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Court : Andhra Pradesh State Consumer Disputes Redressal Commission
SCDRC Hyderabad

Decided On : Aug-17-1991

Judge : Lakshmana Rao, President, the Honourable Mr. Pothuri Venkateswara Rao, Member & the Honourable Dr. (Mrs.) Vanaja Iyengar, Member

Appeal No. : C.D. Appeal No. 132 of 1990

Appellant : C. Rajendra and Others

Respondent : Shimac Machine Tools

Judgement :

Lakshmana Rao, President:

1. This appeal is preferred against the order of the District Forum, Ranga Reddy, District at Saroornagar, Hyderabad, dated September 15, 1990 in CD. No. 4/90 dismissing the consumer dispute filed by the appellants herein.
2. The first appellant herein had been selected under State Government Gramodaya Scheme. He had purchased 8 feet lathe machine from the respondent under Ex. Al Bill No. 160 dated February 6, 1990 for Rs. 34,900/-. The amount was advanced by way of loan by the State Bank of Hyderabad. The respondent gave one year guarantee against the manufacturing defects. The lathe machine was delivered by the respondent to the first appellant on February 7, 1990. On the delivery challan, Ex. A2, the particulars of the parts delivered by the respondent to

the first appellant were noted as follows : -

The 8 lathe delivered loose 17 gears + 5 with machine, brackets 4, big pulley 1, 16 dog chuck, 8 three jaw chuck in packet, Motor 3 HP + 3 phase 4 loose bolts, one handle.

The motor is without pulley and reversible 15 Amp. switch. One rod with worn gears at one end has been delivered at 5 p.m. on 7.2.90 by Lorry ATR 1676.

At the bottom of the delivery challan, it was mentioned :

Please inspect the goods and quality before taking delivery. Our responsibility ceases after the delivery of goods.

In the bill dated February 6, 1990 (Ex. A1), the following terms were mentioned :

1. Our risk and responsibility ceases when the goods leave our premises.
2. Disputes if any will be settled at Hyderabad jurisdiction only.

The appellants addressed a letter dated February 16, 1990 (Ex. A3) to the respondent pointed out the following ten defects, out of which the four related to non-supply of the parts and requested it rectify the same :

1. Main bore inner face rough machine, main and tail and spindles not aligned.
2. Tail and bore rough and spindle not sitting.
3. Bed V guide rough at the tail end.
4. Threepin guide sitting slant. No bed holding base plate, bolt and nut not supplied.
5. Worm rod bent and toughing the bed. No end-pin and bolt supplied.
6. Face-chuck fourth slot not opened.
7. Motor bed plate brackets not supplied. Motor double groove pulley and 2 V belts not supplied.

8. Tool head oil ball slipped not sitting.
9. 4-Jawchuck sitting bush plate not supplied.
10. 3-Jaw self-chuck bush plate not supplied.

3. The grievance of the appellants was that the respondent failed to rectify the defects and to put the lathe machine in running condition. They filed consumer dispute before the District Forum. Ranga Reddy at Saroornagar on March 23,1990 seeking a direction to the opposite party/respondent for immediate rectification of the defects, for replacement and supply of incomplete parts and for setting the machine in running condition. They also sought compensation at the rate of Rs. 12,500/- per month from February 7,1990 till the machine was set in running condition. The District Forum directed the opposite party/ respondent on April 28,1990 to assemble and set the lathe machine in working condition. Pursuant to that direction, the opposite party/respondent/brought the main drive pulley and two V belts. It fixed the motor and put the lathe machine in running condition. Counter dated June 23,1990 was filed on behalf of the opposite party to that effect. After filing the counter, the opposite party had chosen to remain absent and therefore it was set ex parte. The complainant No. 2, who is the second appellant herein, got himself examined as PW1 and produced Exs. A1 to A3. During the pendency of the complaint the District Forum directed the Manager District Industries Centre, Ranga Reddy Distt. Balanagarto inspect the lathe machine and submit a report regarding the defects. He accordingly submit a report dated August 17,1990, pointing out the following four defects : -

1. Fixing of the bolt into the dog chuck.
2. Levelling of the three pins support which is in slant.
3. Replacement of main drive pulley since it has got blow holes.
4. Supply of M.M. inch thread chart and tool head alien key.

4. The District Forum dismissed the complaint holding that in Exs. A1 and A2 it was not mentioned that the opposite party had undertaken to assemble the lathe

machine and put it in working condition. It was mentioned that the complainants did not state in the complaint that the main drive pulley, which is item number 3 in the report of the Manager of the District Industries Centre, had a manufacturing defect with blow holes. Aggrieved by the order of the District Forum, the present appeal is filed.

