

**BEFORE THE CONSUMER DISPUTES REDRESSAL FORUM,  
NORTH GOA AT PORVORIM**

**QUORUM: - S. VALES, PRESIDENT  
VARSHA R BALE, MEMBER  
AUROLIANO DE OLIVEIRA, MEMBER**

Complaint no. 40 of 2018

Shri. Saidas Swar,  
60 years of age, married,  
Businessman, resident of House no. 98/2,  
Meera Sadan, Nearby Government Primary  
School, Naibag, Pernem, Goa .... Complainant

V/s

Bharat Sanchar Nigam Limited (BSNL)  
BSNL Pernem, BSNL Office,  
Opp. Nandi Theatre,  
Pernem, Goa .... Opposite party

**Date of complaint : 13<sup>th</sup> June 2018**

**Date of Judgment : 28<sup>th</sup> September 2018**

*Adv. A. Swar for the complainant*

*Adv. V. Virnodkar for the Opposite party*

**JUDGMENT**

(per A. De Oliveira, Member)

By this Judgment and Order, we shall dispose off the complaint filed by the complainant dt. 13<sup>th</sup> June 2018 alleging deficiency in service on the part of the Opposite party (for short OP).

1. That the complainant who is a **senior citizen** is a subscriber to the telephone (landline) services provided by the Opposite Party at his residential address given in the cause title and has a landline number 0832-XXXXXX2 and has also availed the services of broadband from the OP for last three years. That the landline is used by all his family members including his elder son who is a businessman and younger son who is an Advocate. That the landline number is also used for commercial purposes for the purpose of business communications.

It is argued that the residential house of the complainant is just **5 mins** away from the office of the OP.

2. That since January 2017, the landline started giving problems. It became un-operational, dead and out of service and despite personal visits and telephonic complaints, the OPs failed to take immediate action in resolving the grievances of the complainant. Since February 2018, the problems arose with broadband services and they were highly interruptive due to carelessness and negligence of the OP.

3. That the complainant made several complaints to the OP. Data of 11 complaints (date and complaint no.) is provided. That due to fault of the OPs in promptly attending to the complaints, the complainant has suffered huge losses besides unnecessary and unwanted harassment at the hands of the OPs. Due to non availability of broad band services, the complainant's son who is an advocate was not able to carry on his research work relating to his legal matters.

4. That one lineman Mr. Dessai attached to the BSNL Office, Pernem came to repair the landline and broadband and told the complainant that he has time and again requested the office in charge of BSNL, Pernem, that, there is fault in cable wire of the landline which needed to be replaced as soon as possible. He also informed the complainant that the Head office was not providing cable wires to OP inspite of request being made in this regard and therefore he was helpless and was not able to attend to the problems faced by the complainant promptly.

5. That legal notice dt. 17<sup>th</sup> May 2018 issued by the Advocate for the complainant was not at all replied by the OP and this shows that the attitude of the OP and lack of proper service by the OP. That the complainant visited the office of the OP at Pernem but his complaint was not entertained. That he made complaint on customer care no. 1500 and it was registered with complaint ID bearing no. 0143123944. That the landline and broadband was dysfunctional from 8<sup>th</sup> May 2018 till 19<sup>th</sup> May 2018 for 12 days as a result of which the complainant and his family suffered huge losses and were inconvenienced and undergo mental tension and agony as they could neither use internet or make calls.

6. Hence, feeling aggrieved with the faulty landline and broadband services provided by the OP and inspite of his several complaints since January 2017 pertaining to landline and since February 2018 pertaining to broadband services, having remained unheard and unresolved and promptly unattended to, the complainant being a Senior Citizen and a dissatisfied customer of the OP BSNL has approached this Forum seeking redressal of his grievances.

7. The OP was duly served. The OP resisted the complaint. It is their case that the principal office of the OP i.e. BSNL, Panaji is not joined as party to the present proceedings and therefore the complaint is not maintainable. They have given the details of the period of the usage when the landline and broadband was functioning and have enclosed four telephone bills. That whatever complaints received by them were properly attended and have produced details of the complaint attended by them. That for the period from 1<sup>st</sup> October 2017 to 31<sup>st</sup> October 2017 the OPs have given rebate amounting to Rs.177/- to the complainant. That during the period which the line remained non functional, rebate has been given to the complainant. That the cable and drop wires were provided to the OP in May 2017, August 2017, October 2017, November 2017, February 2018 and March 2018 and necessary staff as per the set guidelines have been provided to the Pernem Office of the BSNL. That the compensation claimed by the complainant is irrational and is fictitious and exorbitant. That there is no deficiency in service on the part of the OP. The OP prays that the complaint be dismissed.

8. Both parties led evidence by filing affidavit in evidence respectively and have also filed written arguments. Lr. Adv. Virnodkar for the OP has submitted that written arguments be considered as oral arguments. We have heard Adv. A. Swar for the complainant.

**9. The point that arise for consideration is whether there is deficiency in service on the part of the OP and if yes, then what reliefs the complainant is entitled to ?**

10. Admittedly, the complainant is a Senior Citizen and availed services of landline and broadband at his residence. It is not disputed that the office of the OP is just 5 mins away from his residence. It is not disputed that the landline is used for business

communication by the complainant as well as the same is used by his family members and his two sons;

11. The complainant at para 8 of his complaint has stated that since January 2017 his landline was un-operational, dead and out of service and despite personal visits and complaints on customer care no. 1500, no action was taken and landline remained dysfunctional and dead. To this, the OP has replied at para 10 of its written version as follows :

*“10. Ref. Para 8 :- contents are denied being incorrect. The landline and the broad band were functional during the period as mentioned hereinbelow”*

In para 12 of the Written version, OP has given details of the landline and broadband being functional. From the details provided, it is more than evident that there are no details of usage in the year 2017. All these details pertains to the usage for the months of January 2018 to June 2018. This means that the landline and broadband were not properly functioning from January 2017 to December 2017. Hence, the complainant has established that since 2017, his landline was dysfunctional. This is clearly the fault and negligence on the part of the OP in not rectifying the fault for the period of one year.

