

BEFORE THE DISTRICT CONSUMER DISPUTES REDRESSAL COMMISSION – I,
HYDERABAD

PRESENT

HON'BLE MRS. B. UMA VENKATA SUBBA LAKSHMI, PRESIDENT
HON'BLE MRS. C. LAKSHMI PRASANNA, MEMBER
HON'BLE MR.B.RAJA REDDY, MEMBER

Friday, the 24th day of November, 2023

Consumer Case No.243 OF 2023

Between:-

Smt. Srikala Yenigalla W/o. N.Srinivas
Aged about: 27 Years, Occ: Private Employee,
R/o. Flat No.402, Sai Vihar Apartments,
Shanti Nagar, Hyderabad,
Phone No. 72870 00142, 83413 29714. ...Complainant

AND

OLA Electric Technologies Private Limited,
Rep. by its Chairman and Managing Director,
Regent Insignia, #414, 3rd Floor,
4th Block, 17th Main, 100 feet road,
Koramangala, Bangalore – 560 034. ...Opposite Party

Counsel for the Complainant : R.Nitisha
Counsel for the Opposite Party : Gopi Rajesh & Associates

O R D E R

(By Hon'ble Mr.B.Raja Reddy, Member
on Behalf of the Bench)

1. The present complaint is filed under Sec. 35 of the Consumer Protection Act, 2019, praying this Commission to direct the Opposite Party,
 - a) to refund an amount of Rs. 1,03,000/- (Rupees One Lakh Three Thousand Only) booked towards purchase of Marshmellow S1 Vehicle by the Complainant along with interest @ 18% p.a. from the date of booking of the vehicle till the date of realization;
 - b) pay compensation of Rs. 1,00,000/- (Rupees One Lakh Only) towards mental agony and loss;
 - c) award costs of Rs. 30,000/- (Rupees Thirty Thousand Only); and
 - d) pass such other or further orders as this Hon'ble Commission deems fit and proper in the circumstances of the case.
2. The brief facts as averred in the complaint are that the Complainant having been inspired with the add made by the Opposite Party booked a two wheeler OLA S1 Scooter Marsh Mellow Color and paid the entire sale price amount of Rs. 1,03,000/- (Rupees One Lakh Three Thousand Only) and she was waiting for delivery but she received a phone call from the representative of Opposite Party as the black color vehicle is

- ready for delivery but the Complainant raised objection through e-mail but the representative of Opposite Party informed that she will receive the Yellow Color and when the representative came to deliver the said vehicle color to her address but she refused to accept the same. Again the Opposite Party made an attempt to deliver the vehicle. The Complainant sent several mails and the Complainant also paid insurance amount of Rs. 7,079/- (Rupees Seven Thousand Seventy Nine Only). The Opposite Party sent a reply to the Complainant's mail stating that as the Ticket ID 940982 regarding wrong color delivery is still active, the Complainant repeatedly followed up through mails then the Opposite Party issued the invoice dated: 20.06.2022 for Rs. 1,63,549/- (Rupees One Lakh Sixty Three Thousand Five Hundred and Forty Nine Only) after subsidy of Rs. 59,550/- (Rupees Fifty Nine Thousand Five Hundred and Fifty Only). Later the vehicle was upgraded and the Opposite Party made attempt to deliver "Jet Black" vehicle and it was registered on the name of Complainant but the Complainant refused to accept, having no alternative remedy, the Complainant filed the present complaint seeking the reliefs as prayed supra.
3. Upon receipt of the notice from this Commission, the Opposite Party filed written version by denying the averments of Complainant, it is stated that as the Complainant has suppressed the time facts and stated as the original grievance of Complainant pertains to delivery of a different color variant instead of originally ordered and the same was happened due to technical glitches. It is further stated that the Opposite Party fully prepared for replacing the correct color variant and update the Registration Certificate and also ready to amicable settlement. It is averred that as the Opposite Party had not committed any act and unfair trade practice, is not liable for any mental agony caused to the Complainant and prayed the Commission for dismissal of the complaint.
 4. During the Course of enquiry, the Complainant filed her evidence affidavit and got marked her documents as Ex.A1 to A10 whereas the Opposite Party through their Authorized Signatory namely Mr.Sanjit Naresh Nagarkatti filed evidence affidavit and reported as no documents. Both parties filed their written arguments and made their oral submissions as well and thereafter the matter is reserved for orders.
 5. Heard the Learned Counsels for Complainant and Opposite Party, based on the facts and material available on the record, the following points came up for consideration.

- a) Whether the Opposite Party has been deficient in service and adopted any unfair trade practice?
- b) Whether the Complainant is entitled for the reliefs as claimed in the Complaint?
- c) If so, to what relief?

5.1. Point No.(a):

It is undisputed fact that the Complainant by seeing commercial effective add decided to purchase electric two wheeler vehicle and paid a token amount of Rs. 499/- on 30.03.2021 Ex.A1. Later the Complainant paid an amount of Rs. 20,000/- towards advance on 15.09.2021 Ex.A2 and subsequently she paid an amount of Rs. 89,752/- on 26.01.2022 Ex.A3. Thus she paid the total amount of Rs. 1,03,000/-. Thereafter, the Complainant paid insurance amount of Rs. 7,079/- Ex.A5.

