

**NATIONAL CONSUMER DISPUTES REDRESSAL COMMISSION
NEW DELHI**

CONSUMER CASE NO. 1619 OF 2018

1. AASHNA ROY
VALLEY VIEW ESTATE, TOWER-8, FLAT -1703, GAWAL PAHARI,
GURGAON FARIDABAD ROAD,
GURGAON-122003
HARYANA

.....Complainant(s)

Versus

1. YOGESH DEVESHWAR & ANR.
CHAIRMAN, ITC COMPANY LTD, 37, JAWAHARLAL NEHRU
ROAD,
KOLKATA-700071
WEST BENGAL

2. ITC HOTELS LTD
FORTUNE PARK HOTELS LTD ITC GREEN CENTRE, 10,
INSTITUTIONAL AREA, SECTOR-32,
GURGAON
HARYANA

.....Opp.Party(s)

BEFORE:

**HON'BLE MR. JUSTICE R.K. AGRAWAL,PRESIDENT
HON'BLE DR. S.M. KANTIKAR,MEMBER**

For the Complainant :

For the Complainant : In person

For the Opp.Party :

For the Opposite Parties : Mr. Parag P. Tripathi, Sr. Advocate and
Mr. L.K. Bhushan, Ms. Aditi Awasthy and
Mr. Srinivasan Ramaswamy, Advocates with
him.

Dated : 21 Sep 2021

ORDER

R.K. AGRAWAL, J., PRESIDENT

1. The present Complaint, under Section 12 read with Section 21 of the Consumer Protection Act, 1986 (for short "the Act"), has been filed by the Complainant alleging deficiency in service on the part of Opposite Parties, i.e. Yogesh Deveshwar, Chairman, ITC Company Ltd. and ITC Ltd. in cutting and treatment of her hairs at the Salon of Hotel ITC Maurya and medical negligence in hair treatment.

2. Briefly put, facts relevant for the disposal of the Consumer Complaint are that the Complainant, Ms. Aashna Roy was to appear before an Interview Panel. On 12.04.2018, a week before the interview, she visited to the Salon of Hotel ITC Maurya, New Delhi (Group of ITC Hotels) for hairstyling to have a clean and groomed appearance before the Interview Panel. She asked for hairdresser, namely, Alem who used to cut her hairs on various visits to Salon. But since, she was not available in the Salon, another hairdresser, namely, Christine, was told to do the hairstyling of the Complainant in her place. Though the Complainant was not satisfied with her services in the past but on the assurance of the Manager of the Salon that she had improved her work, the Complainant agreed to have hairstyling from her. According to the Complainant, she specifically instructed the hairdresser, Christine for long flicks/layers covering her face in the front and at the back and 4 inch straight hair trim from the bottom. It is alleged in the Complaint that as the Complainant was wearing high powered

spectacles and was requested by the hairdresser to keep her head constantly down, she was not able to see herself clearly in the mirror. She further averred that it was a simple haircut but when the hairdresser took more than an hour to do the hairstyling, she questioned about more time and replied by the hairdresser that she was giving her a "London Haircut". However, to the utter shock and surprise of the Complainant, the hairdresser, Christine chopped off her entire hair leaving only 4 inches from the top and barely touching to her shoulders for which she was not instructed by her. She complained about hairdresser to the Manager of the Salon, Gurpreet Acharya and she was not given any bill for hairstyling though generally she was earlier being charged heavily. It is stated that because of the hair cutting the Complainant was not looking pretty and she stopped to lead her normal busy life.

3. On 13.04.2018, as no action was taken against the hairdresser, the Complainant called the General Manger of the Salon, Mr. Zubin Songadwala, to look into the matter, however, he misbehaved with her stating that she was free to take any action against the Salon. Consequently, the Complainant called Mr. Dipak Haksar, CEO of ITC Ltd. and apprised him of the entire episode. It is alleged that on 14.04.2018, the Complainant came to know from the conversion of the staff of Hotel that her hairs were sold by the Salon. An offer was also made to her by the Opposite Parties for extension of hairs for interview or for treatment of hairs free of costs for which she agreed after lot of persuasion. Opposite Parties arranged an external Technical Hair Expert from MoeHair and Complainant was advised to repeat the treatment for 23 washes.

