

**CONSUMER DISPUTES REDRESSAL COMMISSION-VII  
DISTRICT: SOUTH-WEST  
GOVERNMENT OF NCT OF DELHI  
FIRST FLOOR, PANDIT DEEP CHAND SHARMA SHAKAR BHAWAN  
SECTOR-20, DWARKA, NEW DELHI-110077**

**CASE NO.CC/210/22**

Date of Institution:- 05.08.2022

Order Reserved on:-05.10.2023

Date of Decision :- 07.11.2023

**In the matter of**

Sh. Nitesh Garwal  
R/o RZ C/10,  
West Sagarpur,  
New Delhi-110014

.....Complainant

V/s

1. Connaught Plaza Restaurants Private Limited,  
C/o B-25, Bazar Lane Bengali Market,  
New Delhi-110 001

2. Mc Donalds India Pvt. Ltd.,  
C/o 202-206 Tolstoy H. No. 15,  
Tolstoy Marg, New Delhi  
Central Delhi-110 001

3. McDonalds Restaurant,  
C/o R1, Janak Place, Janakpuri,  
New Delhi-110 058

.....Opposite Parties

## ORDER

Per R.C. Yadav, Member

1. The brief facts of the case are that the complainant has ordered Spicy Chicken wrap extra meal worth Rs. 427.75/- through Zomato App on 17/01/2022 vide invoice No. 314003402093831 at 9.18 PM and the delivery of the same was received at the address of the complainant at RZ C-10, West Sagarpur, New Gandhi Market, New Delhi-110 046 by Zomato Delivery partner Mr. Rajesh. Copy of the receipt generated by Zomato is Annexure-A. When the complainant opened the package and found that the order was not as per order placed on the Zomato. The complainant has order Big Spicy Chicken Wrap Extra Value Meal charges worth Rs. 425.45/- but received Mc Spicy Chicken Burger along with Cock cane and French Fries which is of cost Rs. 294/- [Excluding charges and taxes]. The photograph of received food is Annexure-B. The OP has sent wrong food so that the complainant tried to contact to restaurant on his phone but the OP has not responded. The complainant tried calling the OP for two days but staff in restaurant did not reply a single call. Screenshot of the phone call is Annexure-C. The complainant has sent a legal notice on 20/01/2022 to OP for demanding for his loss due their unprofessional and irresponsible behavior but the OP has not paid attention to legal notice. Copy the Legal

notice is Annexure-D. The complainant has prayed for refund Rs. 427.75/- along with Rs. 11,000/- for mental harassment and other relief which the Hon'ble Forum may deem fit proper for sake of Justice.

2. Notice of the complaint was served to OP. OP did not appear to attend the proceedings and proceeded ex-parte vide order dated 03/02/2023.
3. The complainant has filed his affidavit in ex-parte evidence along with written arguments in support of his case.
4. On 05/10/2023, we heard the arguments of the complainant in this case and the case was reserved for orders.
5. We have gone through the entire record carefully and thoroughly.
6. It is the case of the complainant that he has ordered Spicy Chicken wrap extra meal worth Rs. 427.75/- through Zomato App on 17/01/2022 at 9.18 PM and the delivery of the same was received at the address of the complainant at RZ C-10, West Sagarpur, New Gandhi Market, New Delhi-110046 by Zomato Delivery partner Mr. Rajesh. When the complainant opened the package and found that the order was not as per order placed on the Zomato by the complainant. The complainant has order Big Spicy Chicken Wrap Extra Value Meal charges worth Rs. 425.45/- but received Mc Spicy Chicken Burger along with Cock cane and French Fries which is of cost Rs. 294/- [Excluding charges and taxes]. As the OP has sent

other food which was not demanded by the complainant at the more which constitute deficiency and unfair trade practice on the part of the OP. If the OP has sent wrong food it was the obligation on the part of the OP to refund the proper amount to the complainant. This act on the part of the OP constitute deficiency in service and fair trade practice, so we allow the complaint of the complainant and direct the OP to refund Rs. 425.75/- to the complainant along with 10,000/- lump sum for mental harassment and litigation charges within 45 days from of the receipt of this order, failing which the entire amount shall be payable with interest @ 9% per annum till realization.

- Copy of the order be given/sent to the parties as per rule.
- The file be consigned to Record Room.
- Announce in the open Court on 07/11/2023 at 3.30 PM.

(R.C. YADAV)  
(MEMBER)

(DR. HARSHALI KAUR)  
(MEMBER)

(SURESH KUMAR GUPTA)  
(PRESIDENT)