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Rs.28,450.00/- which includes the original claim amount, the associated travel charges incurred due to deficiency of service of opposite party in booking single room instead of two bedrooms in Houseboat, (ii).to pay a sum of Rs.10,00,000.00/- towards deficiency of service, deceptive practices and mental agony caused to the complainant with cost of this complaint with annual interest rate of 24% and (2). to grant such other relief or reliefs.

2. Complaint in brief: The case of the complainant is that he came across an advertisement of the opposite party about the Kerala trip and had contacted the Opposite Party and expressed his interest in the offered trip. It was stated that on 23.08.2023, the complainant engaged in detailed discussions with the representative of the travel agency, Ms.Komal, regarding the itinerary. The complainant had informed the agency that his family with 3 adults and his friend Mr.Manivannan's family with 2 adults and one kid of 4 years old are taking the trip. The agency had confirmed the trip details, assuring them of 2 bedrooms with an additional bed, an Innova car for all transfers and specified meals. It was stated that after confirming the itinerary, the complainant had paid 30% of the total trip cost as an advance, amounting to Rs.17,880-00/-. Additionally, the complainant had done booking of all the train tickets required for the journey. It was stated that on 20.10.2023 Ms.Komal provided the complainant with the driver's details and an updated final itinerary and the Complainant's group upon reaching Kerala on 21.10.2023, they connected with trip driver Mr.Ajeesh and boarded on Innova car and commenced their journey to Munnar. The group checked into 'At Wood Resort', where they were accommodated in 2 separate rooms, in accordance with their booking as per the agreed itinerary and the remaining 70% of the trip cost, totaling Rs.41,720-00/- was paid to the travel agent. It was stated that on 23.10.2023, the complainant group checked out from 'At Wood Resort' in Munnar and traveled to Thekkady and stayed at 'Periyar Nest Resort' and as per their agreement, the group was provided with 2 separate rooms for their accommodation. It was stated that on 24.10.2023 the complainant group checked out from 'Periyar Nest Resort' and proceeded to Alleppey to board the houseboat, as per their itinerary. Upon boarding, it was discovered that the houseboat had only two rooms, both of which were allocated to the complainant group. It was stated that later in the afternoon around 4.30 pm, the complainant received calls from another travel group, consisting of 4 adults, who were also instructed to board the

same houseboat and required 2 separate rooms. It was stated that despite the complainant's explanation that only 2 rooms were available and already occupied, the travel agent Ms.Komal and her team insisted that a single room was booked for the complainant group and the other room is for the new travel group and also threatened the complainant with trip cancellation without a refund if he did not agree to share the rooms. It was stated that a senior agent named Mrs.Nethu, who spoke in an unethical manner, had supported this stance and for unavailability of privacy, sufficient space and beds, they refused to provide satisfactory answers and such act amounts to deficiency in service. It was stated that around 9 pm, the new travel group arrived and also deceived by the agents, both groups were forced to share single rooms. Consequently, the Complainant's group consisting of 5 adults and 1 child was compelled to stay in a cramped room. This situation resulted in a disturbing and sleepless night due to the unprofessional conduct of the travel agency. It was stated that on the next day on 25.10.2023, following a small lake tour and breakfast in the morning both groups checked out from the houseboat. After a museum visit, the group was dropped at Ernakulam railway station by the driver around 3.00 pm. It was stated that Mr.Manivannan's child due to lack of sleep and the compact environment of the houseboat, continuously vomited at the railway station. The previous night, nobody had slept well and this severely affected the health of the child and the child continued to experience health issues and was subsequently admitted to the hospital for dehydration. It was stated that on 27.10.2023 the complainant contacted Ms.Komal requesting the invoice for the remaining 70% payment and despite numerous attempts, it was not provided to the complainant. It was prayed for allowing this complaint.

