

BEFORE DISTRICT CONSUMER DISPUTES REDRESSAL COMMISSION  
SHIMLA (H.P.)

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Complaint No.: 257/2016  
Presented on: 10.11.2016  
Decided on : 06.04.2024

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Anuradha, Wife of Shri Ail Chand,  
Gagan Niwas, Kasumpti, Shimla-171009.

....Complainant

Versus

1. Samsung India Ltd.,  
20<sup>th</sup> to 24<sup>th</sup> Floors, Horizon Centre,  
Gold Course Road, Sector 45,  
D.L.F. Phase 5, Gurgaon (Haryana).
2. Sanjeev K. & Company,  
83, The Mall, Shimla, H.P.,  
Through its proprietor.
3. Bajaj Allianz General Insurance Company Ltd.,  
Regd. Office GE Plaza, Airport Road,  
Yerwada, Pune-411006, India.

....Opposite Parties

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**Coram :**

Dr. Baldev Singh, President.  
Mr. Jagdev Singh Raitka, Member

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For Complainant:	Mr. S.K. Banyal, Advocate.
For Opposite Party No.1:	Mr. Dheeraj Kanwar, Advocate
For Opposite Party No.2:	Mr. Pankaj Kumar, Advocate, vice Mr. Kamal Kumar, Advocate.
For Opposite Party No.3:	Mr. Chandan Goel, Advocate.

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**ORDER:**

Present complaint has been filed by Anuradha (hereinafter referred to as the complainant) under Section 12 of the Consumer Protection Act 1986 (hereinafter referred to as the Act) against Samsung India Ltd. (hereinafter referred to as the OP No.1), Sanjeev K. & Company (hereinafter referred to as the OP No.2) and Bajaj Allianz General Insurance Company Ltd. (hereinafter referred to as the OP No.3), on account of deficiency in service and unfair trade practice, seeking relief therein that the OPs be directed to replace the LED in question with new one, to pay Rs.50,000/- as damages, to pay Rs.10,000/- as litigation costs etc.

2. The case of the complainant in brief is that on 14.12.2013 the complainant bought Samsung LED Model No 32F5500 from opposite party No. 2 for Rs. 41,500/- after getting the same financed from opposite party No. 3 for Rs.31,500/-. It is stated that when she took loan from opposite party No. 3 they told her that it would be in her favour if she takes extended warranty of four years for which she has to pay sum of Rs.3,325/- extra as premium to this extended warranty. It is stated that the television set was working in good condition since last 2½ years, but after this period it started having problems like picture problem, problem with heating up of the body and also with the quality of sound, but on 23.09.2016 the picture of the television set went off and till date the television set is not in a working condition and is hanging on a wall just as a piece of frame without photograph. It is stated that the complainant made a complaint on a Toll Free Number of OPs and after this complaint, the opposite parties told that the repair will be done soon. It is stated that complainant thereafter made repeated calls to the opposite parties, but nothing fruit full came and again the complainant got a message from opposite parties on 05.11.2016 that your asset is under repair and expected repair completion 10.12.2016 and for any further assistance or query contact 0124-4714888 Bajaj Allianz. It is stated that that the complainant is getting these type of messages everyday from the opposite parties, but till date neither any engineer or any person has visited the premises of the complainant. It is stated that the complainant bought this LED so that she could enjoy the entertainment on this LED, but all was in vain as since three months the LED is hanging on a wall and not in a working condition. It is stated that aforesaid acts on the part of OPs amount to deficiency in service and unfair trade practice. It is prayed that the complaint may be allowed.

3. After admission of complaint, notices were issued to the OPs. The complaint so filed has been opposed by the OP

No.1 by filing reply taking preliminary objections therein regarding maintainability, jurisdiction, mis-joinder of parties, suppression of facts, limitation etc. It is stated that replying OP No.1 provides only one year warranty which expired on 13.12.2014. It is stated that complaint of the complainant alleges manufacturing defect in the LED and the alleged defect cannot be determined on the simpliciter submissions of the complainant and needs a proper analysis test report to confirm the same. It is stated that the complainant has miserably failed to prove the alleged manufacturing/technical fault and has not placed on record any analysis test report. It is stated that the unit was purchased on 14.12.2013 and the present complaint has been filed in the month of November, 2016 i.e. almost after three years from the date of its purchase. It is stated that replying OP No.1 provides one year warranty subject to some warranty conditions and OP No.1 has no privity of contract with OP No.3 i.e. Bajaj Allianz General Insurance Company Ltd. It is stated that for any act done by the OP No.3, the replying OP is not liable as the warranty of the unit was got extended by the complainant by paying an amount of Rs.3325/- to OP No.3. It is stated that complainant himself admitted that the unit worked very fine for a period more than 2 years and thereafter problem occurred in the unit, it means that unit was not having any manufacturing defect and also all claims/complaints have been referred by the complainant to OP No.3 only. It is stated that the complainant has not raised any complaint or claim against the replying OP No.1. It is stated that there is neither any deficiency in service nor unfair trade practice on the part of the replying OP and prayed that the complaint may be dismissed.

4. The complaint so filed has been opposed by the OP No.2 by filing reply wherein all the contents of the complaint were denied.

