

**DISTRICT CONSUMER DISPUTES REDRESSAL COMMISSION
ERNAKULAM**

Dated this the 27th day of November, 2023.

Filed on: 16/12/2021

PRESENT

Shri.D.B.Binu

President

Shri.V.Ramachandran

Member

Smt.Sreevidhia.T.N

Member

CC No. 498/2021

COMPLAINANT

M.S. Sajeev Kumar,

(Rep. by Adv. Jyothilekshmi,

vs

OPPOSITE PARTIES

1. Hewlett-Packard Global Soft PVT Ltd, EC2 Campus, HP Avenue, Survey No.39 (part), Electronic City, Phase-II, Hosur Road, Bangalore-560100, Karnataka State, represented by its Managing Director.
2. M/s. Reliance Digital, City Square, Near Varma Hospital, Thripunithura, Kerala State, Pin-682301, represented by it's Branch Manager.
3. HP Authorised Service Centre, 2nd Floor, Above Ambiswamys Restaurant, Valuvassery Mega Square, Kadavanthra Junction, Ernakulam, Kerala State - 682020, represented by its Manager.

FINAL ORDER

D.B. Binu, President.

1. A brief statement of facts of this complaint is as stated below:

The complaint was filed under Section 35 of the Consumer Protection Act, 2019. The brief facts, as averred in the complaint, are that the complainant in this case is a lawyer based in Ernakulam, who purchased an HP Laptop (model 15s-du2099TU) from M/s. Reliance Digital (second O.P) on December 16, 2020. The laptop was promoted as having excellent performance and various features, including a superior quality camera. However, within a month of purchase, the laptop started experiencing issues with the apostrophe key.

The complainant contacted M/s. Reliance Digital, who directed them to the Authorized Service Centre(third O.P) of M/s. Hewlett-Packard Global Soft

PVT Ltd(first O.P). The laptop was given for service, but instead of replacing the laptop, the service centre only replaced the keyboard under warranty.

After a few months, the laptop's performance deteriorated further, with issues like slow functioning, constant error messages, and a bluish screen. The camera also started projecting blurred images. Despite the complainant's requests for a replacement, the service centre refused, citing a 14-day replacement policy.

The complainant argued that the laptop, purchased on December 15, 2020, should be covered under the one-year warranty, and the refusal to replace it was illegal. They also mentioned that the opposite parties failed to understand the difference between "guarantee" and "warranty." The laptop's issues severely impacted the complainant's work as a lawyer.

As a remedy, the complainant sought the following from the commission:

a) Direct the 1st Opposite Party (M/s. Hewlett-Packard Global Soft PVT Ltd) to replace the laptop. b) Award a compensation of Rs. 1,00,000/- for the damages, including loss of work, inability to attend court procedures, and the cost of traveling to the service centre during office hours. c) Award Rs. 25,000/- towards the cost of the proceedings. d) In the alternative, direct the 1st Opposite Party to refund the invoice value of the laptop to the complainant, along with damages of Rs. 1,00,000/- and the cost as prayed for.

2) Notice

The Commission sent notices to the opposite parties, but despite accepting the notices, the opposite parties did not submit their versions. Consequently, they are set ex-parte.

3) Evidence

The complainant had filed an ex-parte proof affidavit and 3 documents that were marked as Exhibits-A-1 to A3.

Exhibit A-1-Original of the Tax Invoice bearing Service No. 1800 8891 044 dated 16-12-2020.

Exhibit A-2 -Original of the Work Summary with Token No: 103170 dated 16-01-2021.

Exhibit A-3-Original of the Work Summary with Token No: 104156 dated 22-03-2021

4) The main points to be analysed in this case are as follows:

- i) Whether the complaint is maintainable or not?
- ii) Whether there is any deficiency in service or unfair trade practice from the side of the opposite party to the complainant?
- iii) If so, whether the complainant is entitled to get any relief from the side of the opposite party?
- iv) Costs of the proceedings if any?

5) The issues mentioned above are considered together and are answered as follows:

In the present case in hand, as per Section 2(7) of the Consumer Protection Act, 2019, a consumer is a person who buys any goods or hires or avails of any services for a consideration that has been paid or promised or partly paid and partly promised, or under any system of deferred payment. The Original of the Tax Invoice bearing Service No. 1800 8891 044 dated 16-12-2020. issued by the second opposite party acknowledging the purchase made by the complainant. The receipt evidencing payment to the opposite parties (**Exhibits A-1**). Hence, the complainant is a consumer as defined under the Consumer Protection Act, 2019. (Point No. i) goes against the opposite parties.

The complainant initiated this case, demanding compensation for the inadequate service and unfair trade practices resulting from the opposite party's refusal to replace a faulty laptop.

During the proceedings, Smt. Jyothilekshmi A.N, the counsel representing the complainant, presented the case. She stated that the complainant is dissatisfied with the laptop's performance and is seeking redress for the inconveniences and expenses they have incurred.

