

IN THE DELHI STATE CONSUMER DISPUTES
REDRESSAL COMMISSION

Date of Institution: 28.03.2024

Date of Hearing: 19.11.2025

Date of Decision: 18.03.2026

FIRST APPEAL NO.-243/2024

IN THE MATTER OF

**RAJEEV KUMAR RAKHRA
S/O LATE SH. KAMALJEET RAKHRA
R/O 17/5, GROUND FLOOR,
RAM NAGAR, KRISHNA NAGAR,
DELHI-110051**

(Through: Ms. Sangeeta Jalan, Advocate)

...Appellant

VERSUS

- 1. M/S RELIANCE JIO INFOTECH LTD.
THROUGH ITS MANAGER/DIRECTOR,
OFFICE 101, SAFFRON NEAR CENTRE POINT,
PANCHWATI 5 RASTA, AMBAWADI,
AHMEDABAD, GUJARAT-380006**

ALSO AT:-

**9th FLOOR, MAKER CHAMBER IV-222,
NARIMAN POINT, MUMBAI – 400021**

- 2. M/S RELIANCE RETAIL LIMITED,
THROUGH ITS MANAGER/DIRECTOR,
F-3/29, KRISHNA NAGAR, VIJAY CHOWK,
DELHI-110051.**

(Through: Mr. Vaishnav Kumar, Advocate)

...Respondent

CORAM:**HON'BLE JUSTICE SANGITA DHINGRA SEHGAL (PRESIDENT)****HON'BLE MS. BIMLA KUMARI, MEMBER (FEMALE)**

Present: Ms. Sangeeta Jalan, counsel for the Appellant.
Mr. Vaishnav Kumar, counsel for the Respondent.

PER : HON'BLE JUSTICE SANGITA DHINGRA SEHGAL, PRESIDENT**JUDGMENT**

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

“By this judgment the Commission would dispose off the present complaint filed by the Complainant against OP alleging deficiency in selling a defective Sim and then in not activating the same despite having received the consideration by OPs.

1. Brief facts as stated by the complainant in the complaint are that he is the subscriber of the Jio Sim having Mobile No. 7011839831, and on 21.09.2018 he visited the store of OP2 to obtain an international connection Sim Card and made a payment of Rs.1101/- to the OP. OP issued a Sim Card (Green Colour) vide ICCID 89918660400057704757 TKD dated 30.02.2017 along with receipt dated 21.09.2018 in lieu of the old Jio Sim of the complainant and he was assured by OP2 that aforesaid Sim Card will be activated in two hours. The Complainant accordingly left for Canada but when he reached there the Sim did not work/ activated and complainant made several complaints and requests to the OP's number regarding non-activation and ultimately he asked his brother to visit the store of OP at Krishna Nagar, Delhi for getting the said Sim activated but the same was not activated despite complaints and even his brother was asked to get the said

mobile number of complainant recharged for a sum of Rs. 149/- to activate but despite, paying Rs 149/- the said international connection Sim Card issued by OP2 was not activated and the OP even assured the complainant that said Sim Card would be activated through their representative in Canada but no representative/partner of OR came to the complainant for its activation during the period of stay at abroad ie from 22.09.2018 to 22.10.2018 and in these circumstances the complainant had to remain without telephone number and was not able to talk to his parents, family and was not able to attend business and financial transactions. After coming back to Delhi he approached the store of OP where one Mr. Nitin informed him that said international connection Sim Card was defective and asked the complainant to visit store of OP at Geeta Colony where although another Sim Card vide ICICID was issued to the complainant but he could not enjoy the benefits of the Sim Card which was taken by him against consideration and against recharge and as such he filed the present complaint thereby claiming Rs. 1,250/- along with compensation of Rs. 4,00,000/- and litigation charges of Rs. 15,000/-

2. The Complainant had earlier filed a complaint before DCDRC (East) which was withdrawn with liberty and as such he has filed the present complaint again. The limitation is also explained which is covered in terms of Suo-Moto direction of the Hon'ble Supreme Court issued from time to time by extending limitation during Covid period and it is prayed that complaint be allowed.

