

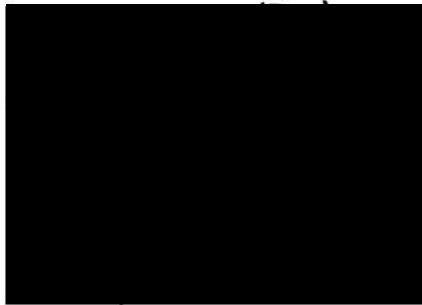
BEFORE THE DISTRICT CONSUMER DISPUTES REDRESSAL COMMISSION.

KAMRUP



- Present:
- I) Shri A.F.A.Bora, M.Sc.,L.L.B.,A.J.S(Rtd.)--President
  - II) Smti Archana Deka Lahkar,B.Sc.,L.L.B. --Member
  - III) Shri Tutumoni Deva Goswami, B.A.L.L.B.- Member


--- Complainant



-vs-

---Opp. parties

- 1) Galleria Cinemas, Hub,  
Bhangagarh, Guwahati-05,  
Kamrup (M), Assam, Being represented  
By the Cinema Manager,
- 2) Sri Babul Sarma,  
The Deputy Manager,  
Galleria Cinemas, Hub,  
Bhangagarh, Guwahati-05,  
Kamrup (M), Assam,
- 3) Sri Sanjiit Singh  
The Deputy Manager,

  
President  
District Consumer Commission  
Kamrup, Guwahati-3



Galleria Cinemas, Hub,  
Bhangagarh, Guwahati-05,  
Kamrup (M), Assam,

### Appearance

For the complainant Sri S.Khanikar Learned advocate.

For the Opp.parties Sri Bibek Sarma Learned advocate.

Date of written argument :- 8.8.2022

Date of oral argument :- 30.3.2023

Date of judgment: - 25.4.2023

### JUDGMENT

the opp.parties . Accordingly , opp.parties appeared and contested the proceeding. Both the parties have filed written argument and after hearing oral argument from both the sides , today has been fixed for delivery of judgment.

- 2) The gist of the complaint is that the complainant along with her family went to the opp.parties cinema hall to watch a movie at 9 p.m.on 20<sup>th</sup>



October ,2018. The movie was started on the scheduled time . It is alleged that the movie hall was very unhygienic and there were left over bitch of popcorn , empty bottles and other waste accumulated behind the seats . The complainant after interval at around 10-30 p.m. to 10.40 p.m. felt something had bitten in her foot and immediately she came out and found her foot was bleeding . She was under the impression that she was bitted by a snake and on being informed to the authority , they did not offer any kind of first aid and she had to rush to the nearby Nemcare Hospital . She was kept under observation for 2 hours as it was not known what had bitten her .

3) The complainant alleges that after much persuasion, although the shift manager agreed to accompany the complainant to the hospital, but when the complainant reached the hospital , no cinema hall authority was found to be present with her. The complainant had to take many medicines and during her work it causes much difficulty and hampers her efficiency towards her duties as the medicines are of strong doses .

4) The complainant submitted that she along with her husband tried to meet the manager of the cinema hall to settle the incident , but the opp.party no. 2 & 3 denied the same and in fact they tried to ignored the incident and instead of giving first aid , the opp.parties offered free tickets of the next movie to the complainant .

5) The complainant further submits that finding no other alternative she filed this complaint claiming the following relief from the op.parties

- |                                  |                 |
|----------------------------------|-----------------|
| a) Amount for Medical expenses   | :Rs. 2,282.48   |
| b) Compensation for mental agony | :Rs.3,50,000.00 |

c) Compensation for pain and sufferings:Rs.2,50,000.00

Total :Rs.6,02,282.48

- 6) The opp.party no. 1 , 2 & 3 have contested the proceeding jointly by filing written statement. Contesting party submits that complaint petition is not maintainable and is devoid of merit and liable to be dismissed. It is submitted that the complainant has refused to take first aid offered by the opp. parties and also refused the offer to go to nearest hospital.
- 7) It is submitted by the opp.parties in the written statement that on 20<sup>th</sup> October 2018 at around 10.45 p.m. , the complainant started shouting loudly by saying that snake has bitten on her foot . The complainant refused to take any help from the opp.parties . The opp.parties tried to settle the matter between them. The complainant who denied to settle the dispute is only for the purpose to harass the op.parties .
- 8) It is further submitted by the opp.parties that it is denied that no first aid facility was available in the movie hall on the day of the alleged incident. The opp.parties used to do pest control on regular basis and also maintained hygienic environment in the movie hall. The prayer of the opp.party is to reject the complaint lodged by the complainant with compensatory cost of Rs.15,000/-
- 9) **ISSUE**
- Whether the opp.parties are liable for their deficiency of service for the



allegation of the complainant that she was bitten by a rat, for which she is entitled for compensation from the opp. parties ?

