

(2004) 07 NCDRC CK 0073

In the National Consumer Disputes Redressal Commission

DIVYA SOOD

APPELLANT

Vs

RUCHI GUPTA

RESPONDENT

Date of Decision : 20-07-2004

Acts Referred:

Citation : 2004 4 CPJ 356 : 2005 1 CLT 106

Hon'ble Judges : J.D.Kapoor , Mahesh Chandra J.

Advocate : Deepak Tyagi

Judgement

1. THE appellant runs a business under the name and style of "Body Care". On the assurance given by the appellant to the respondent, a young unmarried girl who was eager and interested in losing her extra weight that they would not only make her shed 30 kgs within 6-7 months but also would see that she maintains the same weight lifelong, respondent paid Rs. 15,000/- as charges/fees for appellant's service. Respondent attended the course regularly for one year and three months and lost only 7 kg. Feeling aggrieved she approached the Manager of the appellant and asked for refund of Rs. 15,000/- taken by them as their fees. When they refused to refund the amount respondent filed instant complaint before the District Forum.

2. THE District Forum found the appellant guilty of deficiency in service and directed her to refund a sum of Rs. 12,000/- out of Rs. 15,000/- considering the fact that the respondent availed some services from the appellant and also ordered to pay Rs. 12,000/- as compensation besides the litigation expenses vide impugned order dated 7.6.2004. Feeling aggrieved by the aforesaid order the appellant has preferred the present appeal.

The plea of the appellant is that she never assured the respondent that she would loose 30 kg weight within 6-7 months and since she herself withdrew from the treatment, question of deficiency in service did not arise. Admittedly the appellant had inserted in newspaper advertisement that it was offering slimming package to the public at large and it was claimed that by adopting non-medical weight loss therapy, it could reduce the weight of a person considerably. The

advertisement also demonstrated a number of persons who had considerably reduced their weight by joining their slimming package programme.

3. IN order to prove that she had attended the course and paid fees of Rs. 15,000/- the appellant produced the receipt, on the back of which it was mentioned that the loss of weight was 100% guaranteed. It was also assured that she could loose 30 kg weight in seven months and maintain the same weight lifelong. It appears that the appellant lured its clients by the advertisements and after taking the fees from them did not succeed in fulfilling its assurance. So far as the refund of 12,000/- out of 15,000/- is concerned, the District Forum has taken a reasonable view and has given due consideration to the services provided by the appellant but not to the satisfaction of the respondent. The main grievance of the Counsel for the appellant is that awarding of the amount of Rs. 12,000/- as compensation to the respondent is unjustified as the appellant did not give any assurance to the respondent that she would loose 30 kg. in seven months. The only assurance given was that she would loose considerable weight if she took their treatment. We do not find any force in this contention as luring public to shed considerable weight and maintain the same lifelong is such a temptation that overweighed young unmarried girls and even overweight or obese women are prone to fall in their trap. If the concerned party fails to shed the weight as assured by the people like the appellant even after giving therapy for months it surely would cause some amount of mental suffering and agony which requires to be compensated in terms of money. Deficiency of service in itself is a cause for providing compensation besides the refund of the amount charged for the requisite service.

4. WE do not find any reason to interfere with the impugned order. The appeal is dismissed in limine. The FDR, filed by the appellant along with the appeal, be returned to the appellant after completion of necessary formalities. A copy of this order, as per statutory requirements, be forwarded to the parties free of charge and also to the concerned District Forum and thereafter the file be consigned to record room. Complaint dismissed.