12. It is evident from the paras 10 & 11 that the complainant has filed several complaints to the OP complaining about faulty landline and broad band services, details of some of the complaints are produced at para 11 of the complaint. The first complaint is dt. 25<sup>th</sup> October 2017 and the last complaint is dated 16<sup>th</sup> May 2018.

13. The OP has dealt with these complaints at para 13 of the complaint. It is stated by the OP that only four complaints i.e. sr. no. 3, 8, 10 & 11 are received and acted upon by them and that rest of the complaints are not received by the OPs. We are unable to believe the OP. The OP at para 19 of the written version has admitted that they infact received the complaint dt. 8<sup>th</sup> May 2018 and attended the same on 19<sup>th</sup> May 2018. There are no records available with them of the said complaint dt. 8<sup>th</sup> May 2018. We do not see anywhere in the screenshots, the OPs have produced the same. This means the OP has not even been maintaining the records of the complaint made by the complainant. This is again the fault on the part of the OP. The complainant and his grievances were indeed taken for granted and utter negligence was displayed by the OP in refusing to even note the complaints in their system.

14. At para 13 of the written version, the OP has given details of the four complaints attended. The complaints were attended to only after a gap of over more than 10 days. This is irrational and unreasonable time period to attend to the complaints of its customers. There is no explanation from the OP for delay in attending the complaints of the complaint and what happened to the several other complaints made by the complainant. **A Telephone subscriber is entitled to expect that he will be provided uninterrupted service and it is the bounden duty of the Telephone Department to take immediate action to set right the fault and restore to the subscriber the use of its telephone without avoidable delay as is held in the case of The District Manager, Telephone Patna V/s Lalit Kumar Baliya, Patna I (1992) CPJ 189 (NC).** Hence, here also we find fault with the OPs for not attending the complaints in promptly as a result of which the complainant was left to face with unwanted harassment and inconvenience.

15. It is the case of the complainant that he was informed that the cable wire was faulty and the OP Office at Pernem were not provided with cables. The OPs have alleged in the written version at para 16 that the cable wires were provided but however there is no evidence produced on record. The OP has not led evidence of the said Dessai, employee of the OP. Hence, we are inclined to believe that the BSNL is not even equipped with the required material to immediately resolve the complaint of the Telecom consumers.

16. Lr. Adv. for the complainant has argued that he has been complaining since for last 1.5 years and has been visiting the office of the OP and inspite of this, his complaints are not promptly attended. He has argued that inspite of complaining to the OP, he has been still suffering due to carelessness and negligence of the OP. Looking at the facts and circumstances of the present case, we are in agreement with the Lr. Advocate for the complainant. Indeed, the facts and circumstances of the case do demonstrate that the complainant has been made to suffer and his suffering only continues.

17. The OP did not even have the courtesy to reply to the legal notice issued by the complainant demanding to resolve his grievances. Such attitude on the part of the OP is condemnable to say the least. This is deliberate inaction on the part OP which signifies that the OP is least bothered about providing quality and prompt services to its customers.

In view of the above, the complainant has established deficiency in service by the OP.

18. We find that on account of the negligent acts by the OP, the complainant and his family members were not able to effectively use without any interruption the landline and broadband services for the period from January 2017 till date of filing of the present complaint. The complainant is entitled for compensation on account of deficient services but however we find the compensation claimed of Rs. 3 lakhs is exorbitant. The complainant has failed to make out a case to claim such exorbitant compensation of Rs.3 lakhs.

19. Considering the overall circumstances of the case, we find that prompt inaction on the part of the OP and absence of required care and concern, the OP has deprived the complainant proper, prompt uninterrupted and quality landline and broadband service to the complainant which has put the complainant and his family under tremendous mental tension and agony due to the fault on the part of the OP in rectifying the fault with the landline and broadband services. Accordingly, we deem it proper to award a total compensation of Rs.40,000/- for deficient services on the part of the OP and also for causing mental tension, hardship and inconvenience suffered by the complainant for the period from January 2017 till date of filing of complaint besides legal costs.

### **ORDER**

- (a) The complaint is partly allowed :-
- (b) The OP is directed to pay a lumpsum compensation of Rs. 40,000/- to the complainant for acting carelessly, negligently in not attending to the complaints of the complainants promptly and causing mental trauma, hardship and inconvenience to the complainant and his family members for the period from January 2017 till date of filing of the complaint, within a period



from 30 days from the date of Order failing which the same shall then be payable with interest at the rate of 9% per annum from the date of Order till its actual payment.

- (c) The OP is directed to pay costs of litigation quantified as Rs.10,000/- within a period from 30 days from the date of order.
- (d) The OP is further directed to immediately act on the complaints of the complainant or by his family members, in future, if made to the OP, regarding any problems faced by the complainant with regards to his landline and broadband, within a period of one week from the date of the complaint, whether made telephonically or in writing and to avoid causing any harassment to the complainant in any manner whatsoever.

Pronounced in open Court

Proceedings closed

**(S. Vales)**

**President**

**(Varsha Bale)**

**Member**

**( A. De Oliveira)**

**Member**