

(1994) 12 NCDRC CK 0019

In the National Consumer Disputes Redressal Commission

DINESH JAIN

APPELLANT

Vs

HOTEL TASHI DELEK

RESPONDENT

Date of Decision : 03-12-1994

Acts Referred:

Citation : 1995 2 CPJ 420 : 1995 3 CPR 145

Hon'ble Judges : G.G.Loney , Elipe Dharma Rao J.

Judgement

1. THIS complaint is filed by one Dinesh Jain on behalf of his travelling group alleging deficiency in the service of opposite party "Hotel Tashi Delek" situated at Gangtok in Sikkim. The complainant alleged that the group of 18 members including himself had decided to visit Sikkim as tourists. The complainant had read a book-let published by the Federation of Hotel and Restaurant Guide, 1922 (F.H.R.A.I.). In that booklet, the information as regards the opposite party is mentioned as a Four Star Hotel with facilities. The complainant alleged that on 20.5.92 his group arrived at Gangtok and were allotted Rooms Nos. 401, 402, 406, 407 and 408 on 5th floor. The complainant alleged that after residing in the aforesaid rooms, it was found that the Hotel in question does not conform to the standard of a Four Star Hotel. The complainant and his group noticed that there was no lift in the Hotel, the bed sheets were in torn conditions and the beds were found in a broken condition. The complainant further alleged that the services as promised in the booklet mentioned above were totally deficient and as a result of which, the complainant suffered inconvenience and physical discomforts. The complainant alleged that his group paid Rs. 12,758.90 Ps. towards the hiring charges of the Hotel by the complainant. The complainant further described in his complaint that there were no hot water provided in the rooms. The rooms were uncleaned and the rooms in the Hotel were not habitable. According to the complainant, the representation made by the opposite party as regards the service facilities in the Hotel were totally incorrect and further alleged that on account of the deficiency in the service of the opposite party, he suffered mental tension and claimed Rs. 1,50,000/- towards the compensation and also alleged that the opposite party shall tender unconditional apology for the inconvenience

suffered by the complainant.

2. NOTICE u/Sec. 13 of the C.P. Act, 1986 dated 7.4.94 was sent to the opposite party with intimation that the complaint was fixed for hearing on 3.6.1994. The said notice was received by the opposite party in the month of May, 1994. However, even then no written version was filed. Thus, we find that there is no written version filed by the opposite party denying the allegations made by the complainant in this complaint. We, therefore, heard the complainant through his authorised agent. However, none appeared for the opposite party.

The allegations made by the complainant as regards the deficiency in the service of the opposite party are duly supported by the affidavit of complainant.

3. IN addition to that the complainant has filed on record Annexure 1, the Hotel & Restaurant Guide India, 1992 in which the information as regards the Hotel Tashi Delek is found printed on page 16 of the record. The opposite parties described it as a Four Star Hotel. The complainant has also filed on record his correspondence with the opposite party and the Consumer Education & Research Centre, Ahmedabad from whom he sought the assistance to redress his grievance. The complainant has also filed various photographs showing the condition of the Hotel rooms. The complainant has also filed a bill issued by the opposite party showing the payment of Rs. 12,758.90 Ps. to the opposite party. We are satisfied from the material on record that the Hotel Tashi Delek did not conform to the standard of a Four Star Hotel on the date, when it was occupied by the complainant and his team members. There is a truth in the allegations made by the complainant that the complainant and his companions did suffer loss and injury because of the poor facilities and deficient service.

4. THE complainant has claimed that he suffered a loss of Rs. 1,00,000/- and on the ground that his team will not again be able to visit the Sikkim. THE complainant had suffered the loss of Rs. 35,000/- on account of the aforesaid team tour. Thus, the complainant has prayed that the opposite party shall tender unconditional apology to the complainant and his family members. This prayer cannot be granted as there is no provision under the Consumer Protection Act, 1986 to direct the party to tender unconditional apology. However, we find that since the service of the opposite party was deficient and did not conform to the standard of a Four Star Hotel, the complainant is entitled to claim a reasonable compensation in addition to the refund of the amount paid by him. Under these circumstances, it will be just to direct the opposite party to refund to the complainant an amount of Rs. 12,758.90 paid for the occupation of the said Hotel and the amount of Rs. 5000/- towards the compensation. Hence, we pass the following order:- ORDER The complaint is allowed. The opposite party-Hotel Tashi Delek, Gangtok, Sikkim is directed to pay to the complainant an amount of Rs. 12,758.90 Ps. towards the refund of Hotel charges and Rs. 5,000/- towards the compensation. The aforesaid amount be paid to the complainant within 30 days from the receipt of this order failing which it shall carry interest at the rate of 18% p.a. In addition to above, the opposite party shall pay to the complainant

Rs. 500/- towards the costs. Complaint allowed with costs.