5.1.1. It is submitted by Complainant as on 12.03.2023, a representative of Opposite Party made a call to the Complainant and informed the black color vehicle is ready for delivery whereas the Complainant refused to receive the delivery as she booked Marsh Mellow. The Complainant informed her grievance by way of e-mails; in response, the Opposite Party informed the grievance of the Complainant is recorded through ticket ID No. 940982 regarding wrong color.

5.1.2. That in the legal notice Ex.A8 dated: 09.08.2022, the Complainant requested the Opposite Party either to deliver the original ordered vehicle or to refund the full paid amount along with compensation, the Opposite Party issued a reply i.e. Ex.A9 dated: 02.09.2022 stating as vehicle is registered on the name of complainant for which the complainant issued rejoinder Ex.A10 dated: 07.09.2022 asking again to deliver the vehicle or to refund the amount with compensation.

5.1.3. That the Opposite Party did not choose to file any documents in support of their contention, in the written version that the Opposite Party is fully prepared to replace the affected panel of the vehicle with the correct color variant and update the registration certificate and in the evidence affidavit filed by the Opposite Party nowhere it is contended as the Marsh Mellow vehicle is registered on the name of Complainant except in the reply notice (Ex.A9) by the Opposite Party.

5.1.4. That the Opposite Party issued invoice Ex.A7 dated: 20.06.2022 for Rs. 1,63,549/- (Ex-showroom price) with a subsidy of Rs. 59,550/- as subsidy under FAME that a scheme which is aimed for promotion of electric vehicles. Originally the Complainant paid booking amount for OLA S1 Scooter the invoice (Ex.A7) is raised for OLA S1 PRO MARSH MALLOW but nowhere in the written version or in the evidence affidavit the Opposite Party submitted as the OLA S1 PRO MARSHMALLOW vehicle is ready for delivery, delay in delivery caused dissatisfaction, inconvenience and frustration to the Complainant. Naturally timely delivery of vehicle holds paramount importance, delays disrupt the expectations of buyer. Hence, in view of the above findings, the Complainant made out a case of deficiency of service and unfair trade practice on the part of Opposite Party. Hence, this point is answered in favour of the Complainant.

5.2. Point No.(b):

In view of the foregoing discussion, the Complainant is entitled to the reliefs as stated infra. Hence, this point is also answered in favour of the Complainant.

5.3. Point No.(c)

In the result, the Complaint is allowed in part, directing the Opposite Party to:

- i. Refund an amount of Rs. 1,03,000/- (Rupees One Lakh Three Thousand Only) paid towards purchase of Marsh Mellow SI Electric Two Wheeler Vehicle along with interest @ 9% from 26.01.2022 till the date of realization;
- ii. Pay Rs.25,000/- (Rupees Twenty Five Thousand Only) towards compensation for the mental agony and suffered caused to the complainant with the acts of the Opposite Party;
- iii. Pay Rs. 10,000/- (Rupees Ten Thousand Only) towards costs of this complaint.

Time for compliance is 45 days from the date of receipt of this order failing which the amount mentioned in Sr. No. (i) shall attract an additional interest @ 3% p.a. from the date of the non-compliance of the order till its actual payment.

Dictated to stenographer, transcribed and typed by him, pronounced by us on this the 24th day of November, 2023.

MEMBER

MEMBER

PRESIDENT

APPENDIX OF EVIDENCEWITNESS EXAMINED FOR THE COMPLAINANT:

Srikala Yenigalla W/o. N.Srinivas Complainant (PW1).

WITNESS EXAMINED FOR THE OPPOSITE PARTY:

Sanjit Naresh S/o. Mr.Naresh Nagarkatti Rep. by the Authorized Signatory (DW1)

EXHIBITS FILED ON BEHALF OF THE COMPLAINANT:

- Ex.A1 Copy of Advance Receipt for Rs.499/- dated: 30.03.2021.
- Ex.A2 Copy of Advance Receipt for Rs. 20,000/- dated: 15.09.2021.
- Ex.A3 Copy of balance payment for Rs.89,752/- dated: 26.01.2022.
- Ex.A4 Copy of mail and reply mail dated: 26.03.2022.
- Ex.A5 Copy of Certificate of Insurance cum Policy Schedule dated: 11.03.2022.
- Ex.A6 Coy of mail and reply mail dated: 05.04.2022.
- Ex.A7 Copy of Regenerated tax invoice dated: 20.06.2022.
- Ex.A8 Office copy of Legal notice dated: 09.08.2022.
- Ex.A9 Office copy of reply letter dated: 02.09.2022.
- Ex.A10 Office copy of reply notice dated: 07.09.2022 against reply letter dated: 02.09.2022.

EXHIBITS FILED ON BEHALF OF THE OPPOSITE PARTY:

NIL

MEMBER

MEMBER

PRESIDENT

Read by:
Compared by:
DSK