

Manoj Electronics Vs. Macline Massy

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Court : Delhi State Consumer Disputes Redressal Commission SCDRC New Delhi

Decided On : Mar-03-2006

Judge : J.D. Kapoor, President & the Honourable Ms. Justice Rumnita Mittal, Member

Appeal No. : Appeal No. A-1618 of 2001

Appellant : Manoj Electronics

Respondent : Macline Massy

Judgement :

J.D. Kapoor, President:

1. The appellant is a dealer of TV manufactured by Philips India Ltd. and respondent No. 2 is the authorized service centre of Philips India Ltd. On account of having sold a defective TV for the value of Rs. 3,200, the District Forum, vide impugned order dated 24.5.2001 directed the appellant to refund the price of the TV along with 15% interest till the date of payment and Rs. 5,000 as compensation for harassment undergone by the respondent and Rs. 2,000 towards cost of litigation.

2. Through this appeal, the appellant tried to absolve its liability to pay the price of the defective TV and interest as he was only the agent/dealer, receiving commission from the manufacturer.

3. It is not a case where the amount was directly received by the manufacturer. The manufacturer was selling TVs through its dealers and not directly. The explanation of the respondent in not making Philips India Ltd. as a party is that he tried to obtain the address of Philips India Ltd. from the appellant and also from the authorized service centre-respondent No. 2 but no body gave the proper information or the address and as such he could not implead Philips India Ltd.

4. Merely because the appellant was only the dealer does not absolve it from the liability of selling a defective TV. Taking dealership of the manufacturer has the same liability as that of the manufacturer as the consumer deals directly with such a dealer and not with the manufacturer. By this concept the liability of the manufacturer as well as the dealer is joint and several. As regards the allegation of TV being defective, the Counsel for the appellant has contended that the TV was purchased in the year 1990 and the complaint was made in the year 1992 and he availed the benefit of warranty during this period and there was no deficiency in service nor was TV suffering from any defect of manufacturing nature. Further, Counsel for the appellant has referred to the guarantee annexed with vouchers of the TV showing the address of the guarantor as Peico Electronics and Electricals Ltd. and, therefore, it is not open to the respondent to know that he did not know the name of the manufacturer.

5. We do not find any merit in this contention as it is even otherwise for the consumer to choose to whom he should implead or not.

6. Since the respondent has directly dealt with the dealer so to expect him to run from one place to another to the guarantor or the service centre or to the manufacturer is too much. As regards the finding of the facts returned by the District Forum as to the TV being so defective that it could not work for few days, there is no need to interfere with it. There is no need to interfere with the direction to refund the price of the TV but we set aside the interest awarded by the District Forum as such interest is not awardable. Until and unless there is a term of contract between the parties for awarding interest, interest should not be awarded. Under Section 14(1) of the Consumer Protection Act, 1986 only compensation is to awardable. However, interest can be awarded under Section 34 of the CPC, if

there are equitable grounds i.e., on the concept of justice, equity and good conscience.

7. In view of the fact that TV has been used for more than two years, we partly allow the appeal by maintaining the direction to refund the price of the TV i.e., Rs. 3,200 and Rs. 2,000 towards cost of litigation. However, the appellant shall be at liberty to recover this amount from the manufacturer as this liability is joint and several with respondent No. 2 and the manufacturer.

8. 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.

Appeal partly allowed.

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