The complainant, purchased an HP Laptop from M/s. Reliance Digital, Thripunithura, (second O.P) with certain assurances about its performance and features. However, within a month, the laptop malfunctioned, and the 'apostrophe' key stopped working. The laptop was sent for repair to the Authorized Service Centre,(third O.P) of M/s. Hewlett-Packard Global Soft

PVT Ltd., (first O.P) but they only replaced the keyboard, despite the complainant's request for a replacement under warranty.

The laptop's problems persisted, including slow performance and frequent error messages. The service center attributed this to damaged pre-installed 'Windows,' leading to additional expenses for the complainant. The laptop's issues continued, making work difficult for the lawyer.

The complainant couldn't address the problems promptly due to the COVID-19 pandemic. When they requested a replacement, the service center refused, citing a 14-day replacement policy, and mentioned that 'Windows' needed reinstallation.

The complainant argued that, as per the warranty, the laptop should be covered for one year and that the refusal to replace it was illegal. They sought a replacement, compensation for damages, and reimbursement for expenses incurred. The evidence presented included an ex-parte proof affidavit filed by the complainant, and it was unchallenged by the opposite parties. Therefore, the complainant's claims were considered credible and supported by the evidence. Therefore, the complainant requests the commission to grant the relief sought, including compensation for mental agony and unfair trade practices.

The opposite parties' conscious failure to file their written versions in spite of having received the Commission's notice to that effect amounts to an admission of the allegations leveled against them. Here, the case of the complainant stands unchallenged by the opposite parties. We have no reason to disbelieve the words of the complainant as against the opposite parties. **The Hon'ble National Commission held a similar stance in its order dated 2017 (4) CPR page 590 (NC).**

The opposite parties, despite being served with the notice, did not challenge the allegations made by the complainant. This conscious failure to file their written version is considered an admission of the allegations against them.

As per legal precedent, this stance of the opposite parties is not credible, and we have no reason to disbelieve the complainant's claims in this matter.

In this case, the laptop exhibited issues shortly after its purchase, with problems becoming apparent within a month. The device demonstrated poor performance, particularly in its ability to save files. Despite initial repairs, the same issues resurfaced, suggesting an inherent manufacturing defect rendering the laptop unfit for use.

Within two months, the laptop's functionality further deteriorated. It became exceedingly slow, and error messages frequently appeared on the screen. The complainant sought assistance from the third opposite party responsible, who advised that the pre-installed Windows system was damaged and needed reinstallation. This required the complainant to purchase a pen drive for ₹600 to avoid data loss. However, the laptop continued to malfunction after the service, with no significant improvement.

The complainant faced additional problems due to the COVID-19 pandemic, limiting their ability to consistently seek for redressal from the responsible parties. Repeated requests for a replacement were denied. The laptop's issues intensified, including a 'bluish' screen, blurry camera, slow performance, and persistent system errors, making it nearly impossible to save files. The third opposite party insisted that replacements could only be offered within 14 days of purchase and offered only repair services. They also noted that the Windows installation had crashed, requiring another reinstallation, for which the complainant had to purchase an additional pen drive for ₹600. The **Exhibits A-2 and A-3**, demonstrated ongoing problems with the laptop since its purchase on 16 December 2020. Despite multiple repair attempts, these issues persisted.

Referencing the **Honorable National Consumer Disputes Redressal Commission's ruling in Nuzhat vs Dee Dee Motors Pvt. Ltd. & Anr, dated 3**

December 2019, a manufacturing defect is defined as a persistent defect that cannot be rectified even after multiple repair attempts by the dealer.

In the case of Nachiket P. Shirgaonkar v/s Pandit Automotive Ltd. & Another, Revision Petition No. 3519 of 2006 in Appeal No. 1953 of 2005, decided on 25 February 2008 by the Honorable National Consumer Disputes Redressal Commission, AIR 2008 (NOC)2260(NCC) held that:

“In this case, from day one onwards the vehicle was found to be defective which was admitted by the dealer himself through his letters. Naturally, encountered with these problems the consumer must have been shell shocked compelling him to knock at the doors of the Consumer Forum. Even before the Consumer Forum in the written submissions filed by OP 1, there is a clear admission of the manufacturing defects. Hence, we are convinced that the vehicle did suffer from manufacturing defects. **This is a clear case of res ipsa loquitur i.e., facts speak themselves hence there is no need to refer the vehicle to a third party for giving an opinion.**”

Upon examining the original tax invoice (Service No. 1800 8891 044, dated December 16, 2020, referred to as **Exhibit A-1**), issued by the second opposite parity, it is evident that the document is not legible. Further scrutiny reveals that this electronically generated bill has been produced using inferior quality ink on low-grade paper. An in-depth evaluation of **Exhibit A-1**, as issued by the second opposite parity, confirms that the quality of printing is substandard, resulting in prints that are not clear or readable, despite the bill being recently generated on December 16, 2020. Notably, while the printing on the front of the bills is unclear, the text printed on the reverse side remains legible.

