

**DISTRICT CONSUMER DISPUTES REDRESSAL COMMISSION,
GURGAON-122001**

Consumer Complaint No: 836/2023

Date of Institution: 19.09.2023

Date of Decision: 08.04.2024

Santosh wife of Shri Harish Kumar, resident of House No. 577/16, Civil Line,
Gurgaon.

.....Complainant

Versus

1. Vijay Sales (India) Pvt. Ltd., SCO No. 315, Near HUDA City Centre, Sector-29, Gurgaon through its Manager.
2. ONEPLUS MOBILE SERVICE CENTER, MGF, Mega City Mall, No. FF 28 & 29, Mehrauli-Gurgaon Road, Gurugram, Haryana 122002 through its Manager.
3. ONEPLUS TECHNOLOGY INDIA PRIVATE LIMITED registered address is UB City, 24, Vittal MalIya Road, KG Halli, D' souza Layout, Ashok Nagar, Bengaluru 560001.

.....Opposite parties

Complaint under Section 35 of Consumer Protection Act, 2019.

BEFORE: **SHRI SANJEEV JINDAL, PRESIDENT.
MS. JYOTI SIWACH, MEMBER.
MS. KHUSHWINDER KAUR, MEMBER.**

Present: Complainant in person.
 OPs proceeded against ex-parte.

ORDER **JYOTI SIWACH, MEMBER.**

 Heard on the complaint in question. The record placed on the present case file has been perused, carefully.

2. Shorn of unnecessary details, briefly stated, it is the case of the complainant that she had purchased a One Plus Mobile NORD CE 2 LITE 5G 6GB 128GB CPH2381, Black Dusk, vide Invoice No.HGG-C-S1111517 dated

24.09.2022 for a sum of Rs. 18999/- from the OP No. 1 with one year warranty (Copy of said invoice enclosed). After its purchase, the subject mobile phone worked properly only for few months, but, thereafter, it started giving the problems with respect to Device Auto Restart, delay in receiving phone calls, delay of 15-20 seconds in displaying the name of the caller and sometimes got broke down or hanged in between, coupled with the heating issue. Thus, the complainant feeling harassed and depressed, after having opted to purchase such a very good and of high value mobile phone, lodged a complaint with the retailer i.e. the OP No. 1 on several occasions who advised her to approach the OP No.2 & 3 i.e. the service provider and manufacturer but the problems/issues in the subject mobile phone could not be redressed despite the repeated complaints lodged by the complainant including the complaint lodged at service centre of the OP No.2. Hence, this complaint

In the end, the complainant prayed that the OPs be directed to refund the price of the defective phone in question i.e. Rs.18,999/- along with interest @ 12% p.a. from the date of purchase till the date of refund, coupled with the prayer to pay Rs.50,000/- as compensation to the complainant for causing mental agony, harassment, humiliation and interest to her along-with litigation expenses. Any other relief which this Commission deemed fit, has also been prayed for.

3. The complainant in order to substantiate her aforesaid submissions/assertions/averments has placed on the record of this file a very accurate, brief and concise documentary evidence, including the documents; **Ex.C-1** i.e. copy of Tax Invoice, **Ex.C-2** OnePlus Warranty Policy depicting that

the subject purchased phone was having a warranty for a period of 12 months regarding part/s cost and labor cost, the perusal of which clearly establishes the aforesaid version of the complainant, that too, especially in the circumstances when the OPs admittedly have failed to place on the record of this file even an iota of evidence in order to shatter the creditability of the contents of the aforesaid documentary evidence or to prove anything contrary thereto.

4. Hence, this complaint is hereby allowed with costs, with the direction to the OPs to pay a sum of Rs.18,999/- to the complainant i.e. the cost of the mobile phone along with interest @ 9% p.a. from the date of purchase i.e. w.e.f. 24.09.2022 till the date of refund. The complainant is also hereby held entitled for compensation to the amount of Rs.15,000/- for suffering mental agony, harassment, humiliation, insult as well as on account of deficiency in service provided by the OPs along-with Rs.11,000/- as litigation expenses. The opposite parties are directed to pay the aforesaid amount within 45 days from the date of uploading of this order after the expiry of 24 hours (one day) therefrom, failing which the amount will attract interest @ 12% per annum, for the same period, till actual realization.

5. If the order of this Commission is not complied with, then the complainant shall also be entitled to file the execution petition under Section 71(1) of the Consumer Protection Act, 2019 and in that eventuality, the OP may also be held liable for prosecution under Section 72 of the said act which envisages punishment with imprisonment for a term

which shall not be less than one month, but which may extend to three years, or with fine, which shall not be less than Rs.25,000/-, but which may extend to Rs.1,00,000/-, or with both. The copy of the order be supplied to the parties free of cost as per the rules. The Order be promptly uploaded on the website of this Commission. File be consigned to the record room, after due compliance.

Announced.
08.04.2024

(Jyoti Siwach)
Member

(Khushwinder Kaur)
Member

(Sanjeev Jindal)
President,
District Consumer Disputes
Redressal Commission, Gurgaon