

**IN THE DELHI STATE CONSUMER DISPUTES REDRESSAL
COMMISSION**

Date of Institution: 26.12.2013

Date of hearing: 08.03.2022

Date of Decision: 01.06.2022

FIRSTAPPEAL NO.1364/2013

IN THE MATTER OF:

- 1. URMILA KUMARI & ORS.**
W/O LATE SHRI RAVINDER SINGH
- 2. BABY KAJAL KUMARI**
D/O LATE SHRI RAVINDER SINGH
- 3. MASTER PIYUSH KUMAR**
S/O LATE SHRI RAVINDER SINGH
(APPELLANT NO. 2 AND 3 BEING MINOR
REPRESENTED THROUGH THEIR MOTHER
I.E. APPELLANT NO.1)
ALL R/O VILLAGE TATHERA, PO-OEL,
TEHSIL AMB. DISTT. UNA,
HIMACHAL PRADESH
- 4. AJIT SINGH**
S/O SH. SARAB DAYAL
C/O SH. RATAN CHAND RANGRA
WZ – 96, BALMIKI VIHAR, NASIRPUR ROAD,
PALAM, NEW DELHI -110045.

...APPELLANTS

VERSUS

1. **M/S. GAURI ENTERPRISES,**
SHOP NO.48-49, DADA DEV SHOPPING COMPLEX,
DADA DEV ROAD, PALAM
NEW DELHI -110045.
2. **INDIAN OIL CORPORATION**
WORLD TRADE CENTRE, 2ND FLOOR,
BARAKHAMBHA ROAD, CONNAUGHT PLACE,
NEW DELHI
3. **ORIENTAL INSURANCE CO. LTD.**
HAVING ITS OFFICE AT DO NO.4,
FIRST FLOOR, JAIN BHAWAN,
12, SHAHEED BHAGAT SINGH MARG,
GOLE MARKET, NEW DELHI.

...RESPONDENTS

CORAM:

HON'BLE JUSTICE SANGITA DHINGRA SEHGAL (PRESIDENT)
HON'BLE SH. RAJAN SHARMA, MEMBER (JUDICIAL)

Present: Mr. S.K. Siwal, Counsel for the Appellant.
Mr. Sanjay Kumar, Counsel for Respondent No.3.

PER: HON'BLE JUSTICE SANGITA DHINGRA SEHGAL,
PRESIDENT

JUDGMENT

1. The facts of the case as per the District Forum record are:

“The Complainant No.4, Sh. Ajit Singh was the tenant in House No. WZ-96, Balmiki Vihar, Nasirpur Road, Palam, New Delhi and he was having a LPG Gas Connection bearing consumer No.35003 on the above said premises, with whom Complainant No.1,2,3 and deceased husband

of complainant No.1 had been sharing the common kitchen. It is alleged that on 11.03.2009, Sh. Ravinder Singh, deceased husband of Complainant No. 1 while changing the cylinder and igniting the gas stove, there occurred a blast resulting in heavy fire causing burn injuries to said Ravinder Singh. He was taken to the Safdarjung Hospital by the Police in Ambulance where he breathed his last on 16.03.2009. It was further alleged that since the accident had taken place due to defective gas cylinder, which was very old and still lying with the complainants, therefore, the complainants telephonically informed OP No.1 on the incident and also personally approached the, but were metered out with inhuman behaviour of OP No.1, who did not bother to compensate the complainants for their unfair trade practice and deficient service. The complainants then filed the present complaint against the dealer M/s. Gauri Enterprises (OP - 1) and Indian Oil Corporation being the distributor of LPG (OP -2) praying for compensation of Rs.7,50,000/- on account of death of husband of complainant No.1 and father of complainant No.2 to 3 for causing them mental and physical pain, loss of earning, agony, harassment, loss of love and affection.”

2. The District Forum after taking into consideration the material available on record passed the judgment dated 26.11.2013, whereby it held as under:

“We fully agree with OP-1 that if the alleged Fire incident had occurred due to bursting of the Gas Cylinder issued in the name of complainant No.4, he could not have obtained the refilled cylinder vide Ex-DW-1/C on 27.04.2009 in exchange of the empty cylinder installed at his residence on 16.02.2009. We find substance in this plea of OPs which falsifies the complainants allegations that the Fire took place due to defective gas cylinder supplied to Complainant No.4 by OP-1 at his residence. Furthermore, even Fire Report dated 22.11.2009 does not disclose the cause of fire due to bursting of the Gas Cylinder. The incident as small fire, which contradicts the

complainant No. Also the post written report is silent about the cause of Bara-injuries.

