

(2006) 02 NCDRC CK 0101

NATIONAL CONSUMER DISPUTES REDRESSAL COMMISSION

Case No: None

PANASONIC INDIA PVT. LTD.

APPELLANT

Vs

M.M. SHARMA

RESPONDENT

Date of Decision: Feb. 2, 2006

Citation: 2006 4 CPJ 27

Hon'ble Judges: J.D.Kapoor , Rumnita Mittal J.

Final Decision: Ordered accordingly

Judgement

1. APPELLANT manufactures and markets refrigerators under the brand name of Panasonic. The respondent purchased one 1.5 ton air conditioner manufactured and marketed by respondent No. 2 M/s. DKs show, dealer of the appellant. In spite of having made efforts to rectify the defects particularly of the compressor in the air-conditioner, the AC remained non-functional. While allowing the complaint of the respondent, the District Forum has vide impugned order dated 2.9.2005 directed the appellant as well its dealer to refund the cost of the defective machine i.e., Rs. 24,200 and also to pay Rs. 5,000 as compensation inclusive of the cost of litigation for the inconvenience, mental agony and harassment suffered by the respondent. Feeling aggrieved, the appellant has directed this appeal.

2. IT is pertinent to mention at this stage that the appellants were proceeded ex parte in spite of the Managing Director of the appellant having been served at his Noida office.

Allegations in brief were that respondent made a complaint to the appellants as to non-working of the AC appellant deputed their mechanic who after checking the

machine stated that there was some defect in the compressor and that he had set right the defect. However, the defect remained as it was. On further complaint of the respondent, the appellant's representative visited the place of the respondent number of times and carried out some repair work but still the defect persisted. On 6.7.2004 the staff of appellant informed the respondent that compressor of the AC was defective and the same was to be replaced. The respondent requested the appellants to replace the entire machine because he had paid for a new AC. However, respondent No. 2 did not agree and the respondent No. 1 had to agree for the replacement of the compressor as he was expecting some guests from USA. The compressor was replaced on 5.6.2004. However, the compressor again started making loud noise within 5 days. There was no proper cooling and it was difficult for the guests to have a peaceful sleep due to the noise made by the compressor. The respondent has to suffer a lot of embarrassment on this count.

The respondent/complainant again lodged a complaint with respondent No. 2 on 11.7.2004 and the mechanic came on the same day and carried out some repair work. However, the problem persisted and on further complaint by the respondent the appellant No. 2 took the machine to its workshop and returned to the respondent after repairs on 8.8.2004. It was found by the respondent that the same problem persisted. The appellants refused to replace the machine and thereby forced the respondent to file a complaint before the District Forum.

3. THE very fact that the dealer of the appellant had visited the place of the respondent on number of times for rectifying/repair work for pretty long time but the defects persisted shows that the AC sold to the respondent was a defective goods as defined under Section 2(1)(g) of the Consumer Protection Act, 1986. Section 2(1)(f) defines the "defect" as under:

""defect" means any fault, imperfection or shortcoming in the quality, quantity, potency, purity or standard which is required to be maintained by or under any law for the time being in force (under any contract) express or implied or) as is claimed by the trader in any manner whatsoever in relation to any goods."

The contention of the Counsel for the appellant that the appellant does not manufacture AC and only deals in TVs and Fridge has no force as documents placed on record show that the company was earlier known as National Panasonic and subsequently changed its name. The documents also show that the Panasonic Company have been manufacturing ACs as the warranty conditions annexed with the voucher specifically mention the warranty for Panasonic ACs and Rotary compressor. May be that the appellant is the licensee of the international company

but it cannot escape its liability for having brought and marketed defective machines to India for sale through its agents.

4. NO useful purpose will be served in directing the appellant to replace the defective machine with a new machine along with fresh warranty as the machine has been lying at the premises of the respondent since 2004 though without giving any desired results as possibility of new machine being not upto the satisfaction of the respondent may not be ruled out. We do not find any infirmity in the impugned order and direct the appellant to refund the price of the machine. However, we reduce the amount of compensation and cost of litigation from Rs. 5,000 to Rs. 2,000. The aforesaid payments shall be made within one month severally and jointly by the appellant and respondent NO. 2. By way of execution petition before the District Forum, respondent NO. 1 shall effect the recovery at first instance from respondent NO. 2 failing which recovery be effected from the appellant.

Bank Guarantee/FDR, if any, deposited by the appellant be returned to the appellant forthwith under proper receipt.

A copy of this order, as per the statutory requirements be forwarded to the parties, free of charge and also to the concerned District Forum and thereafter the file be consigned to the Record Room. Ordered accordingly.