

COMPENSATION FOR DEFECTIVE COMPUTERS

With computers becoming a household gadget just like TV and stereos, thereby increasing their demand, so also complaints against supply of defective computers. UPS and other accessories are on the rise. For those who have been supplied with computers which do not work properly or are not provided with the promised software the Consumer forums will lend a helping hand.

Many consumer forums and commissions have held computer manufacturers and suppliers guilty of selling defective equipment and have awarded handsome compensation to the consumers. In one case the West Bengal State Consumer Disputes Redressal Commission has ordered one of the computer manufactures to pay a compensation of Rs 21, 0249.

In this case (III/ 1996/CPJ/246) M/s Avalon Designs Limited had purchased a HCL computer for their official purpose from M/s Hawak Intelligence Service Private Limited. A special accounting system called FACTSO purchased from Vedika Software was also installed. The computer was used for calculating Provident Fund, ESI and other stores accounting purposes.

Very soon defects in the computer developed and the user company lodged several complaints about the problem. One engineer who was deputed by the computer supplier to rectify the mistake, instead made the computer totally inoperative. All the data relating to PF, ESI etc was lost. The user filed a complaint claiming a compensation of Rs 5 lakh.

The seller raised a plea that as per the provision of the Maintenance Agreement they are not responsible for any loss of data due to malfunctioning of the computer. The State Commission felt that the breakdown was well within the contracted period and the buyer having paid the full money, the seller is obliged to keep the computer in working order throughout the year.

Prof J. Govardhan, Head of the Department of Industrial and Production Engineering at the RV College of Engineering, Bangalore, had purchased a computer from M/s HCO, Computer Division. The cost of the computer was Rs 1,25,000 out of which an advance of Rs 1,12,500 was paid. The computer was to have the facility of UNIX and DOS operations so as to use the main system in UNIX and terminal in DOS and vice versa.

However since the day the computer was installed the system was not booting through 'C'. The company engineers did not demonstrate the operation of the Mouse Control. Several letters written by the user to the company did not evoke any response. A complaint was filed in the Karnataka State Commission.

The company argued that the mistake was due to the operational mistake of the user himself and not of the company. But the commission found the company

responsible for the defect and directed to refund the cost of the computer with interest at 18 per cent. It also awarded a compensation of Rs 25,000 and Rs 2,500 towards cost.

In another case an institution which was running a school for the deaf and dumb wanted to start a computer course for its students. It placed an order with M/S Zephyr Information Systems for supply of a computer and paid Rs 2,86,500 towards the cost of the computer.

The computer, with a warranty period of one year, was installed during January 1992. But soon it developed many defects and did not function properly. It was sent for repair and brought back in November 1992. Still the computer had problems and was taken back by the company in December 92 and was not returned till the date of filling the complaint.

Due to non-availability of the computer, the institution could not start its computer classes and incurred a loss of Rs 200 per day from August 1992. The institution filed a complaint and claimed a compensation of Rs 1,02,000. The State Commission directed the computer seller to pay the compensation along with Rs 1,500 towards cost.

In a similar case, a computer purchased by Kalra Rai and Associates from Plus Computer System developed several defects within the warranty period of one year. Besides, the defective hard disks were never replaced for over three years. A complaint was filed in the consumer fora seeking compensation from the sellers.

Taking note of the fact that the defect developed within the warranty period, the commission directed the seller to refund Rs 52,250 being the cost of the computer along with Rs 2,000 towards costs.

It is important to note that even if the computer purchased is used for commercial purposes, but found defective within the warranty period, a complaint can be filed in the consumer fora or commission.
