**BEFORE THE HON’BLE NATIONAL/ STATE/ DISTRICT CONSUMER**

**DISPUTES REDRESSAL COMMISSION AT KOTTAYAM**

**IN RE: COMPLAINT No..................of 20.....**

**IN THE MATTER OF:**

Lalitha Mohanan, W/o. Mohanan,

Residing at Mangalathu House,

Murikkarsherry P.O. Idukki ………. Complainant

Vs

Dr. Tomichan M.C.

Kochumattom,

Arookkara East P.O.

Kottayam. ………. Opposite Party

**COMPLAINT UNDER SECTION 35 of CONSUMER PROTECTION ACT**

**RESPECTFULLY SHOWETH:**

1. The complainant is Mrs.Lalitha Mohanan, residing at Mangalathu House, Murikkarsherry P.O. Idukki Kottayam.
2. The opposite party is Dr. Rajeev Kumar, Professor & Head of the Orthopedics Department at Medical College Hospital, Kottayam.
3. On 07-11-2021, the complainant approached the 1st opposite party with difficulty in walking due to pain in her left leg. After conducting various tests, the 1st opposite party diagnosed reduced bone density in the hip portion of the complainant's left leg and advised her to undergo a surgery to replace the left hip bone with an uncemented artificial structure.
4. The surgery was scheduled for 25-01-2022 and the complainant was admitted to the Medical College Hospital, Kottayam on 21-01-2022 as per the 1st opposite party's advice.
5. After the surgery, the complainant's relatives noticed that both her legs had been operated upon. The opposite party informed them that he had first cut open the complainant's right leg to check for any issues, and upon finding none, proceeded to operate on the left leg as planned.
6. Later, the complainant started developing pain in her right leg. The complainant was discharged on 29-01-2022, without being properly advised on post-operative care. Even three months after the surgery, the complainant was unable to walk properly due to the pain and complications arising from the unauthorized surgery on her right leg.
7. This unauthorized surgery on the right leg, which had no pre-existing issues, without her prior consent amounts to a deficiency in service and an unfair trade practice on part of the opposite parties. The opposite party did not exercise the due care expected of a medical professional by operating on the complainant's right leg unnecessarily. This has caused the complainant irreparable injury, hardship, and affected her livelihood.

**RECTIFICATION:**

1. After the surgery, when the complainant's relatives noticed that both her legs had been operated upon they inquired about the same to the opposite party.The opposite party assured them that he would take care of any complications arising from the same.
2. As the pain in the right leg persisted, the complainant visited the 1st opposite party again on 04-04-2022. However, he behaved indifferently and prescribed only paracetamol tablets after examining the X-ray reports.

**CAUSE OF ACTION:** The cause of action arose on 25-01-2022 when the complainant was operated upon by the opposite party. The latter, without her consent, operated on her right leg which caused her immense pain and mental agony in the later stages.

**TERRITORIAL JURISDICTION:**  The complainant and the opposite party both reside within the jurisdiction of this Hon'ble Commission. Hence this Hon'ble Commission has jurisdiction to try and entertain this complaint.

**PECUNIARY JURISDICTION:** The total consideration amount paid in purchasing the hotel booking is less than Rs. 50 lakhs. Hence this hon'ble commission has jurisdiction to entertain this complaint.

**LIMITATION:** That the present complaint is being filed within the period prescribed under section 69 of the Act, 2019.

**COURT FEE:** Requisite Court fee as contemplated is paid on this Complaint.

**EVIDENCE:**

1. Hospital bill/receipt (Ex.A1)
2. Medical reports and X-ray reports (Ex.A3)

**PRAYER:**

In light of the facts mentioned above, it is most respectfully prayed that this Hon'ble Commission may be pleased to:

a) Direct the opposite parties to pay a compensation of Rs. 2,00,000 to the complainant for mental agony, hardship and litigation costs.

b) Pass any other order(s) as this Hon'ble Commission may deem fit and proper in the circumstances of the case.

**VERIFICATION:**

I, Mrs. Lalitha Mohanan, resident of Mangalathu House, Murikkarsherry P.O. Idukki, Kottayam District, hereby declare that I havenot misrepresented any facts nor have tried to hide any information in my above complaint. All the facts mentioned herein are true to the best of my knowledge.

**Name & signature of the complainant**