its MD/CEO/Authorized Signatory.**Registered Address:**B-185, F/F Duggal Colony, near devil road, Khanpur, New Delhi.

....Opposite party.

Complaint under Section 35 of Consumer Protection Act, 2019.**Before Sh. Jaswant Singh.....President.****Sh. Vineet Kaushik..... Member.****Dr. Suman Singh.....Member.****Present: Sh. Tapan Verma, counsel for the complainant.****OP exparte vide order dated 30.01.2023.****(Dr. Suman Singh Member)**

The complainant has filed the present complaint under Section 35 of the Consumer Protection Act, 2019 against the opposite party (hereinafter referred to as OP) on the averments that in the month of September 2020, Branch Manager of the OP Sanjeev Saxena had approached the complainant and had proposed him to avail the Holiday Package Membership of the company of the OP and explained about the plan. That after being convinced the complainant agreed to avail Membership of the company of the OP for a tenure of 10 years (4 nights/5 days per year) and paid membership charges of Rs.1,20,000/- excluding Rs.5000/- on account of Annual Maintenance Charges and accordingly a Holiday Package Agreement was executed between the company of the OP and the complainant. After receipt of the payment of aforesaid Holiday Package, the company of OP had issued acknowledgement-cum-welcome letter in favour of the complainant.

2. That as per terms and conditions of aforesaid Holiday Package Agreement, the company of the OP undertakes to provide 4 Nights/5 Days Tour Package yearly for 10 years with the facility of Deluxe/Studio Apartment. The complainant availed the following services from the company of the OP:-

Date	Period	Place
28.10.2020 to 29.10.2020	One Night	Amritsar
03.02.2021 to 06.02.2021	Three Nights	Nainital
25.02.2022 to 26.02.2022	One Night	Jodhpur

As per agreed terms of the Holiday Package Agreement, the complainant is regularly paying Annual Maintenance Charges of Rs.4999/- to the company of the OP without any delay or default.

That thereafter in the month of November 2022 the complainant planned to go to Jaipur for 3rd December 2022 to 4th December 2022. The complainant on 12th November 2022 had approached the company of the OP through email/WattsApp and requested to provide the services of resort as per agreed terms of the aforesaid Holiday Package Agreement. But did not receive any satisfactory reply to the message sent on WattsApp, however the email sent to the OP bounced back due to non-availability of email address of the company of the OP. However, the complainant also tried to book the Package through Website of the company of the OP, the complainant surprisingly found the website to be closed/blocked. Thus, in spite of paying the membership amount and timely maintenance charges to the company of the OP the services agreed upon in the aforesaid Holiday Package Agreement between the complainant and the OP were not fulfilled. Hence, the present complaint.

3. On notice, OP did not appear despite service and opted to be proceeded against exparte, vide order dated 30.10.2023.
4. Complainant has tendered into evidence his affidavit Ex.CW1/A, and documents i.e. Ex.C-1 company is brochure with all details, Ex.C-2 Membership allotment by company, Ex.C-3 details of Domestic property, Ex.C-4 Complimentary voucher, Ex.C-5 Approval form, Ex. C-6 Applicant detail, Ex.C-7 Bank statement of payments given to the Company of the period 13.09.2020 to 20.09.2020, Ex.C-8 Bank statement of the period 14.01.2020 to 16.12.2020, Ex.C-9 Bank statement of the period 02.03.2022 to 03.03.2022, Ex. C-10 whatsapp chat with the company employee and Ex. C-11 Company master data.
5. We have heard the learned counsel for the complainant and have gone through the record available on the file carefully.
6. Learned counsel for the complainant, while reiterating the contents of the complaint has vehemently argued that in the month of September 2020, Branch Manager of the OP Sanjeev Saxena had approached the complainant and had proposed him to avail the Holiday Package Membership of the company of the OP and explained about the plan. That after being convinced the complainant agreed to avail Membership of the company of the OP for a tenure of 10 years (4 nights/5 days per year) and paid membership charges of Rs.1,20,000/- excluding Rs.5000/- on account of Annual Maintenance Charges and accordingly a Holiday Package Agreement was executed between the company of the OP and the complainant. After receipt of the payment of aforesaid Holiday Package, the company of OP had issued acknowledgement-cum-welcome letter in favour of the complainant. He further argued that in the month of November 2022 the complainant planned to go to Jaipur for 3rd December 2022 to 4th December 2022. The complainant on 12th November 2022 had approached the company of the OP through email/WattsApp and requested to provide the services of resort as per agreed terms of the aforesaid Holiday Package Agreement. But did not receive any satisfactory reply to the message sent on WattsApp, however the email sent to the OP bounced back due to non-availability of email address of the company of the OP. However, the complainant also tried to book the Package through Website of the company of the OP, the complainant surprisingly found the website to be closed/blocked. Thus, in spite of paying the membership amount and timely maintenance charges to the company of the OP the services agreed upon in the aforesaid Holiday Package Agreement between the complainant and the OP were not fulfilled and lastly prayed for allowing the complaint.

7. To prove his version the complainant has placed on file affidavit and documents i.e. Ex.C-1 company is brochure with all details, Ex.C-2 Membership allotment by company, Ex.C-3 details of Domestic property, Ex.C-4 Complimentary voucher, Ex.C-5 Approval form, Ex. C-6 Applicant detail, Ex.C-7 Bank statement of payments given to the Company of the period 13.09.2020 to 20.09.2020, Ex.C-8 Bank statement of the period 14.01.2020 to 16.12.2020, Ex.C-9 Bank statement of the period 02.03.2022 to 03.03.2022, Ex. C-10 whatsapp chat with the company employee and Ex. C-11 Company master data. It has been proved from the abovesaid documents that complainant has paid Rs.1,35,000/- to the OP and OP has failed to fulfill its promise.
8. To rebut the evidence produced by the complainant OP did not appear and opted to be proceeded against the exparte. Hence, the evidence produced by the complainant goes unchallenged and unrebutted and there is no reason to disbelieve the same. Hence, the act of the OP amounts to service and unfair trade practice.
9. Now, complainant does not want to continue the membership of the company and wants full refund of the amounts of Rs.1,35,000/- alongwith interest @ 24%, from the date of making the payment by the complainant to the company and Rs.2,00,000/- as compensation for mental pain and agony and Rs.33,000/- litigation and expenses.
10. Admittedly, complainant has availed the service from the OP for one night at Amritsar, three nights at Nanital and one night at Jodhpur. Complainant has paid Rs.1,35,000/- to the OP for membership. Hence, it would be justified if, the reasonable amount of Rs.25,000/- be deducted for the services availed. Thus, the complainant entitled for Rs.1,10,000/- alongwith interest, on account mental harassment and litigation expenses etc.
11. Thus, as a sequel to above said discussion we allow the present complaint and direct the OP to refund the amount of Rs.1,10,000/- with interest @ 9% from the date of deposition

of the membership amount till its realization. We further direct the OP to pay Rs.20,000/- to the complainant on account of mental agony and harassment suffered by him and Rs.11,000/- as litigation expenses. This order shall be complied within 45 days from the receipt of copy of this order. The parties concerned be communicated of the order accordingly and the file be consigned to the record room after due compliance.

Dated:27.02.2024

President,

District Consumer Disputes

Redressal Commission, Karnal.

(Vineet Kaushik) (Dr. Suman Singh)

Member

Member