

**DISTRICT CONSUMER DISPUTES REDRESSAL COMMISSION-VI
(NEW DELHI), 'M' BLOCK, 1STFLOOR, VIKAS BHAWAN,
I.P.ESTATE, NEW DELHI-110002.**

Case No.CC/532/2016

IN THE MATTER OF:

**Mr. Ashish Soni
S/o Sh. Lalit Soni
R/o J-11/84, Rajouri Garden, IIIrd Floor
New Delhi-110027, India
Email: Ashish19soni@Gmail.Com.**

...Complainant

VERSUS

- 1. Spice Retail Limited
K-26, Connaught Place, Opposite PVR Cinema
New Delhi-110001, India
Email: wecare@spicehotspot.co.in**
- 2. Unicorn Infosolutions Private Limited
Shop No.1, DLF Cyberhub, DLF Cybercity, Gurgaon,
Haryana-122002, India
Email: servicegurgaon@uipl.co.in**
- 3. Apple India Private Limited
19th Floor, Concorde Towaer C,
UB City, No.24,
Vittal Mallya Road,
Bangalore-560001, India
Email: Bangalore admin@apple.com**

...Opposite Parties

Quorum:

**Ms. Poonam Chaudhry, President
Sh. Bariq Ahmad, Member
Sh. Shekhar Chandra, Member**

**Date of Institution:26.08.2016
Order Reserved on:14.05.2024
Date of Order :05.06.2024**

ORDER

BARIQ AHMAD, MEMBER.

1. The present complaint has been filed under Section 12 of Consumer Protection Act, 1986 (in short CP Act) against Opposite Party (in short OP) alleging deficiency of service.
2. Briefly stated the facts of the case are that the complainant had purchased a mobile phone from dealer OP-1 manufactured by OP-3 company i.e. Model name: Apple Iphone 6 (16 GB) gold color having IMEI No.352027070160616 on dated 23.08.2015 from the shop i.e. Spice Retail Limited, K-26, Connaught Place, Opposite Pvr Plaza Cinema, New Delhi-110001, India. The aforesaid mobile phone was purchased for the total sum of Rs.49,500/- (Rupees Forty Nine Thousand Five Hundre Only).
3. It is alleged that after 10 months from the date of purchase i.e. in June, 2016, the complainant discovered some blurred patches on the display of the screen and he submitted the phone immediately to the Apple Authorized Service Centre i.e. Unicorn Infosolutions Private Limited/OP No.2 shop no.1 Dlf, Cyberhub, Dlf Cybercity, Gurgaon, Haryana-122002, India on 2nd June 2016 (Job Number GGN46935). After the initial diagnosis of Apple service Centre, they told the complainant that there was some issue in the display and they will replace the display through their repair Centre in Bangalore.

4. It is alleged that Initially, the complainant insisted that this phone should be replaced with a new phone however the Apple Service Centre assured the complainant that repair Centre at Bangalore performs all the test and quality standard checks as of the new device (at the time of repairing) and assured that the device is processed through proper machinery process while replacing the display component. Also, the Apple Service Centre assured the complainant that the repair Centre will thoroughly diagnose the device if any other issue or something is found in it they will update the complainant and will fix the issue in the device entirely. The Apple Service Centre mentioned that display will be replaced at the company's cost as the phone was still in the warranty period. After receiving the go-ahead from the complainant, the Apple Service Centre sent the device to the Bangalore repair team for display replacement and they provided the complainant with a standby device till the time, the display gets fixed.
5. It is stated that after few day, the complainant received a call from the OP that the phone is repaired and the complainant can collect it. The Apple care Service Product Service Summary received by complainant from the OP at the time of delivery of product indicated that the repair team has replaced the Display Assembly and the camera of I-phone 6 and the device passed all the functional test. It was clearly mentioned in the Product service summary that "the repaired I-pono is covered by a 90-day service warrant or the remainder of your I-phone warranty,

whichever is longer. Our 90-day service warranty covers the parts we installed”
Currently, the un-repaired device of the complainant is lying with the Apple Service Centre/ OP-2 from the last one month without any intimation from the OP regarding any future course of action and the complainant is still using the standby device provided by the service centre. Alleging that the OP`s are indulged in deficiency in services which causing extreme hardship to the complainant. Due to defective set, the complainant is facing extreme difficulty, mental agony harassment, filed the present complaint.

6. It is prayed:

1. To allow the complaint and an amount of Rs.84,500/- (Rupees Eighty Four Thousand Five Hundred Only) which includes:
 - a. The cost of the defective mobile phone which is Rs.49,500/-.
 - b. Plus loss incurred by the complainant as he had to visit the Apple Service Centre several times and had to skip office hours which costed Rs.5,000/-.
 - c. Plus the mental agony and harassment which the complainant had to go through is Rs.30,000/- along with the future rate of interest of 10% p.a. be declared payable to the complainant by the OP, within 30 days of the order of this Hon`ble Forum.

2. Award such compensation for deficiency in service resulting in mental agony and torture to the complainant.

7. Notice of the complaint was issued to OP`s, upon which OP No.2 & 3 entered appearance and filed written statement contesting the case on various grounds inter alia that it is pertinent to mention here that the complainant has purchased the product of Apple - Phone. It is stated that the complainant has visited the opposite party No.2 with the device having white patch and after the customer approval the display was changed and the answering opposite party has not charged anything as per guidelines of apple. It is stated that the opposite party No.2 has also provided a stand by device (loaner) to the complainant for use. The complainant collected the device on 15.06.2016 and was satisfied with the service given by the opposite party No.2.