3. Written Version filed by the Opposite Party in brief:- The case of the Opposite Party is that the present complaint is not maintainable in law and the same is liable to be dismissed. It was stated that the complainant moved the present complaint with malafide intention to harass the Opposite Party and to extort money from them and hence the same is not maintainable and liable to be dismissed. It was stated that the aggrieved person has concealed the true and material facts. It was stated that on 20.08.2023, the complainant saw an Instagram advertisement regarding the Kerala vacation and contacted the opposite party and on 23.08.2023 the complainant engaged in detailed discussions with Travel agency's representative Ms.Komal regarding the

itinerary. It was stated that the complainant informed the travel agency that his family with 3 adults and his friend Manivannan's family with 2 adults and one kid of 4 years old are taking the trip. The agency had confirmed the trip details assuring them of 2 bedrooms with an additional bed with an Innova car for all convenience travelling and specified meals. It was stated that after confirming the itinerary, the complainant had paid 30% of the total trip cost as an advance amounting to Rs.17,880/- and on 20.10.2023 the complainant had contacted Ms.Komal a representative from the travel agency and updated final itinerary. After arriving in Kerala on 21.10.2023, the group met Mr.Ajeesh the trip guide, boarded an Innova and started driving to Munnar. It was stated that according to their reservation, the group was housed in two different rooms at "At Wood Resort" and the trip proceeded according to the prearranged schedule. The travel agent received the remaining 70% of the trip cost of Rs.41720/-. It was stated that their experience in Munnar continued as planned on 22.10.2023 also and on 23.10.2023 the complainant group checked out from "At Wood Resort" in Munnar and traveled to Thekkday where they stayed at "Periyar Nest Resort". As per the agreement, the group was provided with 2 separate rooms for their accommodation. It was stated that on 24.10.2023 the complainant group had checked out from Periyar Nest Resort and proceeded to Alleppey to board the houseboat as per their itinerary. Upon boarding, it was discovered by the houseboat driver that the houseboat was having leakage issue and the driver called the travel agency and told the same. The travel agency doesn't want to take the life risk of the complainant and his family. So, the travel agency shared the same thing with the complainant and said they are arranging the new house boat but unfortunately all houseboats were pre-booked. It was stated that after so many efforts the opposite party was successful to arrange a single Room in a house boat and requested the complainant to manage and also ready to return the charges of another room. But the complainant with a malafide intention denied for the payment and agreed to stay on the houseboat. It was stated that on the next day, on 25.10.2023 following a small lake tour and breakfast in the morning, the complainant checked out from the houseboat. The complainant group traveled to Cochin in the Innova car provided and after a museum visit, the group was dropped at Eranakulam Railway station by the driver and the trip was successfully completed without any objections. It was specifically denied that the opposite party misbehaved with the aggrieved person

and committed any violence. It was stated that as the kid is just 4 years old so it is obvious that the health of the child deteriorates due to atmosphere and change in weather. The doctors had diagnosed the child with Dehydration and it was the negligence of the child's parents and atmospheric change and not due to the opposite party. It was prayed for dismissal of the complaint with heavy and exemplary costs.

4. Submissions:

Complainant:- Proof Affidavit of Thiru.S.Jagadish (PW1), Tmt.S.Vijaya (PW2), Exhibits A1 to A7 marked in which Exhibits A4 and A7 marked with objection, Written argument dated 02.04.2024 and oral argument heard.

Opposite Party:- Proof Affidavit of opposite party and documents not filed, Written Argument of opposite party not filed and oral argument heard.

5. Points for consideration:-

- 1) Whether the Complainant is a 'Consumer' as provided under the Consumer Protection Act, 2019?
- 2) Whether the Opposite party committed deficiency in service and unfair trade practice?
- 3) Whether the Complainant is entitled to get the reliefs as claimed in the complaint?
- 4) To what other relief or reliefs the Complainant is entitled to?

6. Point No.1: It was contented on the side of the complainant that the complainant and his family along with his friends family availed Kerala trip through the opposite party for 4 nights and 5 days and had paid total cost of Rs.59,600/- to the opposite party and such payment was acknowledged by the opposite party. Exhibit A3 is the detailed itinerary issued by the opposite party. Exhibit A5 is the tax invoice issued by the opposite party and proof for payment of Rs.17,880/- and Rs.41,720/- to the opposite party by the complainant. It was contended that the complainant had availed the service of the opposite party and is a 'consumer' as against the opposite party as provided under the Consumer Protection Act, 2019. The above aspects are not disputed on the side of the opposite party. From the above, we find that the complainant had availed the service of the opposite party and is a 'consumer' as against the opposite

party as defined under Section 2(7) of the Consumer Protection Act, 2019. Accordingly, Point No.1 is answered.

