

**DISTRICT CONSUMER DISPUTES REDRESSAL COMMISSION  
SISUVIHAR LANE  
VAZHUTHACAUD  
THIRUVANANTHAPURAM  
695010**

**Complaint Case No. CC/201/2022  
( Date of Filing : 24 May 2022 )**

1. Subha B

sreelakam,vattavilla,Thirumala

.....Complainant(s)

Versus

1. Proprietor,STV Medical and Surgical

medical college ,Trivandrum

.....Opp.Party(s)

**BEFORE:**

**HON'BLE MR. Sri.P.V.JAYARAJAN PRESIDENT**

**HON'BLE MRS. Preetha .G .Nair MEMBER**

**HON'BLE MR. Viju V.R MEMBER**

**PRESENT:**

**Dated : 22 Nov 2023**

**Final Order / Judgement**

**BEFORE THE DISTRICT CONSUMER DISPUTES REDRESSAL COMMISSION**

**VAZHUTHACAUD : THIRUVANANTHAPURAM**

**PRESENT**

SRI. P.V. JAYARAJAN

: PRESIDENT

SMT. PREETHA G. NAIR

: MEMBER

SRI. VIJU V.R.

: MEMBER

**C.C.No. 201/2022 Filed on 24/05/2022**

**ORDER DATED: 22/11/2023**

Complainant : Subha.B, W/o.Lal.K.Nair, residing at TC 19/2246(2), VPS – 149,  
Sreelakam, Vattavila, Thirumala.P.O., Thiruvananthapuram – 695  
: 006.

(By Adv.Anil Prasad)

Opposite party : The proprietor, S.T.V Medicals & Surgicals, Sree Narayana  
Building, TC 1/1603, 1/1604, Medical college, Medical  
Collage.P.O., Thiruvananthapuram – 695 011.

**ORDER**

**SRI.P.V. JAYARAJAN, PRESIDENT:**

This is a complaint filed under section 35 of Consumer Protection Act 2019 and the matter stood over to this date for consideration. After hearing the matter the commission passed an order as follows:

This is a complaint filed by the complainant against the opposite party alleging deficiency in service on the part of the opposite party. After admitting the complaint notice was issued to the opposite party. After accepting the notice on 11/06/2022, the opposite party failed to appear before this Commission and hence on 01/07/2022 the opposite party was called absent and set ex parte. The case of the complainant in short is that the complainant who is a Radiographer working in Health Services Department was suffering from joint pain and swellings and therefore the complainant consulted Dr. Jacob Antony, a General Physician and Rheumatologist, on 16/07/2021. The doctor diagnosed that the complainant was suffering from Sponbylopic Arthritis for which he prescribed six medicines for her, including the third one, as on the prescription namely T.Mimod 25mg for a period of fifteen days. The complainant bought all the six medicines with the aforesaid prescription from the respondent on 16/07/2021 for which Rs.386/- was paid for the 20 tablets of Mimod 25mg alone. The complainant consumed all the six medicine for a period of two weeks and thereafter consulted Dr. Jacob Antony on 30/07/2021. The complainant informed the doctor that the complainant did not get any relief from the symptoms of the disease. The doctor then replaced the sixth medicine on the prescription dated 16/07/2021 with D-rise and advised the complainant to take all the medicine for further period of four weeks. Accordingly, the complainant purchased all the medicines for a period of two weeks with the new prescription, from the 1<sup>st</sup> opposite party on 31/07/2021, for which Rs.289/- was charged for 15 tablets of Mimod 25 mg. Even after taking these medicines for two weeks the complainant felt no relief from the symptoms of the complainant disease. But the complainant again purchased all the medicines for 15 days more from the respondent on 14/08/2021, since the doctor advised to take the prescribed medicine for one month and review was planned accordingly. Even after taking these medicines for two more weeks the complainant felt no relief from the symptoms of her disease. Instead, she developed new symptoms like headache, dizziness, flushing of face, general weakness etc. on 27/08/2021, the complainant consulted Dr. Jacon Antony and apprised him of her difficulties with these newly developed symptoms and aggravation of the original symptoms. The doctor, on examination, found that she was having hypertension for which Tab. Tazlac 40 mg was prescribed and she was advised to stop taking Tab. Predmet and to continue with all other medicines prescribed for her. The complainant purchased all the aforesaid medicine with the doctor's prescription, from the 1<sup>st</sup> opposite party on 27/08/2021 for which Rs.1377/- was charged. On reaching home, the complainant noticed the fact that the Tab. Sampraz was having a little smaller size than the same medicine which was bought previously (item No.5 on the prescription). On close evaluation it was found that the respondent had dispensed Tab. Sampraz 20mg instead of Tab. Sampraz 40mg prescribed by Dr. Jacob Antony and collected the price of Tab. Sampraz 40mg without informing the complainant. This fact compelled the complainant to scrutinize thoroughly the doctor's prescription as well as purchase bills from the opposite party and the medicine purchased from the opposite party. Then the complainant shockingly recognized that the Tab. Mimod 25 mg was wrongly substituted with Tab. Nimodipine 30 mg, the latter is an antihypertensive medicine which is being specifically used for relaxing the cerebral arteries after a cerebral haemorrhage