3. The OPs were served and one Sh. Neeraj Bansal advocate appeared for OP on 06.12.2021. Subsequently, one Sh. Tej Ram has received the copy/Paper Book for Sh. Kapil Sharma Advocate for OP whose Vakalatnama is on record. However, OP1 was proceeded ex-parte vide order dated 07.07.2023. It is also observed that subsequently one Sh. Kamlesh. Anand Advocate appeared for OP2 and demanded copy of the complain but it was informed that the OP2 i.e. Reliance Retail Ltd. has already appeared through Sh. Kapil Sharma Advocate and all such facts were brought to in the knowledge of L.d. Counsel for OP2.

2. The District Commission after taking into consideration the material available on record passed the order dated **16.01.2024**, whereby it held as under:

4. The Commission has heard the arguments and perused the record.

5. The main contention of the complainant is that he purchased an international Sim Card for the purpose of visiting abroad and the same was not activated by OPs as per the assurance to the complainant and even the same could not be activated despite paying another amount of Rs. 149/- by his brother at the time when complainant himself was out of India which deprived the complainant to have talks with the family members and also w.r.t. financial transactions. The OP despite having served has not filed the reply and as such there is no version of the OP before the Commission which can be appreciated. The version of the complainant has gone unrebutted. Therefore, the complainant is able to prove deficiency on the part of OPs in selling the defective

Sim Card, and then not activating the same which is a part of services to be provided by the OPs. However, the contention of the complainant that he could not do the financial transaction is concerned, the same fact is not proved by way of any document but the fact as far as he would not have been able to talk to his family members can be appreciated. Therefore, complainant has been able to prove that there was deficiency on the part of, OPs in selling a defective product and then not giving proper services and therefore OP is deficient in its service and the Commission is passing the judgment as follows:

-OPs would jointly and severally return Rs. 1250/- with interest @ 9% p.a. from the date of filing the complaint till actual payment.

-OPs would jointly and severally also pay Rs.5,000/- as compensation to the complainant including litigation charges This order be complied with within 30 days from the date of receipt of the order failing which the OP would pay interest @ 12% p.a. from the date of filing the complaint till date of realization on the entire amount of Rs.6,250/-

Copy of the order be supplied / sent to the parties free of cost as per rules.

File be consigned to Record Room."

3. Aggrieved by the aforesaid order of the District Commission, the Appellant has preferred the present appeal wherein it is stated that District Commission has failed to appreciate that the Appellant had been unable to contact his friends, relatives and others for about one month and also, he could not make financial

transactions from his Bank Account which was/is linked with the mobile number in question. Not only this, the Appellant had also suffered in his business as he could not communicate with his suppliers, customer, etc. It is further submitted that District Commission also failed to take into account the variable that the Appellant spent about Rs.1,60,000/- (*Rupees One Lakh and Sixty Thousand*) for his tour to Canada and because of the deficiency of service on part of the Respondent, the entire pleasure of the tour was spoiled. Lastly, it is submitted that the District Commission failed to appreciate the fact that seeking legal remedy through a lawyer is very expensive and despite that the District Commission granted Rs.5,000/- as compensation including litigation charges. In fact, the appellant paid Rs.25,000/- to his lawyers for filing the consumer complaint besides Rs.2,000/- per hearing. Pressing the aforesaid submissions, the Appellant has prayed that the Impugned Order be set aside and the quantum of compensation be enhanced.

4. Respondent No.1 & 2 have filed a joint reply to the present appeal wherein all the contentions of the Appellants are denied. Furthermore, it is submitted that no grounds for grant of the relief sought by the Appellant are made out and the instant case merits dismissal. It is submitted that the compensation awarded by the District Commission is very generous and the Appellant is using the present appeal for extorting money from the Respondent. It is further submitted that the Appellant suffered no mental agony or harassment as a result of the non-activation of the Sim Card. Secondly, it is submitted that the Appellant makes the claim of mental agony and harassment due to his inability to contact his family. However, the damages claimed are very remote in nature and cannot be claimed. Unliquidated damages can only be claimed when the damages directly result from the unfulfillment of the contract. Lastly it is submitted that it should be noted that

the charge is very remote and cannot be held to have caused any mental agony to the Appellant.

