
(2003) 06 NCDRC CK 0053

NATIONAL CONSUMER DISPUTES REDRESSAL COMMISSION

Case No: None

A.K.Jain

APPELLANT

Vs

VIDEO CARE

RESPONDENT

Date of Decision: June 13, 2003

Citation: 2004 1 CPJ 181

Hon'ble Judges: Lokeshwar Prasad , Rumnita Mittal J.

Final Decision: Appeal disposed of

Judgement

1. THE present appeal is directed against order dated 3.9.2001, passed by District Forum (East), Saini Enclave, Delhi, in Complaint Case No. 161/2000-entitled Shri A.K. Jain v. M/s. Video Care.

2. THE relevant facts, leading to the filing of the present appeal, in brief, are that the appellant Shri A.K. Jain had given his two-in-one for repair to the respondent on 25.11.1999 and the same was to be delivered after due repairs on 8.12.1999. However, despite various visits the same was not returned to the appellant till 28.12.1999. THE respondent charged Rs. 550/- for the repairs without rectifying the defects. Soon after taking the delivery of the two-in-one, the defects reappeared inasmuch as the sound of the two-in-one was not clear and the volume had also reduced. As such the appellant had to again approach the respondent for repairs. This time the equipment was returned to the appellant after alleged repairs on 26.2.2000. THE appellant was still not satisfied with the repairs carried out in the two-in-one and accordingly filed a complaint before the District Forum praying for directions to the respondent to repair the two-in-one of the appellant to his satisfaction and also to refund the amount paid by him for repairs together with Rs.

10,000/- as compensation.

In its reply/written version, filed before the District Forum, the defence of the respondent was that being the authorised Service Centre of Philips India Limited it had rendered satisfactory service to numerous consumers prior to the complainant. It was further stated that M/s. Philips India Limited normally kept changing their models and, as such, it was difficult to obtain parts of a model which was more than four years old. As such, when the appellant had approached them for the repairs of his two-in-one model DR 789 manufactured in the year 1988, the respondent had duly informed the appellant that it was a very old model and the warranty period of the same had also expired long ago. Furthermore, the parts of the said model were not easily available and, as such, the respondent would be able to carry out the repairs subject to availability of parts. However, the appellant had at that time assured the respondent that he wanted his two-in-one repaired at any cost. Accordingly, the respondent had accepted the two-in-one for repairs from the appellant on 25.11.1999. The same was duly repaired and returned to the appellant on 28.12.1999. The appellant had received the said set after repairs after signing the receipt in acknowledgement of the fact that the same was in good working condition. The respondent had raised a bill for Rs. 572/- for the repairs carried out in the said two-in-one of the appellant. However, on the request of the appellant a concession of Rs. 22/- was given to the appellant who paid only Rs. 550/- as against the bill of Rs. 572/-. Subsequently the appellant again brought the two-in-one in question for a few specific defect relating to the non-working of the FM and not for the defects which had been earlier rectified. The same after repairs was delivered to the appellant on 26.2.2000 and for the said services no charges were paid by the appellant. However, at the time of receiving back the equipment on 26.2.2000 the appellant has remarked that he wanted a brand new equipment and also knew the ways to recover the same from the respondent. Thus in the circumstances there being no deficiency in service on the part of the respondent, the complainant, filed by the appellant, was liable to be dismissed with costs. The learned District Forum, on the basis of the evidence and material on record held that there was no deficiency in service on the part of the respondent and accordingly dismissed the complaint of the appellant.

3. AGGRIEVED by the aforesaid order, the appellant has preferred the present appeal before this Commission.

We have carefully perused the documents/material placed on record, as well as, have heard the arguments advanced on behalf of both the parties. The appellant

has approached this Commission in appeal against the dismissal of his complaint by the District Forum. In view of the facts on record it is apparent that the two-in-one in question is a 1988 model equipment which had been used for about 11 years before the same was handed over to the respondent for repairs. It stands to reason that because of the induction of new models by the manufacturing company the parts of the old models were not easily available for repairs/replacements. This fact had been duly brought to the notice of the appellant as is apparent from Para 8 of the affidavit of Shri Krishna Verma, proprietor of the respondent firm wherein, it has been specifically averred on behalf of the respondent that the appellant had been duly informed of the fact that his two-in-one had been declared obsolete by M/s. Philips India Limited and consequently it would be difficult to get its original spare parts and also that the respondent would, however, make maximum possible efforts to repair the same with the use of substituted parts. The appellant had duly instructed the respondent that in case of non-availability of original parts the respondent could substitute the same so as to get his two-in-one in working condition. Therefore, considering the fact that before taking delivery of his two-in-one the appellant must have been satisfied with its performance before making the payment of the bill and also that bill contains the details of parts repaired/substituted, it cannot be believed that the two-in-one was returned without repairs and in a non-working condition. It is also not denied by the appellant that he had been given a concession of Rs. 22/- in the first bill and the second time the two-in-one was repaired free of charge.

4. IN the circumstances as has been held by the learned District Forum vide impugned order there was no default on the part of the respondent and, as such, the complaint, filed by the appellant, before the District Forum had been rightly dismissed. The present appeal, filed by the appellant, being devoid of merit is liable to be dismissed and is dismissed accordingly. However, the parties are left to bear their own costs. The present appeal, filed by the appellant, stands disposed of in above terms. Appeal disposed of.