

(2008) 01 NCDRC CK 0015

In the National Consumer Disputes Redressal Commission

U P NATIONAL MANUFACTURERS LIMITED

APPELLANT

Vs

ANJUM RIZVI

RESPONDENT

Date of Decision : 23-01-2008

Acts Referred:

Citation : 2008 4 CPJ 130

Hon'ble Judges : Bhanwar Singh , R.N.Prasad J.

Judgement

1. IN spite of notice being sent through the S. P. S. and the matter being displayed on the Internet, no one has appeared to contest the appeal. This is an old appeal of the year 1993. Looking to the nature of the case and the long pendency, it is deemed appropriate to decide the matter on merit.

2. THIS appeal has been preferred against the judgment dated March 20, 1993. The respondent/complainant Mr. Anjum Rizvi bought a Tullu Pump from M/s. Agarwal and Co. on payment of Rs. 2,800 and when the said pump was pressed into service, it was found to be defective. The complainant pleaded in his complaint that on its scrutiny, it was found that the Tullu Pump was old and of sub-standard quality, the sale of which had been managed by the appellants by misrepresenting it to be as new, M/s. Agarwal and Co. , got it repaired by M/s. Vikas Agencies but again it did not work satisfactorily. The pump was eventually handed over back to M/s. Agarwal and Co. , who kept it on assuring the complainant to replace it by a new Tullu Pump but made one excuse or the other and ultimately refused to oblige the complainant. Consequent to this refusal, the complainant was obliged to file the complaint which was contested by the opposite parties with the plea that the misuse and mishandling of the pump was responsible for the reported defects therein. As a matter of fact, the complainant connected the Tullu Pump directly with the municipal ferrule line and this kind of use caused a serious defect in the pump. The complainant denied that there was municipal water line anywhere close to his house and, therefore, there was no question of it having been connected to the public ferrule. It is clear from the pleadings of the parties that the Tullu Pump did not function from the day one of

its purchase and it is not denied by the appellants that after its purchase on 6. 4. 1992, the pump was handed over to the complainant but a few days after it again developed the same defect. The repairs also did not bring any fruits. The cash memo dated 30. 5. 1992 would show that while carrying out the repairs of the pump at the first instance all its vital components like condenser, governor, clutch, tee plate and seal were replaced. With the replacement of all these vital parts of the new Tullu Pump, it got established that the pump was defective from the very beginning of its sale and since the defects were reported in the guarantee period, the appellants are liable to replace the pump with a new one. In our considered opinion, the District Consumer Forum has rightly directed the appellants to replace the defective Tullu Pump with a new one of the same brand. In case of non-compliance of this mandatory direction, the appellants would refund the amount of Rs. 2,800 along with interest at the rate of 10% per annum besides reimbursement of Rs. 225 incurred by the complainant on its repairs. The award of Rs. 1,000 as damages for mental and physical inconvenience is also sustainable. Thus, we find that there is no merit in this appeal.

Accordingly, the appeal is dismissed. Appeal dismissed.