

(1993) 09 NCDRC CK 0023

NATIONAL CONSUMER DISPUTES REDRESSAL COMMISSION

Case No: None

ONIDA SAKA LTD.

APPELLANT

Vs

Debabrata Dutta

RESPONDENT

Date of Decision: Sept. 20, 1993

Citation: 1994 1 CPJ 237 : 1994 3 CPR 237 : 1995 1 CPC 72

Hon'ble Judges: Jyotirmoyee Nag , Sunil Kanti Kar , S.Dutta J.

Final Decision: Appeal fails without cost

Judgement

1. MRS. Justice Jyotirmoyee Nag, President

2. HE appellant has filed tHE instant appeal assailing tHE. judgment and order dated 10.6.93 passed by tHE learned Calcutta District Forum in C.D.F. Case No. 887/92.

It appears to us that the colour Television in question was purchased in the year 1990 although the specific date has nowhere been disclosed. It also appears that the disputed television was placed with the appellant for servicing and repairing purpose for which the respondent paid Rs. 5,000/- towards service charges and cost of the parts. The said television after repair was re-delivered and the respondent received disputed television in good condition . Thereafter the complainant/respondent again placed on 28.9.92 the television for necessary repairs in the service centre of the appellant. When it was found that the picture tube of the television was damaged as alleged by the appellant. On receipt of the said disputed television by the appellant, it submitted an estimate of Rs. 9,774/- on 22.11.91 but the complainant/respondent refused to pay the same. It was contended by the appellant as the picture tube was not manufactured by it, the question of

replacement of the picture tube did not arise but the appellant undertook to remove the defects of the television to maintain their business relationship and reputation. The appellant by their later dated 20.4.93 addressed to the respondent as well as to the Calcutta District Forum informed that the television set has duly been repaired and the picture tube was also replaced and requested the complainant/respondent for inspection and to arrange payment before taking delivery of the television set. It was alleged by the complainant that during the repair, the picture tube had been seriously damaged and also the appellant could not cure the defects of the television set and it delayed to deliver the same causing thereby the harassment and loss to the complainant/ respondent for which he filed the complaint before the Calcutta District Forum for replacement of the disputed television with the new one and to quash the bill dated 22.11.91 for Rs. 9,774/- and also sought for compensation of Rs. 50,000/- and damage Rs. 10,000/- . JUDGMENT

The Ld. C.D.F. by its order dated 10.6.93 directed the opposite party/appellant to return the television to the complainant/respondent after proper repairing free of cost within 7 days from the receipt of this order failing which penal action to be followed. We also observe that this was the case of repairing of the television which had been purchased from the appellant. The television became out of order for the second time just after first servicing and repairing and delivery to the complainant/respondent. It is also the fact that the picture tube was severely damaged while it was in the custody of the opposite party/appellant for repairing purpose.

3. WE observe that the opposite party/ appellant gave an estimate of Rs. 9,774/- for repairing of the television for the second time although the television just after first repairing did not render good service for which the complainant/respondent paid Rs. 5,000/- . It is a case of repairing and consumer as defined under Section 2(1)(d) of the Consumer Protection Act, means any person who buys any goods for a consideration or hire any services for consideration and as per definition under Section 2(1)(f) defects means any false imperfection or shortcomings in the quality, quantity, potency, or standard which is required to be maintained by or under any law for the time being in force or as is claimed by the trader in any manner what soever in relation to any goods. This being the position the appellant assuring to repair the television accepted consideration for Rs. 5,000/- for the first time and the repairing and change of spare parts etc. but just after delivery of the television by the appellant it was found that the service rendered by the appellant in respect of repairing and servicing of the television was not proper and perfect rather it was faulty for which the television became useless or unusable to the

complainant/respondent. The complainant/respondent immediately drew the attention of the appellant as regards bad service of the television and also alleged that the picture tube had been damaged by the appellant during its custody under the appellant.

There is a cogent reason to believe that the servicing and repairing of the television on the first instance for which the consideration of Rs. 5,000/- was paid to the appellant was not proper and satisfactory and as such he had to place the television under the custody of the appellant for the second time for proper servicing upto the satisfaction of the complainant /respondent but the appellant after taking the television for the second time bargained and demanded a fantastic high amount of Rs. 9,774/- although the appellant was duty bound to repair and serve the television properly and upto the satisfaction of the complainant/respondent in view of consideration of Rs. 5,000/- duly paid by him to the appellant.

4. IN view of the above position the appellant is not entitled to claim any further amount on account of the repairing and servicing of the television because just after repairing and servicing for the first time it became further out of order and unserviceable. So we do not find any wrong in the order passed by the Ld. District Forum and uphold the same.

Considering the facts and circumstances we are not inclined to award any compensation and /or damages as claimed by the complainant/respondent.

We award that the appellant shall repair and make proper service of the television including the change of the picture tube within fortnight forthwith from the date of communication of the order free of charges in view that the repairing and servicing charges of Rs. 5,000/- duly been paid by the complainant/respondent.

5. SO the appeal fails on contest. The judgment and order in C.D.F. Case No. 887/92 is hereby affirmed. We award no cost of the proceeding. Appeal fails without costs.