4. On 03.05.2018, when the Complainant went Salon for hairs treatment, she was told that in-house hairdresser Vicky would do the treatment under the supervision of Alem. She agreed for that as the Hotel staff convinced her that Vicky is trained and very good in his work. However, during the hairs treatment, her hairs and scalp got completely damaged with excess ammonia and there was lot of irritation in the scalp. Complainant asserted that the hairdresser scratched and cut her entire scalp with his nails on the pretext that he was doing this exercise to open the hair cuticles. But, when he put the cream which was laden with ammonia, her scalp got burnt. On complaint, they put hair spray which gave her only temporary relief. After the treatment, the heirs of the Complainant became hard and rough and she was not able to even run her fingers through it. Her scalp also started irritating and burning again and again. She tried to seek the assistance of the Hotel staff in the matter but they were abusive, rude and disrespectful. She was even threatened to face consequences on visit to ITC Maurya.

5. Ultimately, Complainant approached the Management of ITC Group and Hotels and apprised them of the incident but in vein. Feeling aggrieved, Complainant has filed the present Complaint alleging deficiency in service on the part of Opposite Parties and seeking written apology from the ITC Management as well as compensation of ₹3 crores for harassment, humiliation and mental trauma.

6. Upon notice, both the Opposite Parties contested the Complaint. In his Written Version, the Opposite Party No.1 has contended that he is Non-Executive Chairman of the ITC Limited, Opposite Party No.2 and is not involved in the day-to-day operations of the Company and as such Complaint is liable to be dismissed for mis-joinder of the party. Complaint relates to an alleged deficiency in service pertaining to the cutting and treatment of hairs of the Complainant at a Salon of a Hotel (ITC Maurya) of Opposite Party No. 2 and no allegation of deficiency in service in the Complaint has been made against Opposite Party No.1. Moreover, the Opposite Party No.1 and 2 are distinct identity. On merits, it is contended that Complainant's haircut given on 12.04.2018 and hair treatment given on 14.04.2018 and 03.05.2018 were of high quality and these services were provided to the Complainant without consideration as a goodwill gesture inasmuch as the Complainant was the recipient of services at the Salon in the past. Complainant is not a 'Consumer' as defined u/s 2(1) (d) of the Act as the allegations made in the Complaint do not constitute a 'Consumer Dispute'.

7. Complaint has been resisted by the Opposite Party No.2 by filing its separate Written Version. A Preliminary Objection has been raised that Complainant has availed of service of cutting and hair treatment at the Salon free of charge and hence, she does not come within the purview of the Act. Further, the compensation of ₹3 crores claimed by the Complainant in the Complaint, is inflated, exaggerated and without any basis. No documentary evidence has been adduced by the Complainant justifying such a huge claim and as such, the Complaint deserves to be dismissed for want of pecuniary jurisdiction.

8. On merits, it is pleaded that the entire hairs of the Complainant were not chopped off and during the hairs treatment no harm was caused to her scalp with the excess ammonia and the hairs were cut as per request of the Complainant. The ITC Limited is one of the India's foremost multi-business Company and the Complaint has been filed by the Complainant with a malafide intention to malign its reputation and goodwill and to extract unreasonably high and exaggerated compensation. The team at the Salon which provided the services of hairstyling and hair treatment to the Complainant is good and well-trained by Moehair Experts. Ms. Christine Hou who did the hair-cutting of the Complainant has 27 years of experience and she is well known for hair-styling. Mr. Vicky Kumar who did the treatment of the Complainant has 12 years of experience and has been doing similar treatments at Ashoka Hotel, Samrat Hotel, Janpath Hotel and several other Salons. He is specially trained by Moehair Experts for the given hair treatment. Moehair is an American brand that takes pride in pioneer hair solutions all around the globe. The products of Moehair are approved by American Federation of Hairdressers. The

