

**Udyog Sadan Qutub Institutional Area New Delhi-16
Heading2**

**Complaint Case No. CC/228/2018
(Date of Filing : 11 Oct 2018)**

1. G.M.GUPTA
61, PASCHIM VIHAR EXT., NEW DELHI-110063.Complainant(s)

Versus

1. ONE PLUS INDIA
FLAT 7 & 10,UPPER GROUND FLOOR, DEVIKA TOWER,
NEHRU PLACE, NEW DELHI-110019.Opp.Party(s)

BEFORE:

**Monika Aggarwal Srivastava PRESIDENT
Dr. Rajender Dhar MEMBER
Ritu Garodia MEMBER**

PRESENT:

Dated : 29 Sep 2023

**Final Order / Judgement
CONSUMER DISPUTES REDRESSAL COMMISSION – X**

GOVERNMENT OF N.C.T. OF DELHI

Udyog Sadan, C – 22 & 23, Institutional Area

(Behind Qutub Hotel)

New Delhi – 110016

Case No.228/2018

G.M. GUPTA

61, PASCHIM VIHAR EXTN.

NEW DELHI- 110063COMPLAINANT

Vs.

1. ONE PLUS INDIA,

**FLAT # 7 & 10, UPPER GROUND,
DEVIKA TOWER, NEHRU PLACE,
NEW DELHI - 110019**

2. CLOUDTAIL INDIA PVT. LTD.

**S-405, L GROUND FLOOR,
GREATER KAILASH II,
NEW DELHI - 110048.....RESPONDENTS**

Date of Institution-11.10.2018

Date of Order- 29.09.2023

ORDER

RITU GARODIA-MEMBER

1. The complaint pertains to defect in the product sold by OP.
2. The complainant purchased a smart phone manufactured by OP1 through the website of OP2. The product was “OnePlus One-64 GB, Sandstone Black” vide invoice number KA-BLR6-144105041-1069830 dated 27.01.2015 delivered to the complainant by OP2.
3. It is submitted that the phone would get heated while in use. The complainant further states that he communicated this defect to OP and found one service centre in Pitampura which acknowledged the problem, kept the phone for two to three days but did not offer any solution.
4. On 12.07.2018, the said smart phone exploded in complainant’s home while it was kept for charging and kept on burning for a while. The complainant contacted OP1 through their twitter handle. OP1 acknowledged the heating issue and asked the complainant to deposit the handset in question. The complainant did not agree to this as he would lose the custody of the exploded smart phone. He requested OP1 to send a team to check the defective smart phone at the complainant’s residence. However, OP1 promising him a resolution did not send anyone.

5. The complainant alleges that the battery of handset could have started a big fire at his residence or could have hurt him if it was kept in his pocket.
6. The complainant prays that OP be restrained from selling the smart phone in India until they insure people for such instances, to publicise the damages caused by exploding handsets, and refund the sum of Rs.27,708/-(calculated after adding 5% inflation on the real value of Rs.22,000/-), Rs.50,000/- towards loss of essential data and mental trauma and fine of Rs.10,00,000/-.
7. Notice was issued to OP but none appeared. OP was proceeded ex-parte vide order dated 18.12.2018.
8. Complainant has filed evidence by way of affidavit. Complainant has filed invoice dated 27.01.2015, an online news of OnePlus phone exploding in users pocket, photographs of the defective/exploded phone, conversation on twitter from 07.07.2018 onward.
9. The Commission has considered the material on record. The invoice dated 27.01.2015 shows that OnePlus One-64 GB, Sandstone Black was purchased for Rs.21,999/-.
10. The conversation between the complainant and OnePlus support on twitter handle OnePlus Support @OnePlus_Support is as follows:

12.07.2018 -*I am really disturbed as of now. It burst like anything. It could cause other damages. I am a practicing advocate. Let me tell you that I will get it investigated and complain against you in proper forums. Can't spend time chatting really. You can reach out to me on 9891422492*

It shall not be a loss only to me.

