

DISTRICT CONSUMER DISPUTES REDRESSAL COMMISSION, PALAKKAD
Near District Panchayath Office, Palakkad - 678 001, Kerala

Complaint Case No. CC/57/2023
(Date of Filing : 23 Feb 2023)

1. Abijith.V

S/o. Velayudhan.K Sarala Nivas, Micharamcode, Anjumoorthy Mangalam
P.O, Palakkad - 678 682

.....Complainant(s)

Versus

1. United Breweries Limited

UB Tower, UB City, No. 24, Vittal Mallya Road, Bangalore- 560 001

2. The Managing Director/Manager/ Authorized Signatory

United Breweries Limited.UB Tower, UB City, No. 24,Vittal Mallya Road,
Bangalore- 560 001

3. Kerala State Beverages (M&M) Corporation

KSBC Head Office, BEVCO Tower, Palayam, Vikas Bhavan (PO),
Trivandrum- 695 033

4. The Managing Director

Kerala State Beverages (M&M) Corporation , KSBC Head Office, BEVCO
Tower, Palayam, Vikas Bhavan (PO), Trivandrum- 695 033

5. The Manager

Kerala State Beverages (M&M) Corporation, Retail Outlet, Plazhi,
Panniyankara P.O, Vadakkenchery, Palakkad - 68 683

.....Opp.Party(s)

BEFORE:

HON'BLE MR. Vinay Menon.V PRESIDENT
HON'BLE MR. Krishnankutty. N.K MEMBER

PRESENT:

Dated : 18 Jun 2024

Final Order / Judgement

DISTRICT CONSUMER DISPUTES REDRESSAL COMMISSION, PALAKKAD

Dated this the 18th day of June, 2024

Present : Sri. Vinay Menon V., President

: Smt. Vidya A., Member

: Sri. Krishnankutty N.K., Member

Date of Filing: 23/02/2023

CC/57/2023

Abijith V.,

S/o. Velayudhan K.,

Sarala Nivas, Micharamkode,

Anjumoorthymangalam (PO), Palakkad – 678 682. -

Complainant

(By Adv. M/s. K. Dhananjayan, Ratheesh Gopalan &

Sreeraj R. Vallikode)

Vs

1. United Breweries Ltd.,

UB Tower, UB City,

No.24, Vittal Mallya Road,

Bangalore – 560 001.

2. The MD / Manager /Authorised Signatory,

United Breweries Ltd.,

UB Tower, UB City,

No.24, Vittal Mallya Road,

Bangalore – 560 001.

3. Kerala State Beverages (M&M) Corporation,

KSBC, Head Office, Bevco Tower, Palayam,

Vikas Bhavan (PO), Trivandrum – 695 033.

4. The Managing Director,

Kerala State Beverages (M&M) Corporation,

KSBC, Head Office, Bevco Tower, Palayam,

Vikas Bhavan (PO), Trivandrum – 695 033.

5. The Manager,

Kerala State Beverages (M&M) Corporation,

Retail Outlet, Plazhi, Panniyamkara (PO),

Vadakkancherry, Palakkad – 678 683.

- Opposite parties

(OPs 1 & 2 by Adv. M/s. C. Madhavankutty & Prajeesha

OPs 3 to 5 By Adv. Kannaraj K.R.)

ORDER

By Sri. Vinay Menon V., President

1. Complainant's grievance pertains to a glass piece found in a beer bottle purchased by him for personal consumption.
2. OP1 & 2 filed detailed version stating that a beer bottle, before being filled and sealed, undergoes a number of procedures where the bottles are kept in a surgically pristine condition and there is no chance of any contamination. The opposite party has a serious case that the bottle might be tampered with and a cause of action might be intentionally created. They sought for dismissal of the complaint.

3. OPs 3 to 4 filed version stating that the complainant had not purchased the beer in question from their store and they are not bound to compensate the complainant in any manner. They have also raised a number of denials to various pleadings raised by the complainant, which, in the present circumstances are not relevant.
4. The following issues were framed for consideration:
 1. Whether the liquor purchased by the complainant contained the impurity viz. namely glass piece as alleged by the complainant?
 2. Whether there is deficiency in service or unfair trade practice on the part of OPs?
 3. Whether the complainant is entitled to any of the reliefs sought for?
 4. Any other reliefs?

5. (i) Documentary evidence of complainant comprised of proof affidavit and Exhibits A1 to A3.

