

**(1994) 07 NCDRC CK 0003**

**In the National Consumer Disputes Redressal Commission**

CHACKO ZACHARIAH

APPELLANT

Vs

SIPANI AUTOMOBILES LTD.

RESPONDENT

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**Date of Decision :** 11-07-1994

**Acts Referred:**

**Citation :** 1994 0 NCDRC 85 : 1994 3 CPJ 113

**Hon'ble Judges :** V.BALAKRISHNA ERADI , Y.KRISHAN , B.S.YADAV J.

**Advocate :** K.V.VISVANATHAN , K.R.NAMBIAR

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**Judgement**

1. WE are constrained to state that the order passed by the State Commission in this case does not contain any discussion of the evidence and it does not satisfy the legal requirements of an order disposing of a complaint. The impugned order merely sets out a summary of pleadings of both parties and thereafter the complaint has been summarily dismissed without any discussion of the materials produced in evidence before the State Commission by either side.

2. THE complaint pertains to alleged defects in a car supplied to the complainant by the first Respondent herein through its dealer, the second Respondent. The State Commission referred to the fact that the complainant had listed 14 defects in paragraph 11 of the complaint, but it has not gone on to consider whether any of these defects had been shown as really existing in the car and if so, what relief, if any, should be granted to the complainant. In the order of the State Commission what we get in the paragraphs earlier than the penultimate one is only a summary of the pleadings and the arguments of both sides. It is only in the penultimate paragraph that the State Commission has purported to consider the merits of the contentions put forward by the complainant and the Opposite Party. That paragraph reads as follows:" "The evidence in the case relating to the state of the car consists in the statements of the two sides; in the sense it is unsupported by any other records. So one has to choose between them or go by the probabilities. The complainant has listed 14 defects in paragraph 11 above; of these the complainant has repaired some; the complainant has not specified how many were the defects so repaired. Presumably all the defects were

repaired. However, that the complainant's first demand for replacement of the car was made on 20.10.1990 or for replacement of the cash was made on 20.10.1990. A purchaser is not ordinarily entitled to demand restoration of the article purchased. Here the car was delivered to the complainant on 9.5.1990. Very few of the items listed were attended; in any case they were not called upon to rectify all the defects in the list. The burden of proving the damages of parts is on the person who pleads them."

After this we get only a cryptic sentence saying "that burden has not been discharged.

3. IN our opinion the discussion contained in the aforesaid paragraph has not dealt with the real points arising for decision in the case in a satisfactory manner after considering the evidence adduced by both the parties. We are therefore, compelled to remand the case to the State Commission for fresh disposal on the merits in accordance with law in the light of the observations contained in this order. The order under appeal is set aside and the case is remitted to the State Commission. The parties will bear their respective costs.