12.07.2018, 11:01am- *We regret for the inconvenience caused. We want this to get sorted at the earliest. Hence, we request you to visit OnePlus nearest service centre so that our technician can diagnose the device and assist you accordingly. Your understanding in this regard is much appreciated.*

12.07.2018, 11:10am- *I don't trust you people actually. So I will not touch the phone. You can either speak to me or I am sure I will lay my hands on a proper authority over it soon.*

12.07.2018, 11:11am - *As it is, the nearest service is not near and I had already shown my phone for overheating to them. They did not do anything. It is because of your negligence that this has happened. I have it all documented*

12.07.2018, 03:04pm- *We understand that you are facing issue with heating in your device. We request you to perform the below mentioned steps so that the issue can be fixed at the earliest. We recommend you try Factory data reset by entering into recovery mode. You can follow the below navigation to perform factory data reset. Please take a backup of your data before performing these steps: 1.Switch off your device and press Volume down along power button for 5-10 seconds.*

2.You will enter Recovery mode.

3.Select Factory data reset.

12.07.2018, 04:07pm- *I guess you have not got it. It has burst / burnt. Caught fire next to me, while charging.*

Undisclosed time- *We are sorry to hear that.*

08.10.2018, 17:38pm- *We see that our Team has already called you and have advised you of the further course of action. We apologize for what happened to your device. Once again, we request you to submit your device along with the accessories to our Service Centre for best help. Thank you.*

08.10.2018, 17:40pm- *We see that our Team has already called you and have advised you of the further course of action. We apologize for what happened to your device. Once again, we request you to submit your device along with the accessories to our Service Centre for best help. Thank you.*

08.10.2018, 17:41pm- *Your team had to call me again. Have not received the call. I see that you people do not wish to resolve the matter. I shall seek relief from the courts of law. Thanks*

11.10.2018, 6:54 Zendesk-Replying to @Soulfair2

Our sincere apologies for how you feel and for what happened. We've escalated your case to the concerned team. One of our specialists will contact you anytime soon to address this issue.

11. The complainant has also placed the pictures which clearly shows burnt mark on the handset. The photographs also shows that the edges of the handset have melted.

12. On January 27, 2015, the complainant purchased a handset. On July 12, 2018, the handset caught fire, resulting in the melting of its edges. On the same day, a complaint was registered via Twitter. The OP Company initially downplayed the incident, suggesting that it might be related to heating issues. The complainant persisted in emphasizing that the device had indeed caught fire. In response, the OP requested the complainant to send in the handset for examination. The complainant, having lost trust in the OP Company, hesitated to send in the device and instead requested that a team or service personnel be dispatched to inspect the device on-site. The OP assured the complainant that a specialist would contact them for further assistance. However, no contact was made by the specialist, and the OP did not follow up on the matter. Even after a formal notice was served, the OP failed to respond or provide their side of the story.

13. After the handset caught fire, it was absolutely essential for the OP Company to proactively dispatch a team of specialists to conduct a thorough investigation into the root cause of this alarming incident. Furthermore, they should have taken immediate responsibility for compensating the user without any prompting. The gravity of this situation cannot be overstated – it had the potential to cause severe harm to individuals in the vicinity of the phone or even trigger a significant fire hazard. However, OP's response was disappointingly lackadaisical. Despite making reassuring statements on their Twitter handle, they failed to take concrete actions to address this critical issue. Safety features in a product that is typically kept in close proximity to people should always be designed with an unwavering commitment to "no-fail" standards.

14. Once it is established that the handset had indeed suffered damage by burning, the responsibility to prove any underlying defect shifts away from the complainant. In this case, the complainant has successfully demonstrated that the handset was indeed damaged. Consequently, the burden of proving the absence of a defect or any liability falls squarely on the OP Company. Regrettably, the OP Company has failed to meet this obligation. As a result, we must conclude that the OP Company is culpable for selling a defective product and for

inadequately addressing the significant consequences stemming from this defective mobile device.

15. For the reasons recorded above we find OP guilty of selling a product which may have caused serious harm to user. Hence, we direct OP to pay Rs.25,000/- as compensation for the mental trauma, pain and agony suffered by the complainant and Rs.10,000/- towards litigation cost.

16. This order be complied with within 90 days from the date of the order. This entire amount is payable to the complainant within a period of 90 days from the date of order failing which the entire amount will further carry an interest @9% per annum till it is paid to the complainant.

17. File be consigned to record room.

[Monika Aggarwal Srivastava]
PRESIDENT

[Dr. Rajender Dhar]
MEMBER

[Ritu Garodia]
MEMBER