5. Written Arguments have been filed by the parties and the same have been given due consideration.
6. We have perused the material available on record.
7. The ***short question*** that falls for our consideration is ***whether the Appellant is entitled to any enhanced compensation.***
8. At the outset, we deem it appropriate to refer to the concept of '*adequate and just compensation*'. The idea of compensation is based on *restitutio in integrum*, which means, make good the loss suffered, so far as money is able to do so, or, in other words, to take the receiver of such compensation back to a position, as if the loss/injury suffered by him hadn't occurred. In ***Sarla Verma v. DTC (2009) 6 SCC 1***, the Hon'ble Apex Court observed that compensation doesn't acquire the quality of being just simply because the Tribunal awarding it believes it to be so. For it to be so, it must be, (i) adequate; (ii) fair; and (iii) equitable, in the facts and circumstances of each case. This understanding was reiterated in ***Balram Prasad v. Kunal Saha and Ors (2014) 1 SCC 384***, ***V. Krishnakumar v. State of Tamil Nadu & Ors, (2015) 9 SCC 388*** and ***Nand Kishore Prasad v. Mohib Hamidi and Ors (2019) 6 SCC 512***.
9. What qualifies as just compensation, as noticed above, has to be considered in the facts of each case. Further, what is to be gleaned from the aforesaid discussion is that it is a well settled principle of law that the word 'compensation' in Section 39(1)(d) of the Consumer Protection Act, 2019 includes each and every element of suffering by the consumer at the hands of service provider which includes mental agony, harassment, physical discomfort, emotional suffering, actual loss, expected loss and other injustice suffered by the consumer.

10. Further, the concept of compensation is not restricted only to the above terms rather in a case where the consumer is forced to seek remedy before the legal forum to have their rightful claim, the service provider is liable to pay in addition to what a consumer is otherwise entitled to as in the present time, the legal remedy has become very costly and time consuming. In the present case, the District Commission has awarded grossly inadequate and insufficient compensation of Rs.5,000/- including litigation charges.
11. Adverting to the facts of the instant case, it is clear from the record that for no wrong on his part, the Appellant was deprived of his mobile number and the Respondents made the Appellant and his brother to run from pillar to post for activation of the Sim Card. It is submitted that the Appellant had been using the said Mobile Number since a long time and was unable to be in touch with his family members, friends, relatives, clients, etc for about one month. Apart from this, the Appellant faced constraints in making the financial transactions from his bank account as the OTPs (One Time Passwords) could not be received on his said mobile number being registered with the bank of Appellant. The Appellant also suffered in his business as he could not contact with his suppliers, customers, etc and additionally, the entire pleasure of his foreign trip was spoiled. It is further clear from the record that after coming back at Delhi, the Appellant approached the Store of Respondent No.2 at Krishna Nagar, Delhi where one Mr. Nitin present there disclosed that the said International connection Sim Card was defective.
12. Therefore, we opine that the District Commission overlooked the suffering of the Appellant/Complainant and failed to take into the account the said hardships while determining the quantum of compensation. Accordingly the present appeal is allowed and the order dated 16.01.2024 is modified to the extent :

- A) Respondents shall jointly and severally return Rs. 1250/- with interest @ 9% p.a. from the date of filing the complaint till actual payment.*
- B) Respondents shall jointly and severally also pay Rs.10,000/- as compensation to the Appellant*
- C) Litigation charges to the extent Rs.5,000/-*

13. The Respondents are further directed to comply with the directions as contained in para 12 hereinabove within one month from the date of the present judgment i.e. on or before 18.04.2026, failing which the entire amount shall be paid alongwith interest @ 12% p.a. from the date of filing the complaint till the actual realization of the amount.
14. Application(s) pending, if any, stand disposed of in terms of the aforesaid judgment.
15. The Judgment be uploaded forthwith on the website of the Commission for the perusal of the parties.
16. File be consigned to record room along with a copy of this Judgment.

(JUSTICE SANGITA DHINGRA SEHGAL)
PRESIDENT

(BIMLA KUMARI)
MEMBER (FEMALE)

Pronounced On:
18.03.2025

L.R.-G.P.K