

Babu Vs. Thankachan

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Court : Kerala State Consumer Disputes Redressal Commission SCDRC
Thiruvananthapuram

Decided On : Aug-27-2008

Judge : Justice Sri. K.R. Udayabhanu: President, Smt. Valsala Sarangadharan:
Member

Appeal No. : APPEAL No. 357 of 2005

Appellant : Babu

Respondent : Thankachan

Judgement :

JUSTICE SRI. K.R. UDAYABHANU: PRESIDENT

The appellant is the opposite party in OP.264/04 in the file of CDRF, Idukki. The appellant is under orders to pay a sum of Rs. 2500/-being the price of the digital receiver and to take back the same from the complainant and to pay Rs.500/- towards cost within 30 days failing which the amounts would carry interest at 12% from the date of default.

2. It is the case of the complainant that he purchased a digital receiver from the opposite party in October 2004 on payment of Rs.2500/-. The opposite party/appellant undertook that there is six months guarantee and free service. But after one month ie 5.11.04 the receiver became functionless. Appellant promised to replace the same but did not fulfill the promise and hence the complaint.

3. It is the contention of the opposite party/appellant that the complainant wanted a digital receiver and when the appellant purchased one for himself, he purchased one for the complainant also. He had told that there will be no guarantee or warranty. The remote and the catalogue were also taken by the complainant. After two months the equipments were damaged in lightening. According to him he is not liable.

4. The evidence adduced consisted of the testimony of PW1 and DW1.

5. PW1 has testified as per the averments in the complaint. DW1 the appellant has testified that he sold the digital receiver to the complainant on 12.9.04. He has stated it is a second hand one and purchased from Coimbatore and that he purchased one for himself also. He has stated that he is not having an electronic shop but he had stated that he is having a shop and the complainant came to the shop and requested for a digital receiver. The Forum has noted that during the examination of the witnesses the receiver was produced by the complainant and also found that it is sealed with warranty. The Forum found that in the version of the opposite party that it is an old receiver is false. The contention of the opposite party/appellant that the receiver was damaged in the lightening was also found to have not been not proved.

We find that there is no patent illegality in the order of the Forum. The matter is confined to the realm of appreciation of evidence and hence no interference is called for. The order of the Forum is sustained and the appeal is dismissed.

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