

**In the Court of Ch: Mahmood Ahmed Shakir Jajja, District & Sessions  
Judge / Presiding Officer, District Consumer Court, Bahawalpur**

Abdul Muqtadar Vs Nokia Mobile Company etc.

**Case No.2238/11**  
**Dated of Institution: 16-06-2011.**  
**Date of Decision: 14-04-2012.**

Present: Parties along with their counsel.  
Arguments heard. Record perused.

**Order:-**

The version of the complainant is that he purchased a Nokia 7230 IMEI-352021043647593 for Rs.11,300/- on 28-06-2010 against a receipt; that respondent No.2 issued a warrantee card on behalf of respondent No.1; that after 6/7 months, mobile set became out of order and the complainant contacted the respondent No.2; that the respondent No.2 admitted technical fault in the set and said that he will send mobile set to the respondent No.1 for warrantee claim; that after one month, the respondent No.2 informed the complainant that respondent No.1 has returned the set without warrantee claim. The respondent No.2 again admitted that the claim of the complainant is genuine and he again sent the set to the respondent No.1 but it was again returned without warrantee claim as respondent No.1 refused to accept the claim. The complainant has claimed replacement of the set and damages of Rs.5, 00,000/- and Rs.5, 00,000/- for mental torture and agony faced by him total Rs.10, 00,000/-.

From the other side, the version of the respondent No.1 is that he is only service provider and is not manufacturer of the Nokia. So, the complainant cannot claim replacement of the set and damages from him. The respondent No.1 has also raised other objections and has negated the assertions and version of the complainant. Whereas, respondent No.2 has admitted that the set of the complainant was actually become out of order due to technical fault in the set and the complainant is entitled to claim its replacement.

After hearing the arguments and perusal of the record, I have observed that the complainant has placed on record original receipt Ex-P1, booklet of Nokia company regarding the disputed set No.7230 Ex-P2 and warrantee card Ex-P3. Whereas, the respondent No.1 has placed on record service agreement between the respondent No.1 and Nokia company Exp.R1. A card (Advanced Telecom) Exp-R2 and rejection report Exp-R3. This fact has almost been admitted that warrantee period of the disputed set is one year. The respondent No.2 has admitted that the complainant is entitled to replacement of the set. Whereas, the respondent 1 has denied on the ground that he is not manufacturer of the Nokia mobiles. So, the claim of the complainant against him do not allow. But respondent No.1 is misconceived in taking this version as, he is service provider. He has failed to provide service to claimant and replacement of the set. He should has claimed charges from the Nokia company that of the replacement of the set and must has not returned the set by refusing its replacement. Although, respondent No.1 has placed on record rejection report Exp-R3 but he has not taken this plea in his written reply that the set has been damaged by the complainant due to its dropping, USB port damaged, vibrator print damaged, PCB bended. The respondent No.1 has also not produced the expert who has given this report. The report is also ex-parte and has been given by the expert who is employee of the respondent No.1. So, the said report is not reliable. Had the set been dropped case, the respondent No.2 should have not admitted that the complainant is entitled to its replacement. Therefore, it is held that the respondent No.1 has provided faulty services to the complainant. The complainant is very much entitled to its replacement or price of it paid by him Rs.11, 000/-. The petition in hand is therefore, allowed in favour of the complainant and against the respondent No.1. The complainant is also entitled to damages of Rs.20, 000/- for mental and physical torture and agony faced by him and expenses incurred on litigation. File be put up for execution of the order on 15-05-2012.

Announced:  
14-04-2012

Presiding Officer