**Reasons for decision and discussion**

10) It is found in the evidence of the complainant that she has exhibited several documents in support of her allegations against the opp. parties . The complainant at the time of interval of the movie in between 10-30 to 10-40 p.m., felt something had bitten in her foot for which she had to rush for treatment to the Nemcare Hospital . The complainant was kept under observation for 2 hours in the said hospital as it was not known what had bitten her. The complainant exhibited a document of Nemcare Hospital as Ext.3. It is found in Ext.3 that the dose of Rabipur was prescribed to the complainant. The word "bite" was also mentioned as well as "Rabipur" dose in Ext 3 is to be taken by the complainant on several dates such as **20.10.2018, 23.10.2018, 27.10.2018, 3.11.2018** and **17.11.2018** .

11) It is found in the written statement of the opp. parties who simply denied the allegations of the complainant . But the opp. parties did not submit any documents/evidence to rebut the allegations of the complainant that she was bitten by rat. It is known that the Rabipur vaccine is given to prevent rabies .

12) It is the duty of the owner of the Cinema Hall to maintain the hygiene of the Cinema Hall . The complainant cited the judgment of Hon'ble Supreme Court— **(2014 ) 6 Supreme Court cases 173** Sushil Ansal Appellant:- vs- STATE THROUGH CENTRAL BUREAU OF INVESTIGATION .... Respondent. The Hon'ble Supreme Court has elaborately discussed

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about the safety measures to be taken by an occupier of an cinema hall. The Hon'ble Supreme Court has said " **the duty to care is not a one time affair . It is a continuing obligation which the occupier owes towards every invitee, contractual or otherwise , every time an exhibition of the cinematograph takes place . What is equally important is that not only under the common law , but even under the statutory regimen, the obligation to ensure safety of the invitee is undeniable , an any neglect of the duty is actionable both as a civil and criminal wrong, depending upon whether the negligence is simple or gross " .**

13) Taking the spirit of the ratio cited here-in-above we have also found in our present case in hand that it is the responsibility and duty of the opp.party to maintain a proper hygienic condition of the cinema hall where the complainant and many others went to enjoy a movie on due payment by purchasing tickets. The oral testimony of the complainant is very clear that cinema hall was not clean and rabbits are definitely moving around for want of food as popcorn and other food items are lying on the floor as alleged. This fact have given impression that there is no regular sweeping after each show and no proper hygiene and supervision was made to ensure the safety and hygienic condition of the cinema hall. If no rabbit has bitten the complainant, the doctor have not prescribed rabbies medicine, as already discussed. There is no rebutting of such fact as alleged by the complainant to draw an adverse opinion .

14) As such , we are of the view that the opp.parties were negligent in

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maintaining the hygienic condition of the cinema hall for giving proper service to the viewers as required under Cinematography Act and other obligation of the owner of the hall.

- 15) In the result the complaint petition is found having merit and the issue is decided in affirmative .
- 16) Accordingly we decided to direct the **op.party No. 1,2 & 3** for reimbursement the medical expenses of **Rs.2,282.48/-** along with compensation for mental agony to the tune of **Rs.40,000/-** with a compensation for pain and suffering amounting to **Rs.20,000/-** along with cost of the proceeding amounting to **Rs.5,000/-**.
- 17) The decretal amount is to be paid within 45 days failing which the opp.parties will have to pay interest @12% per annum from the date of judgment till realization.

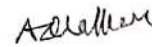
Given under our hand and seal of the District Commission,  
Kamrup, this the 25<sup>th</sup> day of April , 2023.



Member

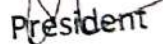
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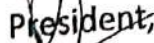
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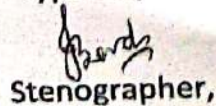
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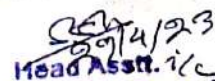
President,  
District Consumer Commission, Kamrup.

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