
(1990) 06 NCDRC CK 0002

In the National Consumer Disputes Redressal Commission

PREMATIC INTERNATIONAL ELECTRONICS

APPELLANT

Vs

K. SUBBARAMAN

RESPONDENT

Date of Decision : 25-06-1990

Acts Referred:

Citation : 1992 3 CPJ 120

Hon'ble Judges : R.G.Desai , K.R.Ramaswamy Iyengar , Sudha V.Reddy J.

Final Decision : Appeal dismissed with cost

Judgement

1. THIS appeal is directed against the Order dated 12.3. 1990 passed by the District Forum, Bangalore in Complaint No. BDCF:COM:67:89-90 on its file.

2. IT arises in this way : The Respondent was the complainant and the Appellant was the opposite party in the said complaint and they will be hereinafter referred to by the position they occupied before the District Forum. Respondent No. 2 will be referred to as the manufacturer. The complainant purchased a Geyser for Rs. 553/- from the Appellant in the "Alankar Expo Exhibition 1989" held in Bangalore. The manufacturers proclaimed in the exhibition that a bucket of 20 litres of hot water could be obtained for 15 NP by using that Geyser. After getting the Geyser installed in his house the complainant found that it was consuming .45 Units costing 29 NP for getting 15 litres of hot water. Therefore, he was not satisfied with the Geyser and he filed a complaint before the District Forum about it. The Appellant admitted that he had sold the Hot Point Instant Geyser to the complainant as alleged by him. He also admitted that the manufacturer had told the complainant at the exhibition that 15 litres of hot water of 45C can be obtained in 10 minutes time with the power consumption of .27 Units. But he contended that the difference was due to the Indian conditions of supply of electricity and mechanical movement of the meter and so he is not liable. He also admitted that it require .4 units of electricity for getting 15 litres of hot water from that Geyser. No notice was issued to the manufacturer.

On the materials on record, the District Forum reached the conclusion that the instant Geyser supplied to the complainant was not according to the

representation made by the manufacturers in the Exhibition and directed the opposite party to return the price of Hot Point Geyser to the complainant on production of the Geyser by the complainant in the shop of the opposite party. Hence this Appeal by the opposite party.

3. MR. Pattansheeti, Learned Advocate for the Appellant urged that all allegations in the complaint of the complainant are against the manufacturer and the manufacturer is a necessary party. On going through the complaint, we found that his submission was justified. Hence we issued notice to the manufacturer but the manufacturer has remained absent after due service. The manufacturer is added as Respondent No. 2 to this Appeal by amending the Appeal Memo. Mr. Pattansheeti urged that there is nothing in the advertisement regarding the quantity of water and the temperature of the water and so there has been no misrepresentation. But in the written statement the opposite party has clearly admitted that the manufacturer in his presence in the exhibition had clearly claimed that 15 litres of hot water of 45C will take 10 minutes time with power consumption of .27 Units if one uses that Geyser. He has also admitted therein that the Unit given to the complainant consumes .4 Units of electricity to give 15 litres of hot water of 55C. In view of this clear admission the fact that there is no representation in the printed advertisement produced along with the complaint loses all importance and we see no force, in the said contention of Mr. Pattansheeti. As the opposite party has clearly admitted in his written statement the allegation of the complainant that Geyser takes .45 Units of Electricity to give 15 litres of warm water. Thus it is clear that the Geyser is not up to the representation made by the manufacturer in the presence of the opposite party. Therefore the Order passed by the District Forum for return of the cost price of the Geyser is proper.

4. THE Respondent No. 1 contends that the Geyser has been fixed by the opposite party and they may be directed to take it away from his house after paying the cost price to him. We think that his request is proper as the Geyser was fixed by the opposite party. Mr. Pattansheeti urged that it is the manufacturer who was presented in the Exhibition and who represented like that and so the manufacturer must be made liable to pay the amount and that the Appellant who is only a Distributor should not be made to pay the amount. No doubt, in the complaint it is stated that it is the manufacturer who made that representation. But it is not disputed that it is the opposite party which sold the Geyser to the complainant after collecting cost price from him. Under the circumstances, we think it proper to make the Appellant and the Second Respondent jointly liable to pay the amount to the complainant. The complainant urged that he has spent some amount for autorickshaw and he has lost six days of Casual Leave besides spending some amount on stationery. Under the circumstances, we think it proper to award Rs. 50/- towards costs of this Appeal to the Complainant. In the result, the Order of the District Forum is modified by directing the Appellant and Respondent No. 2 to pay Rs. 553/- towards cost of the Geyser and Rs. 50/- towards costs of this Appeal, in all Rs. 603/- to the

Complainant and take away the Geyser from his house within 15 days from to-day. With the said modification in the order of the District Forum, the Appeal is dismissed. Appeal dismissed with costs.