

**BEFORE THE TELANGANA STATE CONSUMER DISPUTES
REDRESSAL COMMISSION : HYDERABAD.**

**F.A.No. 732 OF 2022
AGAINST ORDERS IN C.C.09/2022
DISTRICT CONSUMER COMMISSION, SANGAREDDY**

Between:

Vadla Anjaneyulu, S/o Vadla Ramesh,
Reswident of 1-75/1, Makthaalloor, Kandi, Sangareddy.
.....Appellant/Complainant

And:

1. Flipkart Internet Private Limited, Authorized Signatory,
Devarabeesanahalli, Balladur Buildings Alyssa,
Begonia & Clove Embassy Tech Village,
Outer Ring Rd. Bengaluru, Karnataka 560 103.

2. RINGTEL Marketing, Represented by its Authorised Signatory,
SCO-3,4, Sector-25, Transport Nagar, PANIPAT,
Haryana -132 103.

.....Respondents/Opposite Parties

Counsel for the Appellant/Complainant : Party-in-person

Counsel for the Respondents / Opposite Parties : Called absent

QUORUM :

**HON'BLE SMT. MEENA RAMANATHAN, I/c PRESIDENT
&
HON'BLE SRI. V.V.SESHUBABU, MEMBER – (JUDICIAL)**

**TUESDAY, THE 12th DAY OF NOVEMBER
TWO THOUSAND TWENTY FOUR**

Order : (PER HON'BLE SRI. V.V.SESHUBABU, MEMBER – JUDICIAL)

1. The appeal is filed u/s 41 of the Consumer Protection Act, 2019, by the complainant seeking enhancement, aggrieved by the order dated 20.09.2022 in CC 09/2022, passed by the District Commission, Sangareddy.

2. The brief averments of the complaint are that the complainant purchased hammer pulse 2.0 Smart Watch, through Flipkart on 08.12.2021 through the Flipkart Account of his friend Mr.J.Nagasheshu, linked to Flipkart A/c No.8688588938 by paying Rs.3,700/- through phone pay; that on 17.12.2021 the

complainant received package from Flipkart delivery agent and on opening the box found a formal watch; that on 27.12.2021 placed replacement option; that again on receiving the package when opened the box found nothing except scrap of papers; that he contacted the service centre to inform about the refund request and missing of the item from the box, but it was not entertained by opposite party No.1 on the ground that due to multiple refund options exercised by the customer, the account was blocked on 08.01.2022; hence, the complaint seeking refund of Rs.3,700/- with interest @ 12% per annum besides compensation of Rs.1,00,000/- and costs of Rs.20,000/-.

3. The brief averments of the written version of Opposite Party No.1, is that the complaint is not maintainable either on facts or under law; that the complainant is put to strict proof of the averments made in the complaint except, those that are admitted; that the opposite party No.1 is an intermediary/facilitator of the services on behalf of the third party service provider; that customer of the Flipkart is in the habit of exercising multiple options for returning of the products and due to the same, his account was blocked; that the opposite party No.1 is not responsible for any non-performance or breach of any contract entered into by the buyer and seller; *that Sec.79 and 81 R/w Sec.2 (w) of Information Technology Act, 2000 clearly exempts, the liability of an intermediary* i.e. the opposite party No.1 in the case on hand; that the demand for compensation is absolutely baseless; that the complainant approached the Commission with unclean hands; that in the case on hand, product was delivered to the complainant; that the complaint is liable for dismissal with exemplary cost.

4. The opposite party No.2 is called absent, despite receipt of notice from the Commission below and failed to contest the matter.

5. Before the Commission below, complainant filed evidence affidavit as PW1 and marked Ex. A1 to A8. One Ms. Sheetal Tiwari, Legal Counsel of Opposite Party No.1 filed evidence affidavit as DW1 and got marked Ex. B1 to B3. Written arguments are filed by the complainant and as well as the opposite party No.1.

6. The Commission below, settled the following points for discussion viz..:

- **Whether there is any deficiency in service on the part of Opposite Parties?**
- **Whether the complainant is entitled for the relief claimed?**
- **If so, to what relief?**

7. Having heard both sides, the Commission below, basing on the material available on record, passed the order as stated supra. Aggrieved by the same, the present appeal is filed by the complainant with the following grounds:

- The order of the Commission below is contrary to law, weight of evidence and probabilities of the case.
- The Commission below failed to award just compensation.
- The Commission below not awarded the interest as asked for and not taken in to consideration the mental agony suffered by the complainant.

With these grounds and others that will be urged at the time of arguments, requested to set aside the order of the Commission below and award the amounts as pleaded in the complaint.

8. Now the points for determination in the appeal are :

- (1) **Whether the complainant is entitled for the enhanced compensation?**
- (2) **Whether the impugned order under appeal is sustainable under law?**
- (3) **Relief?**

9. Heard the appellant and the arguments of the respondent are treated as heard. For the sake of convenience the parties will be addressed as they arrayed in the impugned order.

10. **POINTS 1 to 3:** The opposite party No.1 alone contested the case, but the opposite party No.2 failed to do so. PW1 purchased hammer pulse 2.0 Smart Watch, worth Rs.3,700/- through the Flipkart Account of his friend Mr.J.Nagashesu, so, he is not a direct customer of opposite party No.1; however, the ordered wrist watch was sent to the address of PW1. It is an admitted fact that opposite party No.1 & 2 have not filed any appeal questioning the order of the Commission below. In other words, they can be considered as the persons who admitted verdict.

11. The cost of wrist watch was only Rs.3,700/-, for which claiming compensation of Rs.1,00,000/- with interest @ 24% is nothing but an attempt to enrich himself at the cost of opposite parties. Except, the pleading of PW1 that when he opened the box, after exercising the return option, found nothing therein, is not established by any evidence; taking all these aspects into consideration refund of Rs.3,700/-, was ordered with 9% interest besides, compensation of Rs.10,000/- and costs of Rs.5,000/-. Therefore, we are of the view that there are no justifiable reason to enhance the amounts as awarded under the impugned order; it means, liable for dismissal.

12. In the result, the appeal is dismissed without costs, by confirming the order dated 20.09.2022 in CC No.09 of 2022, passed by the District Consumer Disputes Redressal Commission, Sangareddy.

Dictated to the Stenographer and typed by her on the System and corrected by me and pronounced by us in the Open Court on this the 12th day of November' 2024.

Sd/-
I/c PRESIDENT

Sd/-
MEMBER-JUDICIAL
Dated : 12.11.2024
*AD