The Kerala State Department of Consumer Affairs, in its directive No. 259/2019 dated July 6, 2019, mandates that all government, public, and private entities provide bills that are both durable and legible. This order addresses the issue that bills printed on low-quality paper or with inferior ink can hinder customers from lodging complaints about services or products, as these bills are

prone to damage or fading. The department highlights that issuing poorly printed bills may constitute a '**deficiency of service**' and an '**unfair trade practice**' as per the Consumer Protection Act of 1986. Consequently, it is compulsory for all Government, Public Sector, and Private Organizations in Kerala to issue bills that are clearly printed on high-quality paper using superior ink, ensuring their longevity and readability.

The seventh category of unfair trade practice, as outlined in Section 2(47) clause (vii) of the Consumer Protection (CP) Act, 2019, represents a new addition not present in the previous CP Act of 1986. This clause applies when a trader or service provider engages in certain prescribed actions. According to this, while providing a bill is necessary, it must be issued in compliance with the specifications set by the Central Government, under the authority granted by Section 101(2)(c) of the CP Act, 2019.

Furthermore, Rule 5 of the Consumer Protection (General) Rules, 2020, details the mandatory elements of every invoice, bill, cash memo, or receipt for goods or services. These elements include the seller's name and address, a unique serial number, date of issue, consumer's name, description of goods or services, quantity of goods, shipping address, taxable value, discounts, tax rate, seller's signature (or authorized representative's), customer care contact details, and the total price with a detailed breakdown. For electronic documents, a signature isn't required. Rule 5(2) emphasizes that the serial number must remain unchanged.

In the case of **Tata Chemicals Ltd. vs Skypak Couriers Pvt. Ltd.**, decided on 14 December 2001, (II (2002) CPJ24(NC)) the Honorable National Consumer Disputes Redressal Commission made a significant ruling regarding the printing of terms and conditions in contracts, especially in a manner that is not easily readable to consumers.

This inclusion is crucial for ensuring consumers' rights to be informed about the prices of products or services they purchase or hire. It also provides

them with documentary evidence to support claims in Consumer Commissions, establishing that they have indeed bought products or hired services from a specific trader or service provider.

In many countries, including India, consumer protection laws ensure the right to a durable and legible bill or receipt when making purchases, which includes clear and readable details of the transaction, durability against wear and tear, comprehensive itemization including prices and charges, clear indications of taxes and surcharges, information on return policies and warranties, recommendations for retention period, options for electronic receipts, and support from consumer protection authorities in case of disputes or issues.

Considering the evidence and the principles laid down in the aforementioned case, the complainant is entitled to relief. The complainant's work as a lawyer was significantly affected, justifying the claim for compensation.

The evidence, comprising **Exhibits A-1, A-2, and A-3**, substantiates the complainant's contention of a defective product and poor service. The opposite parties failed to adequately address the issues with the laptop, which included malfunctioning keys, slow performance, and poor camera quality. The refusal to replace the laptop under warranty constitutes a deficiency in service and an unfair trade practice.

We find that issues (I) to (IV) are decided in favour of the complainant due to the substantial deficiency in service and unfair trade practices exhibited by the opposite parties. As a result of the negligence of the opposite parties, the complainant has endured significant inconvenience, mental distress, hardships, and financial losses.

In view of the above facts and circumstances of the case, we are of the opinion that the opposite parties are liable to compensate the complainant. Hence the prayer is partly allowed as follows:

- I. The 1st Opposite Party shall replace the laptop with a new unit of the identical model originally bought by the complainant without charging any additional amount. Alternatively, if replacing the laptop is not possible, the 1st Opposite Party is directed to pay the complainant with the full purchase price as per the invoice (**Exhibit A-1**).
- II. The second opposite party shall issue legible and durable bills prepared in quality printing ink on good quality papers.
- III. The Opposite Parties shall pay Rs 50,000/- as compensation for the deficiency in service and unfair trade practices committed by them, as well as for the mental agony, physical hardships, damages, including loss of work, and inconvenience caused to the complainant.
- IV. The Opposite Parties shall also pay the complainant Rs. 20,000/- towards the cost of the proceedings.

The Opposite Parties shall be jointly and severally responsible for the directives mentioned above (excluding (i) and (ii)), which must be adhered to within 30 days from the receipt of a copy of this order. Failure to comply will result in the interest being charged at a rate of 9% from the date of filing this case (16.12.2021) until the date of payment.

Pronounced in the Open Commission on this the 27th day of November, 2023


D.B. Binu, President

V. Ramachandran, Member


Sreevidya T.N., Member