Moehair keratin treatment given to the Complainant is a deep conditioning protein based organic treatment which removes waves and naturally straighten hairs giving it a longer look. The product of Moe Hair Pure was not applied on the scalp of the Complainant but it was applied only on the hair strand, leaving one inch from the root of the hair. The Product applied on the scalp of the Complainant is sulphur and ammonia free. The treatment given to the Complainant was perfectly in order. Complainant had filed a Police Complaint in Chankyapuri Police Station, New Delhi but the Police did not find any substance in the said Complaint. The Salon does not sell hairs or indulge in corrupt malpractices as alleged by the Complainant. The staff of the Salon had not misbehaved with the Complainant as alleged. The conduct of the Complainant has caused nuisance and harassment to the management of the ITC Limited and put its esteemed reputation and goodwill at stake. The Complainant was attended to just for a gesture being an old customer and she was given the best available treatment. The present Complaint has been filed by the Complainant to seek undue and unwarranted pecuniary gains and merely to malign the reputation and goodwill of the Company.

09. The Complainant has filed her Rejoinder denying all the rival contentions raised by the Opposite Parties in their Written Version and reiterating the averments made by her in the Complaint.

10. In support of her contentions, the Complainant has filed her own affidavit as evidence stating that; the hairdresser, Christine did chop off her hairs and caused an irreparable damage to her hairs; she never had short hair; the chemicals used by ITC Ltd. and in the Salon for hair treatment, has caused permanent damage to her scalp which can be established from the medical treatment certificate issued to her by Dr. Ranjit Kumar Das, MBBS. In his certificate, he has stated that "Aashna Roy has been suffering harsh chemical treatment on her hair-greying hair, scalp infection, dryness and itching as well as hair loss and she is advised to renew medication. It is further stated by her that in What's up Chat the Opposite Parties have admitted fault on their part and tried to cover it by offering free hair treatment; She is a Consumer and availed of service of the Opposite Party since 2004; she was charged earlier through her debit card but later on amount was reversed for hair cut on complaint being made to the management; she has been mis-behaved by the staff of the Opposite Parties. She has also attached her photographs showing full length of the hairs.

11. Opposite Parties have filed Affidavits by way of evidence of Shweta Nayyar of Moehair India Pvt. Ltd., Gurpreet Kaur Acharya, Christine Hou, Vicky Kumar Negi and Javinder Singh. In their affidavits, they all have supported the narration of the Opposite Parties. They have also filed photographs of the Complainant before and after hair cut as appearing in the CCTV footage of the Hotel.

12. During the course of the proceedings, the Opposite Party No.1, namely Yogesh Deveshwar had expired on 11.05.2019 and application was filed by the Complainant for impleadment of Mr. Sanjiv Puri who has been appointed as the Chairman of ITC Company Ltd. on his place. The said application has been contested by the Opposite Party No.2 by filing its reply to the application.

13. Heard both the parties on the Application seeking impleadment of Mr. Sanjiv Puri who has taken the Charge as Chairman and Managing Director of ITC Ltd. after the death of Mr. Yogesh Deveshwar, Opposite Party No.1.

14. Learned Counsel appearing for the Opposite Parties rigorously contended that the Written Statement was filed by Yogesh Deveshwar taking objection of arraying him as Opposite Party No.1 and making a prayer for deletion of his name from the array of the parties on the grounds that: (i) he was non-executive Chairman of the Opposite Party No.2 and was not a service provider under the Act; (ii) the Complaint relates to alleged deficiency in service pertaining to cutting and treatment of the hair of the Complainant in a Salon of a Hotel (ITC Maurya) of the Company ITC Ltd., Opposite Party No.2; (iii) Opposite Party No.1 & 2 have separate entity and are not related to each other; (iv) no allegation of deficiency in service or personal involvement of Yogesh Deveshwar, has been made in the Complaint as well as in evidence filed by the Complainant; (v) he was not in-charge or responsible for the conduct of the business or day to day management of the Salon or the Hotel ITC Maurya where the Complainant alleged deficiency in service; (vi) Mr. Yogesh Deveshwar expired on 11.05.2019 and there was neither any cause of action against him nor is there any cause of action or right to sue surviving; (vii) Mr. Sanjiv Puri became the Chairman and Managing Director of ITC Ltd. on 13.05.2019 which is much after the alleged incident; (viii) there was no privity of contract between the Complainant and the Opposite Party No.1 relating to provision of any service nor any consideration as envisaged under the Act; (ix) a Director cannot be held liable for the actions/liability of a Company unless such Director participates or involves himself in a particular event or exercises a fraud upon third party resulting into a loss caused to a third party dealing with the company. In support of his contention, Learned Counsel appearing for the Opposite Parties has placed reliance upon the following judgements:-

