

BEFORE THE DISTRICT CONSUMER DISPUTES REDRESSAL
COMMISSION, REWARI.

Consumer Complaint No : 563 of 2022.

Date of Institution : 07.12.2022.

Date of Decision : 26.03.2024.

Ram Kishan Saini son of Shri Lila Ram Saini, r/o village Gokalgarh , Tehsil
and Distt. Rewari.

.....Complainant.

Versus

1. Kathuwas Toll Plaza, through its Manager Devender Kumar R/o A-6, Radha Garden, Ganga Nagar (Meerut)
2. M /S H.G. Ateli- Narnaul Highway Pvt. Ltd. Near Partap Filling Station. Narnaul Road, Ateli- Mahendergarh -123021.

.....Opposite Parties

Complaint Under Section 35 of Consumer Protection Act, 2019

Before: Shri Sanjay Kumar Khanduja.....President.
Shri Rajender Parshad..... Member.

Present : Shri Kailash Chand, Advocate with
Ms. Seema Saini, Counsel for complainant.
Sh. Ramesh Yadav, counsel for OPs.

ORDER

{ **Per Rajender Parshad , Member** }

This present complaint has been filed by complainant
against the opposite parties (for short the OPs) under Section 35 of The

Consumer Protection Act, 2019 alleging deficiency in services on their part.

Brief facts of the case are as under :-

2. Complainant is aggrieved with the deficiency in service on the part of the OPs in overcharging him Rs. 65/-. According to complainant, on 13.09.2022, at about 6.17 pm, when he was driving his vehicle bearing registration no. HR-36AF-2397 by passing Kathuwas Toll Plaza , an amount of Rs. 65/- as toll charges was paid through online process. After completing his work after two hours, he returned to Rewari on the same day and crossed the said toll plaza at 8.17 pm and again in the said process, he paid Rs.65/- as toll via online mode, whereas as per rules, the Toll Plaza company has right to recover half of the said amount during the return journey within 24 hours. However, the complainant initiated the return journey within 24 hours .

3. It is alleged that thereafter the complainant visited the Toll Plaza and made complaint regarding over charging, but the officials could not give any satisfactory reply. The complainant also sent a legal notice on 17-11-2022 through counsel, but the OPs paid no heed to the notice of the complainant. Branding the act of the OPs as illegal and arbitrary , the complainant has prayed for the refund of the said amount of Rs. 65/- alongwith interest @ 24% including compensation of Rs. 25,000/- for harassmt and Rs. 15,000/- as litigation expenses.

4. In the reply filed by the OPs , the claim of the complainant is controverted. It is submitted that the complainant had violated the norms of lane driving on dated 13.09.2022. The complainant, in car No HR-36AG-2397 crossed the Kathuwas toll plaza and during this journey , he took out his car from lane no.6 and forcibly crossed the toll from the same lane. Further, the complainant neither contacted the toll office nor used toll free no. 1033. Denying any deficiency in service on their part, a final submission is made to dismiss the complaint.

5. Both the parties in support of their respective case tendered in documentary evidence, their respective affidavits and adduced certain documents. Reference of relevant record shall be given in this order.

6. We have heard learned counsels for the parties, and have also gone through the case file carefully and after hearing the rival contentions of the parties , we are of the convinced view that the present complaint has merit and the same deserves acceptance for the reasons mentioned hereinafter.

7. The complainant has placed on record the screenshot of message dated 13.09.2022, which shows that at 06.17 PM, an amount of Rs. 65/- was paid by him at Kathuwas Toll Plaza. Another message after a short period of time i.e within approximately two hours at 08.17

PM, shows that again an amount of Rs.65/- was also paid by complainant to the said plaza. During the course of arguments, learned counsel for OPs informed to this Commission that the OPs have returned the excess amount to the complainant on 19.11.2022. The learned counsel for the complainant also admitted that they had received the same, but the amount was received after the receipt of the legal notice. The learned counsel for the complainant has vehemently argued that the act of OPs proves their deficiency in service and unfair trade practice. We concur with the said submissions because the OPs had no right to receive the excess payment which they returned after they got a rap from the complainant by way of legal notice. By indulging in the said practice, it can be well presumed that that the OPs must be earning and amassing huge ill gotten and hard earned money of the users of the toll plaza.

8. Hence, as an upshot of our above discussion, the present complaint is partly allowed against opposite parties, whereby both of them are jointly and severally liable and are directed to pay compensation of Rs.10,000/- on account of mental agony and harassment and litigation expenses to be paid to him within the above stipulated period of 45 days from today, failing which the said amount shall also carry interest @ 9% per annum from the date of filing of the complaint till realization.

9. If the order of this Commission is not complied with, then the complainant shall be entitled to file execution petition under section 71 of Consumer Protection Act, 2019 and in that eventuality, the opposite parties may also be liable for prosecution under Section 72 of the said Act, which envisages punishment of imprisonment, which may extend to three years or fine upto Rs. one lac or with both. Copies of this order be sent to the parties free of costs as per rules and this order be promptly uploaded on the website of this Commission. File be consigned to the record room after due compliance.

Announced
26.03.2024.

President,
District
Consumer Disputes
Redressal Commission, Rewari.

Member,
DCDRC, Rewari.