

GOVERNMENT OF JAMMU & KASHMIR
DISTRICT CONSUMER DISPUTES REDRESSAL COMMISSION

KUPWARA

Geerhati Lolab Bypass Kupwara

Coram: -

1. Peerzada Qousar Hussian

..... President

2. Ms Nyla Yaseen

..... Member

Consumer Complainant No: 14/2015



- 1. Khazir Mohammad Sheikh S/o Juma Sheikh**
 - 2. Mohammad Abdullah Sheikh S/o Khazir Mohammad**
 - 3. Farooq Ahmad Sheikh S/o Khazir Mohammad**
 - 4. Mohammad Akbar Sheikh S/o Khazir Mohammad**
- All residents of Sarri Zurhama, Kupwara**

.....(Complainants)

Versus

- 1. Regional Manager**

Indian Gas

Regional Office Sanathnagar, Srinagar,

Dost Gas Agency Bye Pass Road Kupwara

.....(Opposite party)

Date of Institution of the complaint: 07-08-2015

Date of Decision: 13-02-2025

Appearing Counsel:

Adv. Irshad Ahmad Malik for the complainants.

Adv. Nazir Ahmad Khan for the O.P in Ex-Parte.

ORDER

The instant complaint has been filed by the complainants before the Erstwhile Consumer Commission Kupwara on 07-08-2015, praying therein for direction to the O.P to pay an amount of Rs.7.5 Lacs with interest @12% as compensation for the loss caused to their residential house due to the fire incident.

Factual Matric of the case:-

The complainants are residents of Zurhama Kupwara, who were residing jointly in their residential house at Zurhama. The complainants' contention is that they are consumers of the O.P and have received the gas connection 6 years ago from Dost Gas Agency (Indian Oil) hereinafter referred to as O.P. In the meanwhile, the gas cylinder leaked during the usage on 13-04-2015 at 1 pm and resulted in the explosion of gas, resultantly, the fire broke out and the house gutted, besides roof ceiling, door and windows of the said double story building along with other house hold goods, and walnut trees also gutted in the fire. The matter was reported to the concerned police and an FIR was accordingly registered under No.15 of 30-04-2015, besides the certificate of the Fire and Emergency Services, Command Kupwara was also obtained. The complainant raised a claim with the O.P who provided a new gas connection to the complainant and assured the settlement of the claim within 15 days but the claim was not

settled. The refusal of the settlement of the claim by the O.P constrained the complainant to approach the Consumer Commission Kupwara for redressal of his grievances.

On notice, the O.P at early stage contested the case by filing the objections, where under it was contended that the complaint is baseless and concocted and no action accrued to the complainant to file the instant complaint against the O.P. The O.P has not rendered any service to the complainant. Besides, the complainant has not followed the necessary provisions of law and in order to make the claim for compensation on flimsy grounds, the complaint cannot sustain in the eyes of law. The complainant is under duty to fulfill all the relevant conditions like purchase bills of the commodity, if any stands sold to the complainant by the O.P. It was further contended by the O.P that even if such things occur, the consumer is covered under the LPG insurance policy under Public Liability insurance. The O.P accordingly prayed for dismissal of the complaint.

Although the O.P's counsel appeared before the Court, however, he could not cause the appearance consecutively, consequent upon which, the O.P was set to Ex-Parte.

Subsequently, the complainant filed the evidence affidavit of three witnesses namely Abdul Rashid Mir S/o Khazir Mohammad Mir R/o Zurhama Kupwara, Bashir Ahmad Khan S/o Khakhan R/o Zurhama Kupwara and Abdul Ahad Khan S/o Late Mohammad Yousuf Khan R/o Zurhama Kupwara.

The witness, Abdul Rashid Mir S/o Khazir Mohammad Mir on affidavit stated that he is a resident of Trehgam Kupwara. He knows the complainant, Khazir Mohammad as he is the neighbor of the complainant. The complainant's two storied residential house was situated at Zurhama, he had obtained a gas connection from the O.P about 14 years ago, however, on 13-04-2015, at 1 pm during the usage, the complainant's gas got leaked due to which the residential house of the complainant along with house hold goods and walnut trees got damages. An FIR was accordingly lodged at Police post, besides a certificate was obtained from the Fire and Emergency Command Kupwara. The complainant suffered loss of about Rs.6 Lacs. The witness on affidavit further stated that the complainant approached the O.P and requested for compensation but nothing was done in the matter.

