

Amazon Seller Services Pvt.Ltd. vs Neeraj And Another on 8 January, 2020

Daily Order

STATE CONSUMER DISPUTES REDRESSAL COMMISSION HARYANA, PANCHKULA

First Appeal No :

Date of Institution: 15.06.2018

Date of Decision:

Amazon Seller Services Private Limited, Registered Office at Brigade Gateway, 8th Floor,

Appellant-Opposite Party No.4

Versus

1. Neeraj son of Sh. Kultaj, resident of House No.2888/9, Street No.5, Sir Chhotu

Respondent No.1-Complainant

2. Motorola Excellence Centre, 415/2, Mehrauli, Gurgaon Road, Sector 14, near Mahan

Respondent No.2-Opposite Party No.1

3. Cloudtail India Private Limited, Ajaneya Infrastructure, Project No.38 7 39, Sou

Respondent No.3-Opposite Party No.2

4. Authorized Motorola Mobile Service Centre, Shop No.7, Bapu Asha Ram Complex, nea

Respondent No.4-Opposite Party No.3

CORAM: Shri Harnam Singh Thakur, Judicial Member.

Mrs. Manjula, Member.

Present: Shri Inderjit Singh, Advocate for the appellant

Respondents ex parte.

O R D E R

MANJULA, MEMBER

Amazon Seller Services Private Limited-opposite party No.4 has filed the instant appeal against the order dated 04.04.2018 passed by District Consumer Disputes Redressal Forum, Rohtak whereby opposite party No.4 was directed to pay Rs.9,999/- to the complainant alongwith interest @ 9% per annum from the date of filing the complaint till its realization; Rs.5,000/- towards litigation expenses and compensation.

2. Neeraj-complainant in his complaint alleged that he purchased a mobile phone i.e. Motor G Turbo (Black-16 GB) DS XT1557 from Clouddtail India Private Limited vide invoice dated 09.05.2016 for Rs.12,499/-. After four months of its purchase, the complainant noticed some defects in the mobile viz. network drop/no network service problem, restarting and hanging problem. The complainant contacted Authorized Motorola Mobile Service Centre-opposite party No.3 for repair of his mobile phone but it could not be repaired. The complainant requested the opposite parties either to replace the mobile phone or to refund the price of the mobile phone but in vain.

3. Opposite party No.1 did not put in appearance before the District Forum and was proceeded against ex parte vide order dated 16.06.2017.

4. Opposite party No.2 in its written version pleaded that neither the mobile phone was manufactured by it nor any after sales services were provided by it to the complainant. Opposite party No.2 denied the remaining contents of the complaint.

5. Opposite party No.3 in its written version pleaded that the problem reported by the complainant was removed after necessary repair and replacement of sim tray. The complainant insisted for replacement of mobile phone with new one because the warranty period was to expire after twenty days.

6. Opposite party No.4 i.e. appellant in its written version pleaded that it acted as a facilitator via the said website, which provided an online market place platform to sellers to sell their product

online to the prospective buyers.

7. Notice of the appeal was issued to the respondents. They were duly served. Despite service, they did not appear and were proceeded against ex parte.

8. We have heard learned counsel for the appellant and gone through the case file.

9. Learned counsel for the appellant has argued that the appellant is an intermediary as defined under the Information Technology Act. He further argued that the appellant's website is only a platform where independent sellers sell their products to the buyers without any influence. As and when any defect occurs in the product, the liability lies on the manufacturer.

10. We do not find force in the contention raised by learned counsel for the appellant in view of the fact that the appellant can't be exonerated from its liability being facilitator and active participant in the deal. It is not in dispute that the mobile phone was purchased by the complainant through the appellant i.e. Amazon Seller Services Private Limited. The defects occurred during the warranty period. The authorized mobile service centre tried its level best to rectify the defects but failed to do so. Thus, it is proved that there was manufacturing defect in the mobile phone, for which the manufacturer can also be held liable. There was no deficiency in service on the part of opposite parties No.2 & 3. The District Forum while giving finding held the appellant solely liable, which in considered opinion of this Commission is erroneous. Thus, the order passed by the learned District Forum needs to be modified. Accordingly, the impugned order is modified to the extent that the appellant as well as opposite party No.1 i.e. Motorola Excellence Centre are held jointly and severally liable to pay a sum of Rs.9,999/- alongwith interest @ 9% per annum from the date of filing of the complaint till its realization; Rs.5,000/- towards litigation expenses and compensation to the complainant. The appeal stands disposed of accordingly.

11. The statutory amount of Rs.8,000/- deposited at the time of filing the appeal be released in favour of respondent No.1/complainant against proper receipt and identification in accordance with rules, after the expiry of period of appeal/revision, if any.

Announced 08.01.2020 (Manjula) Member (Harnam Singh Thakur) Judicial Member