- (i) Tristar Consultants Vs. V Customer Services India Pvt. Ltd. (ILR (2007) 1 (DELHI 1053) – Para 21 and 23;

(ii) Amarjit Singh Vs. Gagandeep Singh & Ors. (NCDRC in Revision Petition No. 2512 to 2518 of 2011 decided on 19.12.2016) – Part 16 to 18;

(iii) V. C. Sindhvani Vs. The PNB Employee Co-operative (S.E) Thrift and Credit Society & Anr. (III (2017) CPJ (NC) Para 6 to 8;

(iv) Hrushukesh Panda Vs. Indramani Swain & Anr. (AIR 1987 Ori 79) – Para 12 & 13

(v) Paschim Gujarat Vij Company Ltd. vs. Manibhadra Ispat Ltd. (High Court of Gujarat decided on 25.09.2019) in R/Special Civil Application No. 13889 of 2019 – Para 24 and 35 to 48.

15. Having heard the Complainant in person and the Learned Counsel for the Opposite Parties and after going through the judgements relied upon by him, we find substance in the submission of the Learned Counsel for the Opposite Parties that Mr. Sanjiv Puri is neither a proper nor necessary party and is not liable to the Complainant for the alleged claim in any manner whatsoever. Mr. Sanjiv Puri had taken the charge of Chairman and Managing Director of ITC Ltd.. Opposite Party NO. 2 on 13.05.2019 after the death of Mr. Yogesh Deveshwar on 11.05.2019. Mr. Yogesh Deveshwar was the non-executive Chairman of the Opposite Party No.2 and was not involved in its day to day operations or management. Moreover, the Complainant has not made any allegation of deficiency in service on his part and has failed to establish any personal involvement of him in the alleged deficiency. In the case of **Amarjit Singh Vs. Gagandeep Singh & Ors. - (Revision Petition No. 2512 to 2518 of 2011 decided on 19.12.2016)** while dealing with the question “Whether the Ex-Secretary or the Ex-President or other office bearers of any Cooperative Credit Society fall within the category of the Service Provider”, a three Judges Bench of this Commission has held as under:-

“19. In view of the discussion above, we answer the reference as follows:-

- 1. Ordinarily Ex-Secretary or the Ex-President or other office bearers of any Cooperative Credit Society shall not fall within the category of service providers in respect of any dealing of the depositors with such society.*
- 2. However, if it is established that the Ex-Secretary or the Ex-President or office bearers of any Cooperative Credit Society has indulged in misfeasance / fraudulent activity with view to defraud depositors under the cloak of the cooperative credit society, such person shall fall within the category of service providers and shall be liable to compensate the consumers for deficiency in service.”*

16. In the case in hand, since no evidence has been produced by the Complainant to prove that Mr. Yogesh Deveshwar was personally involved or was relating to any alleged deficiency of service, we are of the considered view that he has been improperly joined as a party and his name is liable to be struck out from the array of the parties. As such, the application seeking impleadment of Mr. Sanjiv Puri who has become Chairman of the Opposite Party No.2 after his death, does not have any merit and is rejected.

17. We have heard the Complainant appearing in person and the Learned Counsel for the Opposite Parties at some length and also have gone through the material available on record, evidence adduced before us and Written Submissions filed by them.