7. Point No.2: (i). It was contended on the side of the complainant that he came across an advertisement in Instagram on 20.08.2023 about the Kerala trip offered by the opposite party and after detailed discussions with Ms.Komal the representative of the opposite party on 23.08.2023 regarding the travel itinerary, the complainant booked for Kerala trip for his family and his friend Mr.Manivannan's family consisting of three adults of complainant's family and two adults plus one kid of Thiru.Manivannan's family. It was contended that the opposite party confirmed the trip details assuring them of two bedrooms with an additional bed and Innova car for all transit and specified meals and after confirming the itinerary, the complainant paid 30% of the total trip cost as advance amounting to Rs.17,880/-. Exhibit A3 is the detailed itinerary issued by the opposite party for destinations covering Munnar, Thekkady and Alleppey for four nights and five days of Kerala trip from 21.10.2023 to 25.10.2023 at a cost of Rs.59,600/-. Exhibit A3 was relied. Exhibit A5 is the tax invoice dated 24.08.2023 issued by the opposite party for a sum of Rs.17,835/- and proof for payment of Rs.17,880/- paid by the complainant to the opposite party on 23.08.2023. It was contended that after confirming the travel details and updated final itinerary from the opposite party, the complainant with his family and his friend Thiru.Manivannan with his family boarded the train to Kerala and Exhibit A2 was relied to prove the same. It was contended that on 21.10.2023 upon reaching Kerala, the trip driver Thiru.Ajeesh took the complainant and took the families consisting of 5 adults and 1 kid, to Munnar through Innova car and the group stayed "At Wood Resort" as planned. It was contended that the complainant paid the remaining 70% of the trip cost, a sum of Rs.41,720/- to the opposite party and such payment was acknowledged by the opposite party. Exhibit A5 was relied. It was contended that on 23.10.2023 the complainant's group checked out from "At wood Resort" in Munnar and travelled to Thekkady and stayed at "Periyar Nest Resort" and as per the agreement the group was provided with two separate rooms for their accommodation. It was contended that on 24.10.2023, the complainant group checked out from "Periyar Nest Resort" and proceeded to Alleppey to board the house boat as per their itinerary. It was contended that upon boarding the house boat it was discovered that the house boat had only two rooms both

of which were allocated to the complainant's group as per the agreement. Later in the afternoon, around 4.30 p.m. the complainant received calls from another travel group consisting of four adults and they were also instructed to board the same house boat and the opposite party required the complainant group to share the rooms with the said another group. It was contended that though the complainant explained that only two rooms were available and already occupied by their group, the travel agent Ms.Komal and her team of the opposite party insisted that a single room was booked for the complainant group and the other room is for the new travel group. Further the travel agent threatened the complainant with trip cancellation without a refund if he did not agree to share the rooms. It was contended that a senior agent named Mrs.Nithu spoke in an unethical manner and supported the stand of the opposite party. It was contended that despite the complainant's plea for privacy and unavailability of sufficient space and beds, they refused to provide satisfactory answers and the opposite party threatened for cancellation of trip and made the complainant and his family and the family of the complainant's friend, in total, five adults with one kid to share a single room which was against the itinerary provided by the opposite party as per the agreement. Such act of the opposite party is a clear deficiency of service and unfair trade practice committed to the complainant. Exhibit A4 marked with objection is the proof which clearly shows that the opposite party had booked two rooms for the complainant's group but the opposite party had asked the complainant's group to adjust with a new group and such document also clearly proves the threatening of the complainant by cancellation of the trip without any refund. Exhibit A4 marked with objection would also clearly prove that the opposite party had booked two rooms as per the agreed itinerary but had later changed their plan and had insisted the complainant group to share one room with the new travel group and had also sought apology for the same for the act of the opposite party. It was contended that the opposite party had pleaded in the written version that upon boarding the house boat at Alleppey it was discovered by the house boat driver that the house boat was having leakage issue and the driver called the travel agency and the travel agency does not want to take life risk of the complainant and his family and hence asked to share the house boat with their new travel group as all the house boats were already pre-booked and such contention of the opposite party is created for the case and the conversation made between the complainant and the travel agent which as