5. It is submitted by the appellants that the lathe machine could not be used for the purpose for which it was purchased even after the opposite party brought the main drive pulley and two V belts pursuant to the direction of the District Forum given on April 28, 1990 and put the lathe machine in running condition, due to the defects such as spindle bore inside is not properly machined, and rectification of fixing of the bolt into dog chuck etc. After the filing of the appeal, we directed the Manager, District Industries Centre, Ranga Reddy Dist, Balanagar to inspect the lathe machine and submit a report whether the lathe machine was in working condition or not and if it was not in working condition, what were the defects, accordingly, the Manager, District Industries Centre, Ranga Reddy Distt. Balanagar submitted a report dated May 17, 1991 pointing out the following defects.

1. Spindle bore inside is not properly machined 5 MM to 10 MM with projection is still there, it is obstructing entrance of the shaft/rod. It can be rectified. If it cannot be rectified by the supplier, it has to be replaced.
2. Main drive pulley has got blow holes. It is defective, as such it has to be replaced.
3. Fixing of the bolt into dog chuck. It requires rectification, otherwise chuck has to be replaced.
4. Levelling of the three pin support which is in slant position. It is to be rectified.
5. Supply of MM/Inch thread chart and tool head alien key.
6. Main and tail stock spindle points not aligned. It requires proper setting.
7. Nomenclature is to be mentioned for the degrees calibration on the spindle based plate which is used for taper cutting.

It is submitted by the appellants that due to the above defects, they are not able to use the lathe machine for the purpose of making the parts of improved design of bullock-cart.

6. It may be noticed that though the lathe machine was put in working condition, it could not be used for the purpose for which it was purchased due to the obstruction causes for the entrance of shaft/rod, because spindle bore inside was not properly machined. The other main defects were in regard to fixing of the bolt into dog chuck, levelling of the 3 pin support, which was in slant position and blow holes in the main drive pulley. It is no doubt true that in Exs. A1 and A2 it was mentioned that the risk and responsibility of the seller ceased when the goods left their premises and were delivered to the purchaser. But, there is no denial of the fact that the seller has given one year guarantee for manufacturing defects, as is evident from Ex. A1, Therefore, if there are any manufacturing defects in the parts of the lathe machine supplied to the appellants herein by the respondent, the respondent is liable to either rectify the defects or replace the defective parts. The lathe machine was purchased on February 6, 1990 and it was delivered on February 7, 1990. The complaint was filed on March 23, 1990 alleging that some parts were not supplied and that some of the parts which were supplied were defective. It was specifically mentioned in the complaint, that the main drive pulley and some other parts were not supplied. It was brought and fitted by the respondent only pursuant to the direction of the District Forum dated April 28, 1990. The Manager, District Industries Centre, Balanagar inspected the lathe machine and submitted the report dated August 17, 1990 to the District Forum pointing out among other defects that the main drive pulley had blow holes and therefore, it has to be replanned. In these circumstances, the District Forum is not correct in saying that the complainants/ appellants did not mention in the complaint that the main drive pulley suffered from manufacturing defect of blow holes. The case of the complainants/respondent was that the pulley was brought by the opposite party/respondent and fitted only after the District Forum gave the direction on April 28, 1990 and therefore the defect in the pulley could not be pointed out. Their case from the beginning was that the pulley apart from some other parts, was not supplied.

7. The contention of the appellants is that due to the defect inside the spindle bore, the entrance shaft/rod is being obstructed and therefore the lathe machine is not serving the purpose for which it has been purchased. It is further argued that due to the defect in the levelling of the 3 pin support and fixing of the bolt into dog chuck, the lathe machine cannot be put to proper use. The Manager, District Industries Centre, Ranga Reddy District, Balanagar pointed out that the defects referred to above have either to be rectified or the parts have to be replaced. The four defects pointed out by him out in his report dated May 17,1990 apart from three more defects.

8. Then the appeal was taken up for hearing neither the respondent nor its Counsel is present. On the basis of material on record, we are satisfied that the spindle bore inside is not properly machined, as pointed out by the Manager, District Industries Centre, Ranga Reddy District, Balanagar in his report and the defect has either to be rectified or the part has to be replaced; the main drive pulley has got blow holes and it has to be replaced; fixing of the bolt into dog chuck requires rectification otherwise chuck has to be replaced; levelling of the 3 pin support which is in slant position requires rectification MM/Inch thread chart and tool head alien key have to be supplied by the respondent to the appellants. Regarding to the other two defects mentioned in the report dated May 17, 1991 of the Manager, District Industries Centre, Ranga Reddy Dist. Balanagar we are not inclined to grant any relief as they have not been pointed out in the earlier report dated August 17,1990 of the Manager, District Industries Centre. We, therefore, direct that the respondent shall either rectify the above five defects or replace the defective parts within two months from the date of this order.

The appeal is allowed to the extent indicated above with costs Rs. 250/- payable by the respondent to the appellants within two months from the date of this order.

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