thereby facilitating adequate supply of blood to the brain. In all the purchase bills, it was noticed that the Tab Nimodipine 30 mg was written instead of Tab Mimod 25 mg. Tab Mimod 25 mg is the specific medicine used for treating Sponbylopic Arthritis. It is pertinent to note that this complainant was wrongly given Tab. Nimodipine 30 mg instead of Tab. Mimod 25 mg in all the occasion wherein she purchased the medicines from the opposite party i.e., on 16/07/2021, 31/07/2021, 14/08/2021 and 27/08/2021. For the purpose of taking an expert opinion with regard to the aggravation of the original symptoms and development of new symptoms, the complainant consulted Dr. Shanavas, a senior consultant in internal medicine and Cardiology, who found that she was consuming a medicine i.e., Tab. Nimodipine 30 mg, which was totally unwanted for the disease she was suffering from and also the development of new symptoms like headache, fatigue, dizziness, flushing of fact etc., are the adverse effects of Tab. Nimodipine 30 mg. He advised the complainant to stop taking Tab. Nimodipine 30 mg. The wrong substitution of medicine by the opposite party amounted to deficiency in service whereby the complainant suffered a lot both physically and mentally. Since the opposite party is the owner cum proprietor of the medical store he is liable to compensate the complainant for her physical as well as the mental agony due to the deficiency in service of the opposite party. Hence the complainant approached this Commission for redressing her grievances.

After admitting the complainant notice was issued to the opposite party. The opposite party failed to appear before this Commission and hence on 01/07/2022 the opposite party called absent and set ex parte.

Evidence in this case consists of PW1 and Exts. A1 to A7 from the side of the complainant. The opposite party being declared ex parte, there is no evidence from the side of the opposite party.

Issues to be considered:

- i. Whether there is any deficiency in service and unfair trade practice on the part of the opposite party?
- ii. Whether the complainant is entitle to the relief claimed in the
- iii.
- iv. Order as to cost?

Heard. Perused affidavit, records and documents. To substantiate the case of the complainant, the complainant herself sworn an affidavit as PW1 and Ext. A1 to A7 marked. Ext. A1 is the medical prescription by Dr. Jacob Antony. Ext. A2 is the purchase bill from STV Medical and surgical. Ext. A3 is the purchase bill from STV Medical and surgical. Ext. A4 is the Dr. Shanavas prescription. Ext. A5 is the copy of legal notice to the opposite party. Ext. A6 is the acknowledgement card. Ext. A7 is the purchase bill from STV Medical and surgical. On behalf of the complainant a witness was also examined as PW2. The Doctor who was examined as PW2 deposed that Ext. A4 is the prescription issued by him to the complainant. He admits his signature in Ext. A4. PW2, Dr. Shanavas. A. R, further deposed that as per Ext. A1 prescription tab. 'Mimod 25mg' was prescribed by the Doctor to the complainant. He further deposed that as per Ext. A2 cash bill issued by the opposite party to the complainant, the tablet disposed 'Nimodip' tablet is seen dispensed by the opposite party medical shop to the complainant. Ext. A3 medical bill dated 27/08/2021 and Ext. A7 medical bill dated 16/07/2021 issued by the opposite party to the complainant also shows that 'Nimodip' tablet is dispensed to the