marked with objection as Exhibit A4 does not reflect any such contention of the opposite party. It was contended that the cost of the house boat is Rs.22,000/- and inspite of paying such amount which is inclusive in the total amount paid to the opposite party made the complainant and his family and the family of the complainant's friend to stay in a single room and due to insufficient space, nobody slept well in the house boat and it severely affected the health of the child and it caused severe mental agony to the complainant's group. It was contended that the next day, on 25.10.2023, the complainant's group checked out from the house boat and after a museum visit the group was dropped at Ernakulum Railway Station by 3 p.m. and the trip was completed. It was contended that the child of the complainant's friend Mr.Manivannan continued to experience health issues and was subsequently admitted in the hospital and took treatment for dehydration and Exhibit A6 was relied to prove the medical treatment taken for the child and expenses incurred for such medical treatment of the child due to the act of the opposite party. It was contended that on 27.10.2023 the complainant contacted Ms.Komal requesting for the invoice for the remaining payment of 70% and inspite of numerous attempts the invoice was not provided by the agency's representative to the complainant. To prove the case of the complainant, the evidence of the complainant as PW1 and the evidence of Tmt.S.Vijaya as PW2 who also travelled with the complainant's group was filed. It was contended that the act of the opposite party is a clear deficiency of service and unfair trade practice.

(ii). It was contended on the side of the opposite party that the complaint is not maintainable and the complainant had filed this complaint with malafide intention to harass the opposite party and to extort money. It was contended that the complaint had concealed the true and material facts. It was contended that it is true that on 02.08.2023 the complainant saw the Instagram advertisement regarding Kerala vacation and contacted the opposite party and on 23.08.2023 the complainant engaged in detailed discussions with travel agency's representative Ms.Komal regarding the itinerary and had paid advance amount of Rs.17,880/- which is 30% of the total trip cost for the complainant group consisting of his family of 3 adults and his friend Thiru.Manivannan's family with 2 adults and one kid of 4 years old. It was contended that on 20.10.2023 the complainant contacted Ms.Komal representative from the travel agency and updated the final itinerary. It was contended that after the complainant's

group arriving in Kerala on 21.10.2023 they met Mr.Ajeesh, the trip guide and boarded an Innova and started to Munnar and the group was housed in two different rooms at “At Wood Resort” where they checked in and they proceeded as per the pre-arranged schedule. It was contended that the travel agent received the remaining 70% of the trip cost which is Rs.41,720/-. It was contended that the experience of the complainant’s group in Munnar continued as planned on 22.10.2023 and on 23.10.2023 they checked out from “At Wood Resort” in Munnar and travelled to Thekkady and stayed at “Periyar Nest Resort” and the complainant group was provided with two separate rooms for their accommodation. It was contended that on 24.10.2023 the complainant group checked out from “Periyar Nest Resort” and proceeded to Alleppey to board the houseboat as per their itinerary. It was contended that upon boarding, it was discovered by the house boat driver that the house boat was having leakage issue and the driver called the travel agency and told the same and the travel agency does not want to take the life risk of the complainant or his family and hence the travel agency had shared the same with the complainant and had stated that they are arranging the new house boat but unfortunately all house boats were pre-booked. It was contended that after so many efforts the opposite party was successful to arrange a single room in a house boat and requested the complainant to manage and also ready to return the charges of another room but the complainant with a malafide intention denied for the payment and agreed to stay on the house boat. It was contended that on the next day, that is, on 25.10.2023 following a small lake tour and breakfast in the morning the complainant's group checked out from the house boat and travelled to a museum visit and finally dropped at Ernakulum railway station and the trip was successfully completed without any objection on the side of the complainant. It was contended that the allegation of the complainant that their kid was dehydrated due to the act of the opposite party is baseless as the kid is just 4 years old and it is obvious that the health of the child deteriorates due to atmosphere and change in weather. It was contended that the doctors diagnosed the child with dehydration and it was the negligence of the child's parents and the atmospheric change and not due to the opposite party.