18. Complainant submitted that hair is the most essential part of a human being and it forms a presentable look of a person. Especially for woman, hair forms the looks either in their daily lives or on their wedding day. Many of the ladies feel pride on their crowning glory and work hard to ensure that their hairs are in good condition. If some mishappening takes place with the hairs, it can affect the mental state of the ladies and it can last for an entire life time. She used to visit to Salon since 2004. Though there were few lapses in the past but Ms. Gujan was prompt to rectify the problem. But after taking charge by Gurpreet Acharya, the things were not same. The staff members of the Salon were indulged in unfair practices and revenue generation. She visited to Salon on 12.04.18 and asked for Alem who used to cut her hair. However,

as he was not available on that date, Ms. Christine has done her hair cutting. She pre-warned her but on her assurance she got ready to have hair cut from her. However, she was shocked and surprised to observe that despite her specific instructions for long flicks/layers covering her face in the front and at the back and 4 inch straight hair trim from the bottom, Christine had chopped off her entire hair leaving only 4 inch from the top touching her shoulders. She complained about that to the management of the Salon and they offered her a free hair treatment from Moehair which was to be repeated for 23 washes. But the hair treatment given by them was dubious and it resulted in damage of her hairs. Her scalp was burnt with severe burning sensation due to hair treatment and there was itching and flaking of the scalp. The Chemical used in her hair treatment, has caused permanent damage to her scalp. Therefore, she went to Dr. Ranjit Kumar Dass, MBBS for medical treatment. In his Certificate, he has stated that "Aashna Roy has been suffering harsh chemical treatment on her hair-greying hair, scalp infection, dryness and itching as well as hair loss and she is advised to renew medication. She brought the incident to the notice of the Higher Authorities of the Opposite Party No.2 but in vein. Rather, they misbehaved and threatened her to face consequences. She further strongly pleaded that she is having problem of allergy, itching and grey hair due to the faults of the Salon staffs who are ill-trained. She had undergone severe mental breakdown and self-esteem as she was always having long hair and because of fault on the part of the Opposite Party No.2, she has been left with little or almost no hair. She stopped seeking herself in the mirror and her social activities. She is a communication professional and required to involve in meeting and interactive sessions. But she lost her self-confidence due to little hairs. She has also suffered loss of income due to mental breakdown after the shoddy haircut and thereafter the torturous hair treatment. She left her job also. She was a Senior Management Professional and used to earn decent income. She submitted that due to her long well cared hair she modelled for prestigious brands like VLCC and Pantene for hair products and she was also planning to pursue modelling as her side career. She was also offered a movie as her hairs complemented her presentable demeanour. It is submitted that she has gone through the pain and trauma for the last two years after this incident. The Complainant, placing reliance on her whatsapp talk exchanged with the officials of the Opposite Party No.2, submitted that there is admission on their part about the alleged deficiency in service and they are liable to pay compensation to her.

