

INFOLEX
CONSULTANTS

LEGAL INSIGHTS:
CLOTHING & APPARELS

RECENT IMPORTANT LEGAL DEVELOPMENT

1. DISCOLORING OF SAREE PURCHASED FOR ENGAGEMENT FUNCTION, CONSTITUTE A DEFECTIVE PRODUCT.

In the case titled as **Mr. Joseph Niclavose v. IHA Designers Pvt. Ltd.** [CC/415/2024], DCDRC, Ernakulam had observed that:

The incident narrated by the complainant is not just about a defective saree- it reflects a deeper emotional hurt caused during a cherished family celebration. The discolouration of the saree, worn with anticipation and pride by the complainant's wife on the day of her sister's engagement, led to humiliation and distress in front of loved ones. Such moments, meant to be treasured for a lifetime, were marred by the carelessness and indifference of the opposite parties. The refusal to acknowledge the grievance, coupled with the dismissive attitude of "Go to court," shows not only a lack of accountability but a disregard for basic consumer dignity. This Commission cannot turn a blind eye to the emotional pain suffered by the complainant and his family, which goes far beyond monetary loss.

We determine that issue numbers (I) to (IV) are resolved in the complainants' favour due to the significant service deficiency on the part of the Opposite Parties.

2. FAILURE TO REPLACE DEFECTIVE SPECTACLES WITHIN THEIR WARRANTY PERIOD, CONSTITUTES UNETHICAL BUSINESS PRACTICE AND DEFICIENCY IN SERVICE

In the case titled as **Kemath Anthony v. M/s Lenskart & Anr.** [CC/269/2024], DCDRC Addl. - II, Bangalore had observed that the Complainants were unable to use the spectacles and requested a repair or replacement from Lenskart. However, Lenskart confirmed that it couldn't repair the spectacles, even when the warranty period was ongoing. Therefore, the District Commission held that Lenskart provided defective

goods, failed to honour the warranty and caused considerable distress to the Complainants.

The District Commission further held that Lenskart's failure to replace the defective spectacles, despite the warranty, violated the Consumer Protection Act, 2019 and caused undue mental anguish to the elderly Complainants. It held that Lenskart's conduct demonstrated unethical business practices, especially since it is well-known across India. Therefore, it held Lenskart liable for deficiency in service.

3. FAILURE TO STICH SHIRT TO THE AGREED EXACT MEASUREMENTS CONSTITUTES DEFICIENCY IN SERVICES.

In the case titled as *Thomas Jimmy v. Manager, C Fines Gents & Ladies Tailoring [CC/877/2024]*, DCDRC, Ernakulam had observed that:

[...] the complainant, a working professional, trusted the opposite party to provide a service that was both personal and essential - the stitching of a shirt to exact measurements. Tailoring is not just about stitching fabric; it reflects trust, precision, and a promise to deliver comfort and satisfaction. The opposite party's failure to deliver on this promise, despite receiving payment and clear instructions, reflects not only a deficiency in service but also a disregard for the trust placed in them by the complainant. The refusal to alter the shirt or refund the payment, coupled with the failure to respond to the legal notice, shows a lack of accountability and professionalism. [...]

4. FAILURE TO REPLACE DEFECTIVE SHOES WITHIN WARRANTY PERIOD, CONSTITUTES DEFICIENCY IN SERVICES.

In the case titled as *Yogendra Kumar Dubey v. Liberty Shoes Limited [CC/266/2024]*, DCDRC, Lucknow had observed that the retail invoice confirmed that the shoes were bought from Liberty Shoes for Rs. 2,999/- plus Rs. 130/- GST, totalling Rs. 3,129/-.

Further, it noted that the photographic evidence of the damaged shoes submitted by the Complainant also proved that there was actual damage.

The District Commission held that Liberty Shoes is a reputed national and international brand, and the Complainant purchased the shoes trusting its goodwill and warranty. Despite the warranty being valid, Liberty Shoes neglected to replace or repair the defective product. This deprived the Complainant of its use. Hence, the District Commission held Liberty Shoes liable for deficiency in service.

