

L. Charles Vs. A.R. Devendran

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Court : Tamil Nadu State Consumer Disputes Redressal Commission SCDRC
Chennai

Decided On : Jan-31-2014

Judge : R. Regupathi, President & the Honourable Mr. J. Jayaram, Judicial
Member

Appeal No. : F.A.No. 966 of 2011

Appellant : L. Charles

Respondent : A.R. Devendran

Judgement :

J. Jayaram, Judicial Member

This appeal is filed by the complainant against the order of the District Consumer Disputes Redressal Forum, Chennai [North] in C.C.82/2008, dated 01-08-2011, dismissing the complaint.

2. The case of the complainant is that he purchased a Singer Fashion Sewing Machine from the opposite party for Rs.8,100/- on 22-3-2007. Right from the day of purchase, the sewing machine developed certain problems due to the inherent defects in the machine. He brought it to the knowledge of the opposite party and their mechanic attended to the repair works; but even then certain defects could not be rectified though the complainant approached the opposite party several times. The defects are inherent manufacturing defects in nature. This amounts to

deficiency in service on the part of the opposite party and hence the complaint praying for direction to the opposite party to pay compensation under several heads.

3. According to the opposite party, the complainant was satisfied with the demonstration of the machine and after being satisfied with the demonstration only he purchased the machine and the problem in the sewing machine is due to improper handling and faulty operation of the same by the complainant, and on being informed that the machine developed certain defects, the opposite party's Mechanic repaired the same and set it right, and on rectifying the defects, the complainant refused to sign the memo and at last, the opposite party contacted the complainant and requested him to bring the machine to his business place so as to rectify the defects under the direct supervision of the opposite party with the help of Supervisors of the manufacturer at manufacturer's place, but the complainant did not oblige and there is no deficiency in service on their part.

4. The District Forum considered the rival contentions and dismissed the complaint holding that there is no defect on the part of the opposite parties. Aggrieved by the impugned order, the complainant has preferred this appeal.

5. It is pertinent to note that the appellant / complainant has pleaded that there was inherent manufacturing defect in the sewing machine. It is contended by the respondent / opposite party that for manufacturing defects if any, the manufacturer should be added as a party in the complaint, and in the absence of the manufacturer, the complaint is bad for non-joinder of necessary parties, and the complaint is not maintainable. Per contra, the appellant would contend that even without impleading the manufacturer as a party in the complaint, the opposite party who is a dealer can protect the interests of the manufacturer. This contention of the appellant / complainant has no force and the contention is untenable.

6. We hold that in the case of manufacturing defects, the manufacturer is a necessary party and we cannot decide the case without the participation of the manufacturer as a party and we cannot find fault with the dealer since the warranty is issued by the manufacturer. Therefore, there is no merit in the argument that manufacturer is not a necessary party in the complaint.

7. The further contention of the opposite party would be that manufacturing defects could be established only if experts opinion is available before the Forum and that without experts opinion, we cannot not decide whether there is manufacturing defect or not. Per contra, the contention of the appellant / complainant is that experts opinion is not necessary for establishing manufacturing defect. We hold that this argument advanced by the complainant is without substance and is unsustainable.

8. Therefore, we hold that the appellant / complainant has not established his case of deficiency in service against the opposite party and hence the appeal is liable to be dismissed.

9. The District Forum has rightly dismissed the complaint holding that there is no deficiency in service on the part of the opposite party.

10. We agree with the finding and the decision of the District Forum in dismissing the complaint.

11. In the result, the appeal is dismissed confirming the order of the District Forum dismissing the complaint. No order as to costs in the appeal.

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