Marking of Ext. A1 is objected to on the ground it is blank paper only it is a seal. Even though the proof affidavit and complaint does not contain the nature of Ext.A1, the list of documents show that it is an invoice issued from Bevco outlet i.e. OP3. We find merit in the objection raised by the OP in marking Ext.A1. This is a blank sheet with a "Delivered" seal. Ext.A1 cannot be relied upon and hence inadmissible in evidence.

- (ii) O.Ps. filed proof affidavit but there was no documentary evidence.

(iii) Mahazar prepared by this Commission after visually inspecting the bottle in dispute was marked as Ext.C1. There was no objection.

Issue No.1

6. It is the complainant's case that the Kingfisher Storm super premium beer purchased by him from OP3 outlet contained a hard piece of impurity. The said allegation is staunchly opposed by the OPs. They contended that considering the scientific method and procedures adopted by the O.P. in cleaning the bottles and filling, there was no chance that a foreign material can lie in suspension in a bottle. So as to prove their contention, OPs 1 & 2 had sought, by filing an application as IA 411/2023, for sending the bottle for scientific testing in an approved laboratory to see if the cap and seal of the bottle has been tampered with. This application was dismissed since, based on the facts and circumstances, this was a case of Res Ipsa loquitor.

7. As per the direction of this Commission, the bottle was produced in this Commission on 25/9/2023. Counsel for complainant and OPs 1 & 2 were present in the court. The bottle was visually checked and the visually available data and the feeble sound when the particle hit the side of the bottle upon inverting the bottle was taken down in open court and the information so received were reduced to writing in open court in the presence of the counsels appearing for complainant and OPs 1 & 2. From the date of preparation of this report till the date of marking the documents on 04/12/2023, there was no objection whatsoever to the contents of this report. This report was marked as Ext.C1. OPs had no objection whatsoever in marking Ext.C1.

8. Ext.C1 clearly proves that there is a solid particle in the bottle. It is also clear that the cap of the bottle is untampered with. Bottle was produced in the court without any tampering.

Issue No. 2

9. In view of the findings in issue no.1, we hold that there is negligence on the part of O.P.s in bottling the beer.

10. Since Ext.A1, the bill allegedly issued by O.P.3, is a blank sheet of paper, we cannot come to a conclusion as regard the seller of the bottle. Complainant has failed to prove any deficiency in service on the part of OPs 3 to 5.

Issue No. 3

11. Complainant has sought for return of Rs.140/- along with a compensation of Rs.1 lakh. We are of the impression that a compensation of Rs.1 lakh is exorbitant in the facts and circumstances of the case.

Issue No. 4

12. In the result, based on the findings as noted supra, we hold as below:

1. Complainant is entitled to Rs. 140/- along with interest @10% from 23/02/2023 (date of filing of this complaint) till the date of repayment.
2. The O.P.s 1 and 2 are directed to pay an amount of Rs.10,000/- as compensation for deficiency in service.
3. Complainant is entitled to a cost of Rs. 2,500/- payable by the O.P.s 1 & 2
4. The above directives shall be complied within a period of 45 days from the date of receipt of a copy of this order, failing which the O.P.s 1 and 2 shall pay an amount of Rs.500/ per month or part thereof as solatium from the date of this Order till the date of compliance of the directives above.

13. Accordingly, this complaint stands allowed.

Pronounced in open court on this the 18th day of June, 2024.

Sd/-

Vinay Menon V

President

Sd/-

Vidya.A

Member

Sd/-

Krishnankutty N.K.

Member

APPENDIX

Exhibits marked on the side of the complainant

Ext.A1 - Original invoice No.9026030223756 dated 5/2/23 issued from OP3 (as seen in the list of documents)

Ext.A2 - Printout of photograph of the foreign material in the bottle.

Ext.A3 - Printout of photograph of Seal and cap of the bottle

Exhibits marked on the side of the opposite party: Nil

Court Exhibit:

C1 – Original mahazar prepared by this Commission after inspecting the bottle.

Third party documents: Nil

Witness examined on the side of the complainant:

Witness examined on the side of the opposite party: Nil

Court Witness: Nil

NB : Parties are directed to take back all extra set of documents submitted in the proceedings in accordance with Regulation 20(5) of the Consumer Protection (Consumer Commission Procedure) Regulations, 2020 failing which they will be weeded out.

**[HON'BLE MR. Vinay Menon.V]
PRESIDENT**

**[HON'BLE MR. Krishnankutty. N.K]
MEMBER**