As a result of our above discussion, we are of the considered view that the complainants have failed to establish their case as against the OPs', who cannot be held liable for any deficiency-in-services or adopting any alleged unfair-trade-practice."

3. Aggrieved by the aforesaid judgment of the District Forum, the Appellant has preferred the present appeal contending that the District Forum failed to appreciate the documents filed by the appellant. The Respondents, on the other hand, denied all the allegations of the Appellant and submitted that there is no error in the impugned judgment as the entire material available on record was properly scrutinized before passing the said judgment.
4. We have perused the Appeal, Reply of the Respondents and Impugned Judgment.
5. The first question of consideration before us is ***whether the Appellants No. 1 to 3 falls under the category of consumers*** provided by the Consumer protection Act, 1986. To comment on this issue, we deem it appropriate to refer to Section 2 (1) (d) (ii) of the Act, which provides as under:

"consumer" means any person who,—

(ii) [hires or avails of] any services for a consideration which has been paid or promised or partly paid and partly promised, or under any system of deferred payment and includes any beneficiary of such services other than the person who [hires or avails of] the services for consideration paid or promised, or partly paid and partly promised, or under any system of deferred payment, when such services are availed of with the approval of the first

mentioned person [but does not include a person who avails of such services for any commercial purpose] ”

6. Perusal of the above statutory provision reflects that any person, who hires or avails of any services for a consideration which has been paid or promised or partly paid and partly promised, or under any system of deferred payment and ***any beneficiary of such services other than the person who hires or avails of the services for consideration paid or promised***, is a consumer under the said Act. Returning to the facts of the present case, it is noted that the Appellant No. 1 to 3 were living in a rented premises with Appellant No. 4 alongwith family and had been sharing the kitchen at the time of said incident. Therefore, we hold that the Appellant No. 1 to 3 squarely fall within the category of consumer as per Section 2(1)(d)(ii) of the Act.
7. The *second question for consideration before us is **whether the present complaint is bad for non-joinder of the parties***. The Respondents contended that the manufacturer of Gas Stove and its dealer should have been made parties in the present case. However, on perusal of record, it is noted that the Appellant No. 1 has categorically deposed in the present complaint that the gas stove was working in good condition even after the said incident. In these circumstances, we agree with the observation of the Ld. District Commission that manufacturer of gas stove and its dealer are not the necessary parties for the present case, as no relief has been sought against them.
8. The next question which needs to be adjudicated upon is ***whether the Respondents are deficient in providing its service to the complainants***. It is clear from the records that the Appellant No. 4

was the registered consumer of Respondent No.1 and had only one gas cylinder issued from the Respondent no. 1. It is also clear from the record that the respondent no. 1 refilled the gas cylinder of the appellant no. 4 at his residence, in exchange of empty cylinder, on 27.04.2009 i.e. after the date of fire incident. The appellants in para 3 of their rejoinder had stated that damaged cylinder is lying with them till date and another empty cylinder was changed with the new cylinder. The said submission by the appellants supports the contention of the Respondent No. 1 that the Appellants have illegally purchased another gas cylinder, as the Respondent No. 1 had issued only one gas cylinder to Appellant No.4.

9. Since the respondent no. 1 had refilled the gas cylinder at the residence of the appellant no. 4 on 27.04.2009 in exchange of empty cylinder, the contention of the appellants that the fire incident happened due to the bursting of gas cylinder issued by the respondent no. 1 is without any merit. Therefore, we hold that the respondents are not deficient in providing its services to the appellants.
10. The fire report dated 22.09.2009 also clearly mentioned that there was fire in the LPG cylinder in a house due to which the man sustained burn injuries. In these circumstances, it could be deduced that the said fire incident happened due to the bursting of another cylinder, which the appellants had procured illegally.
11. Hence, we fail to find any cause or reasons to reverse the findings of the District Forum. Consequently, we uphold the judgment dated 26.11.2013, passed by the District Consumer Disputes Redressal Forum VII, Delhi- 110017.

12. Application(s) pending, if any, stands disposed of in terms of the aforesaid judgment.
13. A copy of this judgment be provided to all the parties free of cost as mandated by the Consumer Protection Act, 1986. The judgment be uploaded forthwith on the website of the commission for the perusal of the parties.

**(JUSTICE SANGITA DHINGRA SEHGAL)
PRESIDENT**

**(RAJAN SHARMA)
MEMBER (JUDICIAL)**

Pronounced On:
01.06.2022