
(2005) 09 NCDRC CK 0009

In the National Consumer Disputes Redressal Commission

MAHANAGAR TELEPHONE NIGAM LTD

APPELLANT

Vs

BAL KISHAN

RESPONDENT

Date of Decision : 28-09-2005

Acts Referred:

Citation : 2005 4 CPJ 545

Hon'ble Judges : J.D.KAPOOR , MAHESH CHANDRA J.

Judgement

1. BEING persuaded by the advertisement in the newspapers given by the appellant that talk time of Rs. 2,000 shall be given on the mobile phone to the consumers, the respondent purchased a Trump Recharge coupon for Rs. 2,160 but he was given talk time of Rs. 1,500 only. Respondent filed a complaint before the District Forum seeking compensation for deficiency in service on the part of the appellant. The complaint of the respondent was allowed vide impugned order dated 20.1.2005, passed by the District Forum directing the appellant to provide full talk time of Rs. 2,000/- or refund the balance amount of Rs. 500 and also pay a sum of Rs. 2,000 as compensation for the mental agony and Rs. 500 as cost of litigation.

2. THROUGH this appeal, the impugned order has been assailed mainly on the ground that there was no such scheme at the time the sim card was purchased and, therefore, there is no deficiency in service on the part of the appellant. It is admitted that the appellant had floated such a scheme but in the intervening period the talk time was reduced to Rs. 1,500. There is reference of advertisement of such scheme in the newspapers, copy of which is on the record. Once the respondent had purchased the sim card pursuant to this scheme the appellant was not authorised to reduce the talk time from Rs. 2,000 to Rs. 1,500 and this act on the part of the appellant amounts to deficiency in service as contemplated under Section 2(1)(g) of the Consumer Protection Act, 1986 which means: any fault, imperfection, shortcoming or inadequacy in the quality, nature and manner of performance which is required to be maintained by or under any law for the time being in force or has been undertaken to be performed by a

person in pursuance of a contract or otherwise in relation to any service.

However, in our view the compensation awarded is on the higher side as in terms of Section 14 of the Consumer Protection Act, 1986, the consumer is entitled to amount for the loss or injury he suffers due to negligence on the part of the O.P. and in the instant case the loss was of Rs. 500. We do not deem it necessary to issue notice to the respondent in this regard.

3. IN the result we partly allow the appeal by modifying the quantum of compensation and cost from Rs. 2,500 to Rs. 1,500.

4. APPEAL is disposed of in above terms. Bank guarantee/FDR if any, furnished by the appellant be returned forthwith. 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 Record Room. Appeal partly allowed.