

CC.No.168/2022
Disposal Date:14.08.2023

Date of Filing:09.06.2022
Date of Order: 14.08.2023

BEFORE THE BANGALORE I ADDITIONAL DISTRICT
CONSUMER DISPUTES REDRESSAL COMMISSION
SHANTHINAGAR BANGALORE - 27.

CONSUMER COMPLAINT NO.168/2022

DATED ON THIS THE 14TH AUGUST 2023

PRESENT

Sri.B. Narayanappa, M.A., LL.B. - PRESIDENT

Smt.Sharavathi S.M, B.A, LL.B., MEMBER

COMPLAINANT :

Mr.Jeevan Kulkarni,
S/o Vinod Kulkarni,
Aged about 25 years,
R/at:Flat No.316 B Block,
Navami symphony Apartments,
Rajarajeswari Nagar,
Benagaluru-560098.

Adv: Party in person

Vs

OPPOSITE PARTY/S:

BMS Hospital,
No.618, opp. BMS Engineering college,
Bull Temple Road,
Basavangudi,
Bengaluru-560004.

Adv: Sri. Sathyanarayana Shastri.

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Nature of complaint	Deficiency in service
Date of filing of complaint	09.06.2022
Date of Issue of Notice	17.06.2022
Date of Order	14.08.2023
Duration of Proceeding	1 Year 1 Months 28 Days

ORDERS PASSED BY SMT.SHARAVATHI S.M, MEMBER

1. This is the Complaint filed by the Complainant U/S Section 35 of the Consumer Protection Act 2019, against Opposite Party (herein referred as OP) alleging the deficiency in service not refunding sum of Rs,150/- and for payment of Rs.50,000/- as damages compensation and for such other reliefs as the Commission deems fit to grant under the circumstances of this case.

2. **The brief facts are that:-** on 10/03/2022 the complainant suffered injury on his left hand thumb and with due appointment visited Op Hospital in Basavanagudi, Bangalore, and the complainant was handed over a bill which contained Consultation fees for Rs.500/-, X-ray charges of Rs.300/- and registration charges sum of Rs,150/- received by the Op. The hospital bill also issued on 10/03/2022. The complainant raised question as per the Hyderabad Consumer Commission Ruling in the case of Mr. Vijay Gopal V/S Appolo Hospitals, Hospital authorities

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made it clear that the registration fees once paid would not have to be borne again by the patient until the next one year. The complainant raised his concerns over e-mail, for which he did not receive any response from the OP authorities. Hence it is alleged deficiency in service on the part of OP. Hence this complaint.

3.After registration of this Complaint, notice was ordered to be issued to OP. In response to the notice OP appeared through his counsel and filed their Version contending that the complainant is misconceived, groundless, frivolous, vexatious which is unsustainable in eyes of law and hence the same is liable to be dismissed. The collecting the registration fee only from the patient who visits the Hospital for the first time. It is pertinent to note that, when a patient visits the Hospital for any check up or treatment, as per "Clinical Establishment Act slandered for Hospital (Level IA and Level IB) ".The Hospital shall register all patients who visits the Hospital and maintain the case history of the patient to provide further treatment since healthcare for every patient is unique. Since there will be many patients,

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they need to have a mechanism to uniquely identify each and every patient. There will be people of same and similar names, hence to be error free in identifying patients, hospital issue a unique number of every patient who visits the hospital for treatment. The unique number will be provided after collecting the details of the patient. Which contains patients name, age, gender and similar other basic details. Most people will visit the Hospital more than one time. Hence in all subsequent visits, the hospital do not have to enquire the basic details of the patient as they have already done during registration. Even if patients visit the hospital after years also, they would be able to retrieve the details of the patient and medical history with the help of the registration number. Hence the hospital collects minimum charges towards registration fee for maintenance of the records/case history of the patient. Hence there is no deficiency in service on the part of OP. Hence the complaint may be dismissed with exemplary costs.

4.The complainant has filed his affidavit by way of examination in chief, the same was taken as PW-1 and got marked Ex-p1 to EX-P4. On the other hand

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OP also filed affidavit by way of examination in chief, the same was taken as RW-1. Documents not submitted. Heard the arguments of the complainant and Op counsels. The complainant counsel also filed written arguments. The following points arise for our consideration:-

1. **Whether the complainant has proved deficiency in service on the part of the Opposite Party?**
2. **Whether the complainant is entitled to the relief prayed for in the complaint?**
5. Our answers to the above points are:-

POINT NO 1: In the Affirmative.

POINT NO 2: Partly in the Affirmative

for the Following:

REASONS

6. **POINT NO 1 and 2:-** We have perused the entire record on hand, it is observed that it is true that on 10/03/2022 complainant suffered injury on his left hand thumb in this reason offer due appointment he visited OP BMS Hospital,

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Basavanagudi, Bangalore, and approached for treatment. The OP insisted to pay sum of Rs.500/- consultation fees, and sum of Rs.300/- X-Ray charges, and another sum of Rs.150/- Registration charges. Said charges Paid by the complainant as per the EX-P1. After the complainant raised in this registration fee sum of Rs.150/- because once the patient paid the registration fees would not have to be borne again by the patient until next one year.

7. The OP has admitted that they received Rs. 150/- towards registration charges and gave reasoning that the registration fees only from the patients who visits the Hospital for the first time, it is pertinent to note that, when a patient visits the Hospital for any check up or treatment, as per "clinical Establishment Act standard for Hospital (Level IA and IB), the Hospital shall register all patients who visit the Hospital and maintain the case. History/health records of the patients who visit the hospital for the treatment as per the guidelines of "Clinical Establishment Act Slandered for hospital (Level IA and IB" and there is no law prohibiting the hospitals from the collecting the registration fees

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from the patients in the State of Karnataka or any law enacted by the Central Government, the OP not violated any provision under any law.

8. The averments and contents mentioned above by the OP has not filed /produced any documents before this Commission to show that at the time of registration, they have collected the entire data of the patient and uploaded the same for subsequent treatment. There is no document filed on record to show that the OP was entitled to collect the amount, at the time of registration as a policy of the management, OP not produced any rule or registrations details before this Commission. Even if as a policy the OP was entitled to collect the registration fee same should have been displayed at the conspicuous place in the Hospital. Hence the act of the OP, amounts to unfair and restrictive trade practice and also constitutes deficiency in service.

Hence WE ANSWER POINT NO 1 and 1 PARTLY IN THE AFFIRMATIVE.

9. POINT NO 2:- For the aforesaid reasons we proceed to pass the following:

ORDER

- 1. The complaint of the complainant is hereby allowed in part.**

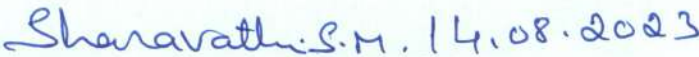
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2. The OP Authorized signatory, the General Manager is directed to pay the complainant a sum of Rs.150/- collected towards the registration fee on 10/03/2022.
3. The OP is hereby further directed to discontinue the Restrictive trade practice of collection of registration fee from the first time patients forth with.
4. The OP shall maintain/ establish a grievances cell for the patients to receive and resolve the grievances of the patient.
5. The OP is further directed to pay a sum of Rs.2,000/- compensation towards the mental agony and trauma undergone by the complainant and sum of Rs.2,000/- towards the cost of litigation.
6. Furnish the copy of order to both parties free of cost.

(Dictated to the Stenographer transcribed, typed by her, corrected by us and then pronounced in Open Commission on this the 14 day of AUGUST 2023)


(SRI.B NARAYANAPPA)
PRESIDENT)


(SMT.SHARAVATHI.S.M)
MEMBER