5. CHARGING MORE THAN DISPLAYED PRICE, CONSTITUTES UNFAIR TRADE PRACTICE.

In the case titled as ***Mohit Sood v. Siyaram Silk Mills Limited*** [CC/10/2020], DCDRC - I, North, New Delhi had observed that:

5. The allegations of Unfair trade practice levelled in the complaint has also been examined in view of the above provisions and it has been found that the act of the OP falls under the provisions of section 2(r) 1 and 2 of CP Act 1986 Besides, the OP has chosen not to contest the allegations levelled in the complaint despite service, it is considered as deemed acceptance of the allegations of deficiency of service, unfair trade practice and harassment to the complainant by the OP. In view of the above observations, we are of the considered view that the complainant has suffered directly due to deficient service and unfair trade practice on the part of the OP in terms of the deficiency & unfair trade practice defined under the provisions of the Consumer Protection Act, 1986. [...]

6. DRYCLEANER LIABLE FOR DAMAGING CLOTHES GIVEN FOR DRYCLEANING.

In the case titled as ***Eapen John v. M/s Jose Brothers Dry Cleaner*** [CC/803/2023], DCDRC, Ernakulam had observed that:

[...] We have verified the facts of the case and the documentary evidence filed by the complainant. The complainant has purchased the churidar materials for Rs.16,360/- on 07/01/2023 as evidenced by Exbt. A2. As per Exbt. A1, the opposite party had charged Rs.743/- towards dry cleaning charges for two churidar tops, shawl and bottom. Exbt. A3 shows that the complainant had spent Rs. 1,940/- for stitching these two churidars at a shop called Teresa, near Private Bus Stand, Thodupuzha on 16/01/2023. The churidar were entrusted to the opposite party on 23/03/2023, after its first use. The complainant states in his complaint that due to the negligent dry cleaning work carried out by the opposite party, the churidars became defective. Exbt. A4 photographs also show that the churidars became defective. [...]

We are of the opinion that the complainant has suffered mental agony, pain and other difficulties due to the negligent acts of the opposite party. [...]

7. MANUFACTURER LIABLE FOR SALE OF DEFECTIVE SMARTWATCH WITH CHARGING ISSUES.

In the case titled as *Mr. Negateja P. v. The Authorized Signatory, World of Titan* [CC/NNN/XXXX], DCDRC Addl. - II, Bangalore had observed that Titan did not respond to the Complainant regarding the charging issue of the smartwatch. Additionally, during the hearing, the Complainant presented the smartwatch and its USB cable before the bench to demonstrate that the device was not charging. Therefore, the District Commission held Titan liable of deficiency in services. The bench held that Titan provided a smartwatch that was defective and did not fulfill its intended purpose.

Consequently, the District Commission directed Titan to refund Rs. 1,505/- to the Complainant, along with interest at the rate of 6% per annum. Additionally, Titan was directed to pay Rs. 3,000/- as compensation for mental agony and litigation costs to the Complainant.

8. MANUFACTURER AND SELLER LIABLE FOR DESTROYING THE DEFECTIVE PRODUCT, CAPABLE OF BEING PRODUCED AS A VALUABLE EVIDENCE.

In the case titled as *Abbas M. v. The Manager / Authorized Person, Doc & Mark & Anr.* [CC/634/2019], DCDRC, Thrissur held that:

6. [...] *In the instant case, the material object is the most crucial piece of evidence required to prove or disprove the complaint. The opposite parties' duty to preserve the evidence began even before litigation, when they came to have the knowledge of an anticipated litigation. Upon anticipating a litigation, the opposite parties ought to have exercised the due diligence and bounden duty expected of them to institute a "litigation hold" ensuring the potential preservation of the material object in question. The opposite parties' act of having destroyed the very material piece of evidence in the case at hand, can only be viewed as spoliation of evidence, whereby they eliminated the most probative evidence and effectively deprived the complainant of his ability or an opportunity to prove the alleged defects of the shoes.*

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