

(2011) 01 NCDRC CK 0053

NATIONAL CONSUMER DISPUTES REDRESSAL COMMISSION

Case No: None

KAMAL KISHORE

APPELLANT

Vs

Electronics Corporation of India
Ltd.

RESPONDENT

Date of Decision: Jan. 17, 2011

Citation: 2011 0 NCDRC 25 : 2011 1 CPJ 254

Hon'ble Judges: Ashok Bhan , Vineeta Rai J.

Advocate: Kamal Kishore

Judgement

1. THE Petitioner in this case, Kamal Kishore, has filed this revision petition being aggrieved by the order of the State Consumer Disputes Redressal Commission, Lucknow, U.P. (hereinafter referred to as the "State Commission") which has dismissed his appeal in favour of Electronic Corporation of India Ltd., Hyderabad and M/s Seko Electronics (hereinafter referred to as the "Respondents").

2. THE facts of the case are that the Petitioner had bought a television (Model - EC 1050) for Rs.2200/- on 17.07.1988 from the Respondents with a warranty period of one year. According to the Petitioner, the TV set worked only for two or three days from the date of purchase and thereafter although he complained several times, the Respondents did not bother to remove the defects nor did they send any mechanic to attend to the same. Although, the Respondents kept assuring the Petitioner that they will either remove the defect or replace the TV set, they did not do so. Getting no relief, the Petitioner filed a complaint before the District Forum on grounds of deficiency in service. Respondents denied the complaint and stated that no complaint or defect in the TV set had been reported to them by the Petitioner within

the warranty period of one year which expired on 16.07.1989. Subsequently, when the Respondents sent their engineer to look into the complaint of the Petitioner, the latter did not permit him to examine the TV set saying that he has already filed a complaint before the District Consumer Forum. THE District Forum after hearing both parties accepted the complaint that there was an inherent defect in the TV set and despite complaints, this was not attended to by the Respondents. It, therefore, directed the Respondents to replace the defective TV by a new set of the same model within one month failing which the Respondents were directed to pay an amount of Rs.2200/- with interest @ 9% per annum from 16.07.1988 till the date of order as well as Rs.500/- as compensation. In case Respondents failed to pay the amount within fixed time, then Respondents would pay full amount with 18% interest per annum from 17.03.1994 till the date of full payment.

Aggrieved by this order, Respondents filed an appeal before the State Commission. The State Commission accepted the appeal by concluding that there was no proof that the TV set purchased by the complainant suffered from any manufacturing defect or that any complaint to this effect had been made by the Petitioner to the Respondent dealer during the warranty period. The relevant part of the order of the State Commission is reproduced:

"The warranty of the TV set had expired on 16.07.1989 and during this period of one year the dealer did not receive a single complain about there being any defect in the TV set. Although, the complainant submitted that he had complained about the defect in the TV on 23.05.1989 and 21.06.1989 but there is no proof to support the said statement. If the complaints were sent in writing, their copies were required to be furnished and filed before the Forum below but no document worthy of credit had been brought on record. We are, therefore, inclined to uphold the appellant's contention that he did not receive any complaint during the warranty period about there being any kind of defect in the TV set in question."

The complainant was also under the obligation to establish that a particular kind of defect falling within the purview of inherent/manufacturing defect had persisted in the TV but neither any engineer's report nor any other convincing evidence had been filed either before the Forum below or before us. The allegation of manufacturing defect in a machine is not to be taken to be as a gospel truth on mere statement but it is required to be proved beyond doubt by means of a credible documentary evidence. In the case in hand the opinion of an engineer who would have been an expert in the field of TV manufacturing/repairing would have been of a greater held to the complainant but no such report has been obtained and filed. We are, therefore, not inclined to accept the complainant's version which is liable to be rejected."

3. HENCE the present revision petition. Petitioner was present in-person. None appeared on behalf of the Respondents. Petitioner reiterated the submissions that he had made in his original complaint that despite his having represented in writing on several occasions to get the TV set repaired during the period of warranty, the Respondents did not take any action to do so. He was specifically asked to show us any proof of his having made written requests to get the TV set attended to during the warranty period and which was declined by Respondent or any other credible proof that the TV set had inherent defects which he had filed before the District Forum which he stated he is unable to present.

In the absence of any evidence or proof to the contrary, we agree with the finding of the State Commission that there was no deficiency in service on the part of the Respondents because no complaints about the TV set were made during the warranty period and subsequently also no credible evidence was produced that there were any inherent defects in the said TV set.

4. THE revision petition is, therefore, accepted with no order as to costs.