19. *Per contra*, Learned Counsel appearing for the Opposite Parties strenuously urged that the Complainant is not a "Consumer" as defined u/s 2 (1)(d) of the Act as admittedly no consideration was paid by her for hair cutting as the payment by card issued by Master Card for ₹1,770/- was declined. The hair treatment was also provided to her on complimentary/free of charge. The compensation claimed by the Complainant is ex-facie exaggerated and without any basis. No basis whatsoever has been set out in the Complaint on which the claim for compensation has been quantified at ₹3 crores. The Complainant has inflated the alleged claim deliberately in order to invoke the jurisdiction of this Hon'ble Complainant and the Complaint is liable to be dismissed for want of pecuniary jurisdiction. In support of his contention, he placed reliance upon the decisions in the cases of *Ashok Kumar Goel Vs. Branch Manager, ICCI – 2016 SCC Online NCDRC 65*, *Padmini Malhotra vs. Era Land Marks (India) Ltd. – 2015 SCC online NCDRC 3939*, *Vikas Singh Vs. BMW India Pvt. Ltd. & Ors. – I (2016) CPJ 692 (NC)*, *Ratna Ghosh and Ors. Vs. P.K. Agarwal I Ors. – NCDRC 2010 (2) CPC 534 and Kumari Femy & Ors. Vs. Dr. Kavitha V.K. & Ors. – NCDRC 2013 (1) CPC 253*. The length of Complainant's hair before and after the hair cutting can be seen from the photographs appearing in CCTV footage of the Hotel of the Opposite Party No.2 on 12.04.2018. The Complainant was happy with her hair cut and gave a tip of ₹100 to the hairdresser. The Whatsapp talk relied by the Complainant would reveal that there was no grievance in respect of any permanent damage but the entire grievance of the Complainant was that she did not like the hairstyle. Despite the fact that the hair cut was as per instructions of the Complainant, only on hospitality ground and in good faith the Opposite Party No.2 invited the Complainant for straightening her hair and enquired about hair extensions. The Complainant was offered a complimentary keratin hair treatment to straighten her hair with the organic product of Moe Hair Pure by the Moe Hair staff. Moe Hair Pure is an organic protein enriched with hydrolysed wheat protein, sericin and shea butter and is formaldehyde free. The said product is also sulphur free and ammonia free. Mr. Vicky Kumar and Ms. Alem Sanglir who gave hair treatment to the Complainant, were trained by Moehair to carry out the Moehair Pure Keratin Treatment. The Moehair product was applied on the Complainant's hair strand, leaving one inch from the root of the hair and not on the scalp as alleged. Complainant has failed to substantiate the alleged financial loss caused to her due to the alleged chopping off her entire hair and alleged damage caused to her due to the treatment. There is no whisper in the Whatsapp messages, Rejoinder and Affidavit by way of evidence filed by the Complainant, about the alleged permanent damage caused to her hairs. No where it is mentioned that how much money she spent for the rectification of the alleged damage to her hair. Section 65- (B) of the Indian Evidence Act, 1872 mandates that where it is desired to give a statement in evidence of electronic record which is printed on a paper, stored, recorded or copied in optical or magnetic media produced by computer, then such evidence shall be accompanied by an affidavit giving particulars identifying the electronic record, giving particulars of such device and purporting to be signed by a person occupying a responsible official position in relation to the operation of the relevant device, however, the Complainant has not filed any affidavit under the said provision in support of the evidence sought to be adduced by her.

20. With regard to the Preliminary Objection taken by the Opposite Parties that the Complainant is not a "Consumer" as defined u/s 2 (1)(d) of the Act since no consideration was paid for hair cutting and treatment, we do not find any substance in the said contention. It cannot be believed that the Opposite Party No.2 which is established for profit motive, would provide free services with huge infrastructure, trained staff and management. As stated above, the Complainant has made the

payment of ₹1,770/- from the Card issued by the Master Card, however, the said payment was declined. Exhibit RW-3/1 is the copy of invoice dated 12.04.2018 when the Complainant visited to Salon for hair cutting and Exhibit RW-3/2 is the transaction slip declining the transaction of ₹1,770/-. As such, it is manifestly clear that the Complainant was asked by the Opposite Party No.2 to pay a sum of ₹1,770/- as the charges for the hair cutting and accordingly invoice was generated. However, while paying the said consideration through a Master Card, the transaction was failed. But still, the Opposite Party No.2 chose to provide her hair cutting service since the Complainant used to come to the Salon since 2004 and the payment might have been paid by her later on. But as the Complainant complained of about the wrong hair cutting and for which the Opposite Party No.2 had tendered apology in WhatsApp, the Opposite Party No.2 did not insist to the Complainant for making the said payment. Even, from the WhatsApp Chat dated 15.04.18, it can be seen that Ms. Christine was suspended for three days. There is no doubt that realizing the mistake done by its staff, the Opposite Party No.2 offered the free hair treatment to the Complainant and Complainant was not attended to for a gesture. Hence, we are of the considered view that the Complainant is a Consumer.

