

C.C. No. 296-2023 Dariya Singh Versus Oscar Super Speciality Hospital & Trauma Centre 1

BEFORE THE DISTRICT CONSUMER DISPUTES REDRESSAL COMMISSION, PANIPAT.

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|---------------------|---|-------------|
| Complaint case No. | : | 296 of 2023 |
| Date of Institution | : | 22.08.2023 |
| Date of Decision | : | 12.02.2024 |

Dariya Singh S/o Dhaja Ram, Resident of House No.810, Village Chandoli, Tehsil & District Panipat.

.....COMPLAINANT

VERSUS

Oscar Super Speciality Hospital & Trauma Center, situated at front of P.V.R Mall, Panipat through its Director/Manager/Authorized Person.

..OPPOSITE PARTY/RESPONDENT

COMPLAINT CONSUMER PROTECTION ACT

BEFORE: - Dr. R.K. Dogra, President.
Dr. Rekha Chaudhary, Member

Present:- Shri Rinku Panwar, Advocate for complainant.
Opposite party ex parte vide order dated 29.09.2023.

ORDER

Dr. R.K. DOGRA, PRESIDENT

The instant complaint has been filed by complainant Dariya Singh against the opposite party u/s 35 of the Consumer Protection Act, 2019 alleging deficiency in service and unfair trade practice on the part of the opposite party.

FACTUAL ASPECTS

2 The brief facts, as alleged in the complaint by the complainant are that the complainant had an Aayushman card in the name of the complainant vide ABHA No.91-4217-1551-8476, PM-JAY ID MOOLCWSME and the complainant was

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eligible for getting treatment from various hospitals. On 18.06.2023 the complainant met with an accident and admitted in the hospital of respondent and the respondent's hospital was on the penal of Government. Thereafter, the doctor of the hospital provided treatment to the complainant but the respondent did not provide proper and adequate treatment and due to this reason, the pain and swelling of the complainant was not removed. Thereafter, the official of the hospital demanded money for treatment from the complainant and when the complainant said that he was having an Aayushman card then the officials of the hospital illegally put pressure upon the complainant that if the complainant will not deposit the money then they will not provide the treatment. Due to this, the complainant paid an amount of Rs.15,000/-, Rs.2000/-, Rs.1665.85/-, Rs.800/- and Rs.4000/- for X-ray, blood test etc. It is also pertinent to mention here that the doctors of the hospital did not provide adequate treatment and due to this the complainant is still under treatment. Thereafter, the complainant was admitted in Virk hospital and the doctors of Virk hospital provided treatment free of cost on Aayushman Card. Due to the act and conduct of respondent, the complainant has come to this Commission with the prayer to direct the respondent to return Rs.25,000/- and Rs.1,00,000/- as compensation on account of mental pain and agony along-with Rs.22,000/- as litigation expenses.

3 Notice of the complaint was issued to the opposite party which was duly served upon the opposite party but despite service none has appeared on behalf of

the opposite party and hence, the opposite party was proceeded against ex-parte vide order dated 29.09.2023.

EVIDENCE LED BY COMPLAINANT

4 In support of his case, learned counsel for the complainant has tendered in evidence the affidavit complainant as Ex.CW1/A and closed the evidence after tendering the following documents:

Photocopies of:-

| | |
|------------------------------------|---------------------|
| Bills of Oscar hospital | Ex. C-1 to Ex.C-8 |
| Prescription of Virk Hospital | Ex. C-9 |
| Discharge Summary of Virk Hospital | Ex. C-10 & Ex. C-11 |
| Copy of Aayushman Card | Ex. C-12 & Ex. C-14 |
| Prescription Slip | Ex. C-13 |
| Photographs of injury | Ex. C-15 & Ex. C-16 |
| Copy of Aadhar Card of complainant | Ex. C-17 |

5 After considering the arguments and perusing the whole documents placed on file by the complainant, the following points have been found to be made out:-

- 1 Whether the complainant is entitled for an amount of Rs.25,000/- along with interest etc? OPC
- 2 Relief

STAND TAKEN BY THE COMPLAINANT

6 Learned counsel for the complainant has contended that the complainant had an Aayushman card in the name of the complainant vide ABHA

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No.91-4217-1551-8476, PM-JAY ID MOOLCWSME and the complainant was eligible for getting treatment from various hospitals. On 18.06.2023 the complainant met with an accident and admitted in the hospital of respondent and the respondent's hospital was on the penal of Government. The officials of the hospital demanded money for treatment from the complainant and when the complainant said that he was having an Aayushman card, even then officials of the hospital illegally demanded the amount of Rs.15,000/-, Rs.2000/-, Rs.1665.85/-, Rs.800/- and Rs.4000/- for X-ray, blood test etc. which was to be paid by the complainant. So, it is prayed that the present complaint may kindly be accepted.

7 We have heard the arguments advanced by the learned counsel for the complainant and perused the whole record available on file. Our point-wise findings with reasons thereof are as under:-

FINDINGS

POINT No.1

8 Onus to prove this point was on the complainant and in order to prove it complainant has tendered Ex.C1 to Ex.C17 proving therein that he had an Aayushman Card and got treatment from the hospital and as per the terms and conditions of the Aayushman Card free of cost treatment should have been given to the complainant but despite explaining all positions to the respondent, they recovered Rs.20,615/- wrongly and illegally. Despite so many oral requests, the money was demanded back from the respondent but all in vain and lastly refused to make payment of even a single penny. All the circumstances are proving that the

respondent has wrongly received the treatment charges from the complainant and complainant is certainly entitled for taking the same back from the respondent. At the same time, the respondent remained absent and were proceeded against ex parte vide order dated 29.09.2023 and by that way the evidence of the complainant remained unrebutted and unchallenged and the complaint of the complainant is liable to be accepted. Hence, this point is hereby returned in favor of the complainant and against the respondent.

FINAL ORDER

9 Having heard the contentions raised by learned counsel for the complainant and after perusing the whole record available on the file and evidence of the complainant which remained unrebutted deserves to be allowed and accordingly it is ordered the opposite party i.e. Oscar Super Specialty Hospital and Trauma Centre be directed to make the payment of Rs.20,615/- to the complainant within 45 days of this order along-with interest @ 9% per annum from the date of filing of this complaint till its actual realization. Opposite party is further directed to pay Rs.5,000/- as compensation and Rs.5500/- as litigation expenses failing which the complainant will be entitled to recover the whole amount with interest @**12%** from the date of order till its actual realization.

10 In case, opposite party fails to do so, then the complainant can file the execution petition under section 71 of Consumer Protection Act, 2019 and in that eventuality, the opposite party may also be liable for prosecution under Section 72 of the said Act. Copies of this order be sent to the party free of costs, as per

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rules, and this order be promptly uploaded on the website of this Commission. File
be consigned to the record room after due compliance.

**Announced in Open Court
Dated:12.02.2024**

**Sd/-
(Dr. R.K. Dogra)
President,
District Consumer Disputes
Redressal Commission, Panipat**

**Sd/-
(Dr. Rekha Chaudhary)
Member
District Consumer Disputes
Redressal Commission, Panipat**

Vanisha
(Stenographer)