

**BEFORE DISTRICT CONSUMER DISPUTES REDRESSAL
COMMISSION
CENTRAL MUMBAI,**

**Puravtha Bhavan, Second Floor, General Nagesh Marg,
Near Mahatma Gandhi Hospital, Parel, Mumbai – 400012.**

Complaint No.	DCDRC/CM/CC/23/504
Date of Admission.	21/07/2023
Order Date.	06/11/2024
Duration	01 Year, 03 Months, 16 Days.

Akash Rameshkumar Gupta,
Age – 23 Years, Occupation – ----,
Room No.06, CV Chawl, SN Path,
Lower Parel (W), Mumbai – 400013 : Complainant.

V/s.

Xiaomi Technology India Pvt Ltd,
Building Orchid, Block E,
Embassy Tech Village,
Marathalli Outer Ring,
Deverabisanahall, Bengaluru – 560103. : Opponent.

**Before: Hon'ble Smt. Vandana Mishra, President.
Hon'ble Shri. Sanjay S. Jagdale, Member.**

Complainant: In-Person.

Opponent : Ex-parte

FINAL ORDER

(Declared on: 06-11-2024)

PER: Hon'ble Shri. Sanjay Sarjerao Jagdale

This is a complaint under Section 35 of the Consumer Protection Act, 2019 (for short hereinafter referred as the "said Act"), against the opponent.

2 Brief facts of the complainant's case are as-

The complainant purchased Xiaomi Mobile Handset on 04/10/2020 for ₹18,500/-. The opponent is manufacturing company of mobile handset. After expiry of warranty period, the complainant noticed manufacturing defect in said mobile handset. The complainant immediately contacted the opponent for repairing said mobile handset. Technician of the opponent communicated the complainant repair cost of ₹10,500/-. The complainant paid repair cost but repair was not done properly. The complainant visited the opponent several times regarding repair of the mobile handset but till date there is no proper response or vivid resolution. The opponent is negligent in giving service and followed unfair trade practice. The opponent did not reply legal notice sent to them. The opponent miserably failed in providing right and proper service. Hence, this complaint with prayers: -

1. To pay refund ₹18,500/- as cost of the mobile handset.
 2. To pay compensation of ₹3,00,000/- for mental agony, harassment.
 3. To pay litigation cost of ₹10,000/-.
3. In spite of service of notice of present complaint, the opponent did

not appear either personally or through advocate. So, the complaint proceeded ex-parte against the opponent. To prove the complaint, complainant has filed evidence affidavit and supporting documents.

4. Having heard the complainant, perusal of pleadings, documents and evidence placed on record, following points arose for our determination, along with reasons and findings thereon are as: -

SR.No.	POINTS	FINDINGS
1	Whether the complainant is consumer of the opponent?	Yes
2	Whether there is any deficiency in service or unfair trade practice by the opponent?	Yes
3	Whether the complainant is entitled to get compensation and costs?	Yes
4	What order?	Complaint is partly allowed.

REASONS

AS TO ALL POINTS:

5. To support the claim, the complainant has produced following documents as:

1. Annexure 1: Tax Invoice.
2. Annexure 2: Service Record.

3. Annexure 3: Email – Dated 20/09/2022
4. Annexure 4: Legal Notice issued to the opponent.
Date: 26/05/2023
5. Annexure 5: Notice served - track report of post.

In spite of service of notice, the opponent has willingly avoided to come forward and place their defence on record either through written statement or evidence in order to rebut the complainant's case. Thus, allegations of the complainant and documentary proof remained unchallenged and unrebutted. Considering nature of evidence adduced in support of complaint, same will have to be accepted.

6. The complainant has established that he has paid an amount of ₹18,500/- to purchase said mobile handset and ₹9,556.82 to get it repaired. Tax Invoice (Annexure - 1) and Service Record (Annexure - 2) shows that the complainant has paid amount above costs. On perusal of documents, it shows that the complainant had communicated with the opponent through email about the defect occurred in mobile handset after he updated software (MIUI update) released by the opponent. The complainant submitted that the defect occurred due wrong update released by the opponent and there is mistake on their part. He further submitted that same problem was occurred in opponent's other mobile model i.e. POCO X4, after software update, which they have replaced such damaged handsets after update to respective users. Though the complainant got his mobile handset repaired from the opponent but the defect was not resolved. Moreso, the opponent did not replace said

damaged mobile of the complainant. Thus, the complainant has proved deficiency in service of the opponent.

7. The complainant was required to make correspondence and follow ups with the opponent, it resulted into mental agony. In this background, the complainants are entitled to some reliefs. We have arrived at conclusion that there is deficiency in service on the part of the opponent. As the complainant has pointed out deficiency in service of the opponent, he is entitled to get compensation for mental agony. The complainant has prayed for compensation of ₹3,00,000/-. The complainant suffered harassment and mental agony. So, it will be proper to award compensation of ₹10,000/- to the complainant. Considering nature of relief claimed, it will proper to award ₹5,000/- as legal expenses to the complainant. With this, we conclude that the complaint is liable to be partly allowed. Accordingly, in answer to all points, we pass following order -

ORDER

1. The complaint is partly allowed.
2. The opponent is hereby directed pay an amount of ₹18,500/- with a deduction of 15% depreciation per year or as per norms for two years, within 60 days from the receipt of this order.
3. The opponent is hereby directed to pay compensation of ₹10,000/- for deficiency in service, mental agony and harassment, within a period of 60 days from receipt of this order.

(Final Order – CC/23/504)

4. The opponent is hereby directed to pay ₹5,000/- as litigation cost, within a period of 60 days from receipt of this order.
5. Copy of the order be provided free of cost to both the parties.
6. Members set be returned to the complainant.

Date : 06/11/2024.

Place : Parel

Sd/-
Sanjay S. Jagdale
Member

Sd/-
Vandana Mishra
President.