(iii). On considering the contentions of both sides, it is found that the complainant had booked for a trip to Kerala through the opposite party for his family consisting of three adults and his friend Manivannan’s family consisting of two adults

with one kid of four years old. It is also admitted on the side of the opposite party that the complainant had paid a sum of Rs.17,880/- towards 30% of the total trip cost as advance on 23.08.2023 and had also admitted the receipt of Rs.41,720/- towards the remaining 70% of the total trip cost on 21.10.2023 after the arrival of the complainant's group at Kerala. It is also admitted on the side of the opposite party that as per the itinerary agreed between the complainant and the opposite party, the complainant's group were provided with two bedrooms for their accommodation and Innova car for their travelling through the travel agency. It is found that the complainant with his group was provided with stay at "At Wood Resort" by the opposite party with two different rooms on 21.10.2023 at Munnar and the trip proceeded according to the pre-arranged schedule between the parties. Further on the next day, that is, on 22.10.2023 the complainant's group had stayed at "At Wood Resort" in two separate rooms allocated for them and on 23.10.2023 the complainant's group had checked out from "At Wood Resort" in Munnar and travelled to Thekkady and stayed at "Periyar Nest Resort". It is also agreed by the complainant and the opposite party that as per the agreement, the complainant's group was provided with two separate rooms for their accommodation at "Periyar Nest Resort" also. On 24.10.2023 the complainant's group checked out from "Periyar Nest Resort" and proceeded to Alleppey to board the house boat as per the itinerary and the complainant's version is that they were allocated two rooms in the house boat at the time of checking in and at around 4.30 p.m. the complainant had received calls from another travel group consisting of 4 adults who were also instructed to board the same house boat and the complainant had contacted Ms.Komal, the travel agent of the opposite party and she had stated that the complainant's group have to adjust with the new travel group and share one room with the new travel group. Exhibit A4 marked with objection clearly proves the contention of the complainant and Exhibit A4 marked with objection would also clearly prove the contention made on the side of the complainant that the travel agent had threatened the complainant's group with cancellation of the trip without any refund and committing unfair trade practice and deficiency of service. Though the opposite party had pleaded in their written version and also argued that upon boarding in the house boat it was discovered by the house boat driver that it was having leakage issue and hence the complainant's group was asked to share the houseboat in a single room, such version of

the opposite party is not proved with any material evidence. Further, Exhibit A4 marked with objection which is the conversation between the travel agent and the complainant does not reflect any such version of the opposite party with regard to the alleged leakage issue in the house boat and it would clearly prove that such contention made on the side of the opposite party is created for this case. It is to be noted that the Detailed Itinerary provided by the opposite party for the trip which was marked as Exhibit A3 would reflect that the "Room Type as Tripple and Double sharing" at At Wood Resort in Munnar, at Periyar Nest Resort Thekkady and also at Alappuzha Houseboat Cruise. The Inclusion paragraph of the document also reflects the same. It is admitted by the opposite party that as per the itinerary agreed between the parties, the group was provided with two separate rooms for the accommodation except at house boat in Alleppey. Further, during argument made on the side of the opposite party, it was admitted on the side of the opposite party that the cost of the house boat booked by the complainant was Rs.22,000/- as stated in para 11 of the complaint by the complainant. Having received entire payment from the complainant for the trip with assurance of two separate rooms for the accommodation, the opposite party ought to have given two separate rooms for accommodation at house boat also in Alleppey to the complainant's group, but it failed to provide such accommodation of two separate rooms and had also threatened the complainant for cancellation without refund, which is a clear act of deficiency of service and unfair trade practice on the part of the opposite party and it is proved by the complainant with sufficient material evidence. Though the complainant had contended that the child of his friend Mr.Manivannan was affected with dehydration and took medical treatment and had even produced Exhibit A6 and had contended that the cause for such dehydration of the child was due to the act of the opposite party, the same is not proved by the complainant with sufficient material evidence. As contended by the opposite party, the reason for such rehydration of the child may be due to travelling or of any other cause but such dehydration and the health issue of the child cannot be attributed to the opposite party alone. In such circumstance, the contention of the complainant that the dehydration of the child was due to the act of the opposite party is liable to be rejected. As discussed supra, the complainant had proved the deficiency of service and unfair trade practice committed by the opposite party with sufficient material evidence and the opposite party had failed