complainant on those who occasions also. A perusal of Ext.A1 prescription and Ext.A2, A3 and A7 medical bills, it is clear that the medicine dispensed by the opposite party to the complainant is not the medicine mentioned in Ext.A1 prescription. Along with the argument notes the complainant's counsel has produced the details with regard to the 2 tablet namely 'Mimod' and 'Nimodip'. As per the medical literature submitted in respect of 'Mimod' tablet it is explained that this tablet is used to treat Rheumatoid Arthritis. On the other hand 'Nimodip' tablet is a medicine used to treat and prevent further damage to the brain after bleeding around brain. It is further explains 'Nimodip' tablet is usually started as soon as possible after the blood around the brain is consigned doctor. From this two descriptions regarding the above referred two tablets. It is evident that both tablets were used for entirely different treatments. From the available documents it is evident that the complainant has purchased and consumed 'Nimodip' tablet from 16/07/2021 to 10<sup>th</sup> September 2021 i.e. almost around for a period of 2 months. The complainant further deposed that she has not got any relief by consuming the medicine prescribed by the doctor. She further deposed that she developed some new symptoms like headache, fatigue, dizziness, flushing of face etc. if consuming the medicines dispensed by the opposite party. According to the complainant after consulting PW1 Dr.Shanavas, it came to her notice that she was consuming the medicine i.e. tablet 'Nimodip' which was the totally unwanted medicine for the decease which she was suffering from. PW2 also deposed that the 'Nimodip' tablet wrongly dispensed by the opposite party to the complainant was for a serious condition when there is bleeding around the brain. He further deposed that as per Ext.A1 prescriptions the opposite party ought to have been dispensed 'Mimod' tablet which is usually prescribed for Arthritis complaints. He further deposed that the consumption of the 'Nimodip' tablet wrongly dispensed by the opposite party is the reason for the physical uneasiness to the complainant. PW2 also deposed that 'Nimodip' tablet is a medicine included in scheduling H it can be deposed only with a prescription by doctor. PW2 categorically stated that it is a clear case of wrong dispensation of the medicine on the part of the medical shop. According to the PW2, if persons who is not having any complaints with regard to the brain, consumes 'Nimodip' tablet, that will definitely result in physical weakness, low pressure, headache, hart beat variations and other related complications. The opposite party being declared ex parte there is no evidence from the side of the opposite party to discredit the evidence adduced by the complainant. Hence the evidence adduced by the complainant stands unchallenged. By swearing an affidavit as PW1 and by marking Ext.A1 to A7 documents, coupled with the evidence of PW2 we find that the complainant has succeeded in establishing her case against the opposite party. From the available evidence before this Commission, we find that there is deficiency in service and unfair trade practice on the part of the opposite party. From the evidence adduced by the complainant, it is also proved that the complainant has suffered physical, mental agony and financial loss due to the deficiency in service and unfair trade practice on the part of the opposite party. As the physical, mental agony and financial loss to the complainant was caused due to the deficiency in service and unfair trade practice on the part of the opposite part, we find that the opposite party is liable to compensate the loss sustained by the complainant. In view of the above discussions, we find that this is a fit case to be allowed in favour of the complainant.

In the result the complaint is allowed. The opposite party is directed to pay Rs.1,00,000/- (Rupees One Lakh Only) as compensation and Rs.5,000/- (Rupees Five Thousand only) being the cost of this proceedings to the complainant within 30 days from the date of receipt of this order failing which the amount except cost shall carry an interest @ 9% per annum from the date of receipt of this order till the date of remittance/realization.

A copy of this order as per the statutory requirements be forwarded to the parties free of charge and thereafter the file be consigned to the record room.

Dictated to the Confidential Assistant, transcribed by her, corrected by me and pronounced in the Open Court, this the 22<sup>st</sup> day of November, 2023.

Sd/-  
P.V. JAYARAJAN : PRESIDENT  
Sd/-  
PREETHA G. NAIR : MEMBER  
Sd/- : MEMBER  
VIJU V.R.

C.C. No. 201/2022

APPENDIX

I. COMPLAINANT'S WITNESS:

PW1 : Subha.B  
PW2 : Dr.Shanavas.A.R

II. COMPLAINANT'S DOCUMENTS:

- A1 • Medical prescription by Dr.Jacob Antony.  
A2 • Purchase bill from STV Medical and surgical dated 14/08/2021.  
A3 • Purchase bill from STV Medical and surgical dated 27/08/2021.  
A4 • Dr.Shanavas prescription.  
A5 • Copy of legal notice to the opposite party dated 05/10/2021.

- A6 • Acknowledgement card.
- A7 • Purchase bill from STV Medical and surgical.

III. OPPOSITE PARTY'S WITNESS:

NIL

IV. OPPOSITE PARTY'S DOCUMENTS:

NIL

Sd/-

PRESIDENT

R.

**[HON'BLE MR. Sri.P.V.JAYARAJAN]  
PRESIDENT**

**[HON'BLE MRS. Preetha .G .Nair]  
MEMBER**

**[HON'BLE MR. Viju V.R]  
MEMBER**