

(2004) 04 NCDRC CK 0065

NATIONAL CONSUMER DISPUTES REDRESSAL COMMISSION

Case No: None

SONY INDIA PVT. LTD.

APPELLANT

Vs

DEVKARAN S. SHAH

RESPONDENT

Date of Decision: April 6, 2004

Citation: 2005 2 CPJ 368 : 2005 2 CPR 366

Hon'ble Judges: M.S.Rane , R.N.Varhadi J.

Final Decision: Appeals partially allowed

Judgement

1. BOTH these appeals have been listed on our today's Board in the caption of admission Board correctly. However, none is present on behalf of appellants in Appeal No. 553/2003.

2. WE have already issued notices before admission in the respective appeals to the respective respondents and in response thereto complainant who is common respondent No. 1 in both the appeals and who has succeeded before the District Forum is present.

Considering the nature of dispute and comparatively trivial issue involved therein, we proceed to dispose of these matters at the stage of their admission itself on perusal of the material available in the appeal paper books and on hearing the learned Advocate Mr. Gandhi for appellant in Appeal No. 612/2003 as also the complainant who is appearing in person.

The appellants herein are org. O.Ps. in the above complaint and common respondent No. 1 is org. complainant. (For brevity's sake parties are hereinafter will be referred to with reference to their status in the complaint- org. O.P. Nos. 1, 2 and

3 M/s. Sony India Pvt. Ltd. as "Manufacturer", O.P. No. 4 as "Dealer" and common respondent No. 1-org. complainant as "complainant").

3. AS stated Appeal No. 553/2003 has been filed by the manufacturer and Appeal No. 612/2003 has been filed by the Dealer.

The date of the impugned order is 20th November, 2002 passed by Addl. District Forum Pune and Manufacturer and Dealer against whom the award has been made jointly and severally have filed separate appeals herein.

4. THE subject matter of the dispute is a TV set, which the complainant purchased from the Dealer and of which O.P. Nos. 1 and 2 were the Manufacturer.

It appears that after purchase of TV set when complainant took the delivery, it could not function satisfactorily and, therefore, he made complaint first to the Dealer and it appears from there that he was reverted to the Manufacturer.

It is noticed that eventually the TV set was replaced at the behest of the Manufacturer and complainant took the delivery of the same by returning the old one.

5. AS a matter of fact, the matter should have been rested at that, but this was not so. It so happened that the TV set which was replaced was of a different type of model than the one that was given to the complainant earlier and although the complainant insisted from the Dealer that it should be replaced with same as was given to him earlier. The Dealer represented to the complainant that such Model was out of Market as also out of production.

6. IT appears that the complainant corresponded with the Manufacturer and then it turned out to be as a position clarified by the Manufacturer that such products was very much in the Market and in the production. The complainant has made the same as one of the grounds of his grievance.

The other grievance is about difference in price as also Octroi attractable to the substituted TV set.

The price of the substituted TV set was less than by sum of Rs. 2,450/- as also corresponding reduction in Octroi was of Rs. 550/-.

7. THE complainant made claim for the said amount and which was not responded to that this complaint has been filed.

It is noticed that the complaint was contested by the Manufacturer as also the Dealer with all the vehemence and that is amply demonstrated from the facts that the District Forum was required to pass the detailed judgment running into nearly 15 pages.

8. DISTRICT Forum, it is noticed on consideration of the rival contentions of the parties was fully satisfied that there was merit in the grievances of the complainant and so holding has awarded a sum of Rs. 25,000/- as compensation payable jointly and severally by them i.e., Manufacturer and Dealer plus Rs. 1,000/- towards costs.

As stated the said findings are impugned by the Manufacturer and the Dealer-org. O.Ps. in both these appeals filed separately.

We have heard the learned Advocate for the Dealer and have also perused the material available in the appeal paper books and in particular have gone through the impugned order of both these appeals.

9. AS we have narrated the facts herein above, it would be noticed that the issue was minor and in normal course, one would expect and the prudence would also require in order to maintain cordiality of relationship with the consumer, that both the Manufacturer and the Dealer should have seen the light of reasons and would not have carried the matter to the logical or rather illogical end as is the case herein. It stands amply borne out and which position has been admitted by the manufacturer themselves from their letter that Model in question which was given to the complainant earlier was very much in the Market and as such available and that being so, the representation made contrary thereto was indeed improper, which would constitute deficiency in service.

10. FURTHERMORE, the exchange of Model resulted into the variation in the price structure as also corresponding amount of Octroi payable thereof, which is also amply borne out from the material on record.

In such situation, one would have expected that considering the fact that the commodity involved in the dispute being of a very common use and in order to maintain a consumer friendly relationship both the Manufacturer and the Dealer should have worked out the matter at their end itself.

Regretfully, this did not happen.

11. ON going through the material and in particular impugned order, which is elaborate and exhaustive, we do not find any justification to take different view than what the District Forum has taken.

Mr. Gandhi pointed out that the sum of Rs. 25,000/- has been awarded as compensation which is disproportionate to the claim involved in the matter herein. We see some point as made hereinabove. According to us a sum of Rs. 10,000/- would be fair and reasonable in the facts/situation as obtained in the matter herein and we modify the impugned order accordingly. ORDER

1. Appeal Nos. 553 and 612 of 2003 stand partially allowed to the extend as under :
(i) Amount of Rs. 25,000/- as per operative Clause No. 1 of the impugned order awarded by the District Forum stands reduced to Rs. 10,000/-. (ii) Order of cost of Rs. 1,000/- also stands confirmed. (iii) Both appellants shall pay a sum of Rs. 1,000/-

each as cost in the appeal proceedings herein. (iv) Copies to be furnished to the parties. (v) Sum of Rs. 10,000/- deposited by the Manufacturer-org. O.P. Nos. 1, 2 and 3 with Addl. District Forum, Pune as per our interim order dated 18th June, 2003 as a condition for grant of stay to be released to the complainant towards part satisfaction of the impugned award of the District Forum as modified by us and District Forum shall take necessary steps to release the said amount to the complainant after a period of appeal is over.

Appeals partially allowed.