5. The complaint so filed has also been opposed by the OP No.3 by filing reply taking preliminary objections therein

regarding maintainability, the complaint involves intricate questions of facts and law, complainant does not fall within the definition of consumer, mis-joinder of parties, cause of action, suppression of facts, estoppel etc. It is stated that replying OP No.3 has insured the complainant by providing the extended warranty and the product is supposed to be repaired by the OP No.1. It is stated that replying OP No.3 never refused to not to indemnify the complainant and as such there is no deficiency in services on the part of the OP No.3. It is stated that as of now the LED of the complainant has been repaired by changing the complete LED panel and the charges of Rs. 24496/- for repairing the same has been borne by the replying OP No.3 and as such there is no deficiency in services on the part of the replying OP nor the same has been pleaded in the complaint by the complainant. It is stated that replying OP No.3 issued a policy for extended warranty and the repairing of the LED was not within its purview and the replying OP No.3 undertook to indemnify the complainant in case her product gets any problem after warranty period as given by the manufacturing company and the repairing was to be done by the OP No.1. It is stated that there is neither any deficiency in service nor unfair trade practice on the part of the replying OP and prayed that the complaint may be dismissed.

6. The parties adduced evidence in support of their contentions. On behalf of the complainant affidavit of complainant was tendered in evidence. Complainant has also filed documents in support of her contentions. On behalf of OP No.1 affidavit of Anindya Bose was tendered in evidence. OP No.1 has also filed documents in support of its contentions. On behalf of OP No.2 affidavit of Richa Gupta was tendered in evidence. OP No.2 has also filed documents in support of its contentions. On behalf of OP No.3 affidavit of Navjeet Singh was tendered in evidence. OP No.3 has also filed documents in support of its contentions.

7. We have heard learned counsels for the parties and have also gone through the entire record, carefully.

8. After hearing the submissions made by Ld. Counsel for the parties and perusing the entire record carefully, it is clear that the plea of the complainant is that she bought Samsung LED Model No 32F5500 from opposite party No. 2 on 14.12.2013 for a sum of Rs.41,500/- out of which Rs.10,000/- was paid in cash and remaining amount of Rs.31,500/- was got financed from OP No.3. It is stated that the complainant was given extended warranty of four years on the product, for which she paid extra amount of Rs.3325 to the opposite party No.3. It is stated that television set was working in good condition since last 2½ years, but after this period it started having problems like picture problem, problem with heating up of the body and also with the quality of sound, but on 23.09.2016 the picture of the television set went off and till date the television set is not in a working condition. It is also stated that thereafter the complainant through toll free number lodged complaint with OPs, but despite lodging the complaint, no engineer was sent by the OPs to the complainant's house to check the television of the complainant. It is stated that now the television set is hanging in non-working condition and in this way the complainant could not enjoy the facility of watching television for which the same has been purchased by the complainant from the opposite parties. Hence, this complaint and prayed that the complaint may be allowed as prayed for. The opposite parties contested the complaint by filing separate replies. The plea of the opposite party No.3 is that there is no deficiency in service on the part of the replying OP No.3 because the replying OP No.3 on receiving complaint from complainant has acted upon immediately as per warranty and LED panel worth Rs.24,496/- was replaced and the said charges were borne by the replying opposite party No.3. It is stated that customer copy and claim summary in this regard is annexed with the reply. It is prayed that the complaint may be dismissed. The

opposite party No.1 in reply has taken number of preliminary objections and on merits, it is stated that purchase of TV by the complainant from the OPs is a matter of record. It is stated that complainant has pleaded in complaint that television set worked properly for 2½ years and there was no problem during this warranty period, therefore, the replying opposite party No.1 is not responsible if anything has happened after this period because the extended warranty has been given by the OP No.3. Rest of the allegations made in the complaint were denied and prayed that complaint may be dismissed. Similar type of reply has been filed on behalf of opposite party No.2.

9. It is clear from the foregoing discussion that it is not in dispute that the complainant has purchased the TV set in question from the opposite party No.2 and the same worked properly for 2½ years and thereafter started giving problem in its working as alleged in the complaint. It is also clear that there was extended warranty on television for four years, given by the opposite parties. The allegations of the complaint against the opposite parties are that they have not attended the complaint of the complainant, but the specific plea of the opposite party No.3 is that complaint was duly attended and LED panel was completely replaced and charges worth Rs.24,496/- were born by the opposite party No.3 and nothing was charged from the complainant meaning thereby the OP No.3 has repaired the television set of the complainant free of charges. The opposite party No.3 in support of its plea has placed on record documents Annexure R-3/A to R-3/C. The perusal of the same clearly goes to show that problem detecting was no picture and to resolve the issue LED panel was replaced and the documents bearing signatures of the complainant are on record. The version of the OP No.3 in evidence led and discussed above, has not been rebutted by the complainant, either by filing rejoinder or in evidence. Therefore, we are of the considered opinion that the complainant has not been able to prove her case against the

opposite parties so far allegations are concerned that the opposite parties have not attended the complaint of the complainant and there is deficiency in service and unfair trade practice on the part of the opposite parties. However, the opposite party No.3 through evidence on record has been able to prove that complaint was attended to and problem was resolved free of cost. Hence, we are of the considered opinion that the complainant has not been able to prove the cause of action to file this complaint against the opposite parties and the same deserves to be dismissed.

10. In view of the foregoing discussion and reasons assigned therein the complaint is ordered to be dismissed, leaving the parties to bear their own costs. Pending application(s), if any, shall also stands disposed of. Copy of this order be supplied to the parties free of cost as per rule. The file after its due completion be consigned to the Record Room.

Announced on this the 6<sup>th</sup> day of April, 2024.

(Dr. Baldev Singh)  
President

(Jagdev Singh Raitka)  
Member

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