to disprove the case of the complainant and also failed to prove even their version with regard to the alleged leakage issue in the house boat and also failed to provide any valid reason for not providing two separate rooms for the accommodation of the complainant's group at Alleppey house boat. In a consumer Complaint, the onus of proving the alleged deficiency in service committed by the opposite party lies upon the complainant who alleges such deficiency in service committed by the opposite party. The Hon'ble Supreme Court of India in the case of SGS India Limited versus Dolphin International Limited reported in 2021(6)CTC 376 and in the case of Ravneet Singh Bagga versus KLM Royal Dutch Airlines and another reported in 2000(1) SCC 66, had held that 'the onus of proving the deficiency of service in a Consumer Complaint lies upon the complainant who alleges the deficiency in service against the opposite party'. In the present case, the Complainant had proved the deficiency of service and unfair trade practice committed by the opposite party with sufficient material evidence. From the above, we find that the complainant had proved the deficiency of service and unfair trade practice committed by the opposite party with sufficient material evidence and consequently this complaint is liable to be allowed. Accordingly, Point No.2 is answered.

8. Points No.3 and 4: In Point No.2, it is decided that the complainant had proved the deficiency of service and unfair trade practice committed by the opposite party and consequently the complaint is liable to be allowed. In such circumstance, the act of the opposite party in causing deficiency of service and unfair trade practice would have caused mental agony to the complainant. The act of the opposite party in committing deficiency of service and unfair trade practice and causing mental agony to the complainant had to be compensated accordingly by the opposite party. It would be just and reasonable that the opposite party shall refund a sum of Rs.22,000/- to the complainant which is the booking cost for the two room accommodation at the house boat in Alleppey which was not provided to the complainant's group, pay a sum of Rs.20,000/- towards compensation for deficiency of service, Rs.20,000/- towards compensation for unfair trade practice and Rs.10,000/- for compensation towards mental agony caused to the complainant and Rs.5,000/- towards cost of this complaint. Except for the above relief, the complainant is not entitled to get any other relief from this complaint. Accordingly, Points No.3 and 4 are answered.

In the result, this complaint is partly allowed. The opposite party is directed to pay the complainant (i). a sum of Rs.22,000/- (Rupees twenty two thousand only) towards the refund of the cost of stay at Alleppey house boat, (ii). pay a sum of Rs.20,000/- (Rupees twenty thousand only) towards compensation for deficiency of service committed to the complainant, (iii). pay a sum of Rs.20,000/- (Rupees twenty thousand only) towards compensation for unfair trade practice, (iv). pay a sum of Rs.10,000/- (Rupees ten thousand only) towards compensation for mental agony caused to the complainant and (v). pay a sum of Rs.5,000/- (Rupees five thousand only) towards cost of this complaint, within two months from the date of receipt of this order, failing which the refund amount and compensation amounts shall carry interest at the rate of 9% per annum from the date of filing of this complaint, that is, from 21.11.2023 to till realization.

Dictated by the President to the Steno-Typist and directly typed by her and corrected by the President and pronounced by us in the open Commission on the 09th day of May, 2024.

**Sd/-
MEMBER**

**Sd/-
PRESIDENT**

Complainant side witness:

PW1 - Thiru.S.Jagadish

PW2 - Tmt.S.Vijaya

Opposite Party side witness:- NIL

Exhibits on the side of the Complainant:

EXHIBITS	DATE	DESCRIPTION OF DOCUMENTS	NATURE
Ex.A1	28.10.2022	Form GST Reg-06 Registration Certificate of the opposite party	Xerox
Ex.A2	-----	Train tickets for the trip of the complainant's family and his friend's family	Xerox
Ex.A3	-----	Detailed Itinerary	Xerox
Ex.A4 (marked with objection)	-----	Screenshots of Whatsapp chat communication between the complainant and the opposite party	Xerox
Ex.A5	24.08.2023	Tax Invoice along with two payments proofs	Xerox
Ex.A6	27.10.2023	Medicine Purchase Details, Patient Bill Summary and two bills and receipts issued by	Xerox

		Bhaarath Medical College and Hospital Pharmacy for Baby Kanika Devi, Discharge Summary, Two Final Reports of Central Clinical Laboratory, Serology Report and OP Review Sheet issued for Baby Kanika Devi by Bharath Super Speciality Hospitals, Chennai.	
Ex.A7 (marked with objection)	-----	Aadhaar Card of Vijaya	Xerox

Exhibits on the side of the Opposite Party:- NIL

**Sd/-
MEMBER**

**Sd/-
PRESIDENT**