21. Another Preliminary Issue raised by the Opposite Parties is that the claim made by the Complainant in the Complaint is highly exaggerated and inflated and this Commission has no pecuniary jurisdiction to entertain the Complaint. It is no doubt that under the Act 1986, pecuniary jurisdiction was to be determined by taking the value of the goods or services and compensation, if any, claimed. Meaning thereby that the value of goods or services as also the compensation is to be added to arrive at a conclusion as to whether the National Commission has the jurisdiction or not. A three Member Bench of this Commission in the case of **Ambrish Kumar Shukla & Ors. Vs. Ferrous Infrastructure Pvt. Ltd. – I (2017) CPJ1 (NC)** while dealing with the question of Pecuniary Jurisdiction of the Consumer Fora, has held that for the purpose of determining the pecuniary jurisdiction of a Consumer Forum under Act 1986, the consideration paid or agreed to be paid by the consumer at the time of purchasing the goods or hiring or availing of the services, as the case may be, plus the amount of the compensation, is to be considered. The present Complaint has been filed under the Act 1986 and it was the value of the goods or services and the compensation claimed” taken into consideration while determining the pecuniary jurisdiction. As such, the question is answered in positive. However, it is made clear here that after coming into force the Consumer Protection Act 2019, the Pecuniary Jurisdiction of the Consumer Fora has to be decided only on the basis of value of goods or service paid as consideration.

22. A bare perusal of the WhatsApp Chat adduced by the Complainant would reveal that the Opposite Party had admitted the fault on their part and by offering the free hair treatment tried to cover it. There was also negligence on the part of the Opposite Party No.2 in giving hair treatment to the Complainant. The relevant portion of the Certificate issued by Dr. Ranjit Kumar Dass, MBBS to whom the Complainant visited for treatment of her scalp, is as under:-

“ This is to certify that Ms. Aashna Roy aged 42 years has been suffered from scalp disorder due to chemical treatment done by the Head of Hair Treatment.”

23. Now, the question for consideration before us is for what compensation the Complainant is entitled for. It is trite that the word “Compensation” is of a very wide connotation. It may constitute actual loss or expected loss and may extend to compensation of physical, mental or even emotional sufferings, insult or injury or loss. On the question of determination of compensation for the loss or injury suffered by a Consumer on account of deficiency in service, the following observations by a three Judge Bench of the Hon’ble Supreme Court in **Charan Singh v. Healing Touch Hospital & Ors., - (2000) 7 SCC 668** are also apposite:

“ While quantifying damages, Consumer Forums are required to make an attempt to serve the ends of justice so that compensation is awarded, in an established case, which not only serves the purpose of recompensing the individual, but which also at the same time, aims to bring about a qualitative change in the attitude of the service provider. Indeed, calculation of damages depends on the facts and circumstances of each case. No hard and fast rule can be laid down for universal application. While awarding compensation, a Consumer Forum has to take into account all relevant factors and assess compensation on the basis of accepted legal principles, on moderation. It is for the Consumer Forum to grant compensation to the extent it finds it reasonable, fair and proper in the facts and circumstances of a given case according to the established judicial standards where the claimant is able to establish his charge.”

24. Keeping in mind the observations of the Hon’ble Apex Court in a catena of judgments with respect to awarding compensation, we are of the considered view that the reasonable and just compensation is to be awarded to the Complainant. There is no doubt that the women are very cautious and careful with regard to their hair. They spend a handsome amount on keeping the hair in good condition. They are also emotionally attached with their hairs. The Complainant was a model for

hair products because of her long hair. She has done modeling for VLCC and Pantene. But due to hair cutting against her instructions, by the Opposite Party No.2 she lost her expected assignments and suffered a huge loss which completely changed her lifestyle and shattered her dream to be a top model. She was also working as Senior Management Professional and earning a decent income. She underwent severe mental breakdown and trauma due to negligence of the Opposite Party No.2 in cutting her hair and could not concrete her job and finally she lost her job. This apart, the Opposite Party No.2 is also guilty of medical negligence in hair treatment. Her scalp was burnt and still there is allergy and itching due to fault of the staff of Opposite Party No.2.

25. For the aforesaid discussion, the Complaint is allowed partly and we are of the considered view that it would meet the end of justice in case the Complainant is granted compensation of ₹2,00,00,000/- (Rupees Two Crore). Hence, we direct the Opposite Party No.2 to pay a compensation of ₹2,00,00,000/- (Rupees Two Crore) to the Complainant within a period of eight weeks from the date of receipt of a copy of the order. However, in view of the peculiar facts of the case, we left it open to the parties to bear their respective costs.

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R.K. AGRAWAL
PRESIDENT

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DR. S.M. KANTIKAR
MEMBER