8. It is contended that the complainant again visited the opposite party No.2 on 19.07.2016 with the device having issue related to display Pop up near ringer silent button. The opposite party No.2 sent the device to Repair centre on 23.07.2016 after approval of the complainant. The opposite party No.2 received the device on 27.07.2016 and the opposite party no.2 further escalated it to repair center as well as support team and they suggested to send the device back to repair center. The device was once again sent to repair center after confirmation of apple channel support team on 29.07.2016. The device was received back on 04.08.2016 without

any repair. When escalated again to the repair center since the alleged issue confirmed “We found display pop-up issue due to CG gap, then rechecked the unit and found that the gap falls within Repair Center spec 0.5.”

9. It is stated that this fact was conveyed to the customer on 04.08.2016 on telephone, since the gap falls under repair center specification of 0.5mm and is perfectly fine and is ready to collect. The complainant refused to collect the device since he felt that the gap was not what he is expecting from quality. It is pertinent to mention here that the complainant is still using loaner device provided by the OP-2. It is also submitted here that the OP-2 has nothing to do with the present complaint as it is the only service center of opposite party no.3 and acted as per the guideline of the apple.
10. It is stated by the OP-3/ manufacturer that the complainant had approached OP-2 who is the authorized service provider that the I-phone-6,, 16 GB, IMEI No.3520270701606167-6-2016, Op-2 sent the mobile to OP-3 repair centre in Bangalore for a display repair, covered under the warranty.. The complainant collected the mobile/device a couple of days later and then noticed that there was an approx 0.5 mm gap between the display and the phone near the silent button. The complainant did not collect the repaired device from Op-2, then Op-2 had sent again the device back to the repair centre in Bangalore. It is stated that the repair centre failed to duplicate the error, However the repair centre did inform the OP-2

that device is functioning as expected and that the reported GAP of 0.05 mm falls within RC spec and therefore device won't be replaced/repaired.

11. Complainant filed rejoinder reiterating therein the averments made in the complaint and denying all the allegation made in the written statement. Both parties thereafter filed their evidence by way of affidavits.
12. We have heard the Counsels for parties and perused the evidence and material on record as well as their written arguments.
13. It is admitted case that the complainant had purchased a mobile phone from dealer OP-1 manufactured by OP-3 company i.e. Model name: Apple I-phone 6 (16 GB) gold color having IMEI No.352027070160616 on dated **23.08.2015** from OP-1, for the total sum of Rs.49,500/- with one year manufacturing warranty invoice no.cq25507 dt.23.08.2015. It is also admitted that the complainant had approached OP-2 who is the authorized service provider that the I-phone-6, 16 GB, IMEI No.3520270701606167-6-2016, OP-2 sent the mobile to OP`s-3 repair centre in Bangalore for a display repair, covered under the warranty through Job Number GGn46935 dated **02.06.2016**. The complainant collected the mobile/device a couple of days later and then noticed that there was an approx 0.5 mm gap between the display and the phone near the silent button. The complainant did not collect the repaired device from OP-2, then OP-2 had sent again the device back to the repair centre in Bangalore. It is stated that the repair centre failed to duplicate the

error, However the repair centre did inform the OP-2 that device is functioning as expected and that the reported GAP of 0.05 mm falls within RC spec and therefore device won't be replaced/repaired.

14. What is the use of such goods or article if it loses its utility/smartness i.e display loosen issue within a period of warranty. No trader or the manufacturer can take the shelter under the grab of warranty card if the article or the goods is later on found to be suffering from manufacturing inherent defects. The objects of the Statute Under The Consumer Protection Act,1986 is to safeguard the interests of the consumers against the unscrupulous manufacturers or traders selling such sub-standard or defective goods or against the provider of service who are not providing service and not maintaining the standard of service. The rate of mobile phone depreciation as per the provisions of the Income Tax Act, 1961. For taxation purposes, the depreciation rate is 15% of the WDV (Written Down Value) of a mobile phone. As mobile phones are considered to be 'plant and machinery', rates applicable for mobile phone depreciation are the same as for plant and machinery owned by businesses. Mobile phones are considered to be fixed assets as they usually last for more than a year. Like any other long-term asset, the value of phones depreciates under the provisions of the Income Tax Act, 1961 and Companies Act, 2013.

15. Hence, the act of OP-3 non-providing proper after sale services and forcing the complainant in the present unnecessary litigation proves deficiency in services on their part and their indulgence in unfair trade practice.

16. In view of the above discussion, the present consumer complaint succeeds and the same is accordingly partly allowed. OP No.3 i.e. Apple India Private Limited is directed as under :-

- i. To refund the cost price of the device/mobile to the complainant after deduction 15% as depreciation value/ the WDV (Written Down Value) of a mobile phone and Complainant to return the standby mobile with accessories to the OP`s at the time of payment.
- ii. To pay an amount of ₹25,000/- (Rupees Twenty Thousand Only) to the complainant as compensation for causing mental agony and harassment to him;
- iii. To pay ₹5000/-(Rupees Five Thousand Only) to the complainant as costs of litigation.

14. This order be complied with by the OP No.3 within thirty days from the date of receipt of its certified copy, failing which, it/they shall make the payment of the amounts mentioned at Sr.No.(i) & (ii) above, with interest @ 12% per annum from the date of this order, till realization, apart from compliance of direction at Sr.No.(iii) above.

15. A copy of order be sent to all the parties free of cost. The order be also uploaded

in the website of the Commission (www.confonet.nic.in).

File be consigned to the record room along with a copy of the order.

(Poonam Chaudhry)
President

(Bariq Ahmad)
Member

(Shekhar Chandra)
Member