Another witness namely Bashir Ahmad Khan S/o Khakhan on affidavit deposed that he is a resident of Zurhama Kupwara and the complainant is his neighbor. The complainant owned a residential house at Trehgam. He had purchased a gas connection from the O.P 14 years ago. However, on 13-04-2015 at 01 pm when the gas was ignited in the residential house of the complainant, the fire broke out suddenly which engulfed the whole house and caused loss to the house of the complainant along with the house hold goods and the complainant suffered loss of about 6 Lacs rupees. The Fire and Emergency Services Command Kupwara tried their best to control the fire but could not save the building of the complainant. The witness further stated that the complainant approached the Gas Agency for compensation of loss due to the gas leakage but he was not given any compensation.

Another witness, Abdul Ahad Khan S/o Late Mohammad Yousuf Khan stated on affidavit that he is aware of the fact that the complainant Khazir Mohammad Sheikh was having a two storied residential house. The complainant had received a gas connection from the O.P 14 years ago which was used by the complainant regularly, however, on 13-04-2015 at 01 pm, during its usage, the gas leaked, due to which the fire broke out and engulfed the whole residential house which caused heavy loss to the house and the household goods of the complainant. The complainant lodged FIR, although the Fire and Emergency Services tried their best to save the property of the complainant but could not. The complainant thereafter approached the Gas Agency for compensation but nothing was paid.

Heard the counsel appearing for the complainant, perused the records placed on the file along with the written arguments submitted by the counsel for the complainants, which reflects that the complainants Ipso Facto had a joint residential house situated at Sarri Zurhama Kupwara. The complainant is the beneficiary of LPG. He has been constantly getting the gas cylinders from the O.P. However, on 13-04-2015 at 01 pm while using the gas connection, the gas leaked and resulted in expression of gas due to which fire broke out, resultantly the house of the complainants along with the house hold goods and the walnut tree was gutted in the fire. The complainant lodged FIR and obtained certificate from the Fire and Emergency Services Command Kupwara. Additionally, the complainant registered his claim with the O.P. Although the complainant was assured the early settlement of the claim, but nothing was done in the matter.

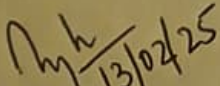
Since it is the duty of the manufacturer and dealer to provide the domestic gas cylinder to the consumers with due care and precautions as envisaged under rules. The manufacturers and dealers have to keep in mind the likelihood of any incident during its usage and anticipating such contingency to take necessary proceedings while rendering the services to the consumers. Dealer is responsible for ensuring the safe supply of gas to the consumers and also taking measures to prevent accidents or damages. But in the present case, the complainant has suffered loss of property due to the defective cylinder which admittedly amounts to deficiency in service.

Hon'ble National Commission in the case of D.Shankar versus Gopi Agencies and Ors 2010 (CTJ) 2015 (CP) and Govindroa and Ors versus "Hindustan petroleum OP 343 of 1999" has held both the distributors and the manufacturers liable for compensation of damages caused due to the leakage of gas. Therefore, relying on the aforesaid judgements passed by Hon'ble National Commission, we are of the considered view that the complainant being the registered consumer of O.P is entitled to be compensated by the O.P. As such, the complaint is allowed and disposed-off with the following directions:-

1. The O.P is directed to pay an amount of Rs.5 Lacs (Five Lac Rupees) to the complainant as compensation for damages caused to his residential house and other house hold goods within a period of 4 weeks, failing which the amount of compensation shall carry an interest @8% from the date of order till its realization.
2. The O.P is further directed to pay an amount of Rs.30,000/-(Rupees Thirty Thousand) to the complainant as litigation charges within a period of 4 weeks.

The O.P shall however be at liberty to register the insurance claim with the concerned insurance company under the Public Liability Insurance.

Order announced
Date: 13-02-2025


Nyla Yaseen
District Consumer Disputes
Redressal Commission
Kupwara


Peerzada Qousar Hussain
PRESIDENT
District Consumer Disputes
Redressal Commission kupwara

Copy of this order be provided to the parties for compliance and after completion, the file be consigned to records.