

(1999) 07 NCDRC CK 0057

In the National Consumer Disputes Redressal Commission

CLASSY MOBIKE PVT. LTD.

APPELLANT

Vs

ANIL KUMAR VISHWAKARMA

RESPONDENT

Date of Decision : 14-07-1999

Acts Referred:

Citation : 1999 2 CLT 451 : 1999 2 CPC 548 : 1999 3 CPJ 505 : 1999 3 CPR 262

Hon'ble Judges : J.B.Garg , P.K.Vasudeva , Devinderjit Dhatt J.

Final Decision : Order modified. Appeals disposed of

Judgement

1. ANIL Kumar Vishwakarma purchased one motorcycle "Yamaha RXG" from Classy Mobike (P) Ltd. on April 7, 1997. The vehicle started giving trouble soon after its purchase as its piston kit became defective and respondent Nos. 1 and 2 failed to satisfy the consumer. After running pillar to post, ANIL Kumar-complainant finally approached the District Forum-II, Chandigarh. On 25.2.1999, the District Forum-II ordered replacement of the vehicle and consolidated costs Rs. 2,100/-. Aggrieved against this order, the Classy Mobike (P) Ltd.- respondent No. 1, the local dealer preferred Appeal No. 51 of 1999 and Escorts Yamaha Motors Ltd., respondent No. 2, the manufacturer also filed Appeal No. 63 of 1999.

2. BRIEFLY Anil Kumar Vishwakarma- complainant purchased a motorcycle "Yamaha RXG" vide Engine No. 1 L 5092796 with registration No. CHO 1 S-3458 from Classy Mobike (P) Ltd.-respondent No. 1, now appellant dealer of Escorts Yamaha Motors Ltd. The vehicle carried warranty card of 6 months i.e. 6.10.1997 or first 7,500 kms. which so ever occurred earlier. However, the vehicle after running 1,800 kms. gave knocking sound and after checking the vehicle it was found by respondent No. 1 that the piston kit of the vehicle was defective and the same was changed by the respondent No. 1 on 1st July, 1997. Again on 3rd September, 1997 the complainant observed the same knocking sound in the engine. At that time, the reading of the meter was 2,161 kms. and again piston kit was the reason for the sound and it was again replaced by the respondent No. 1 now appellant vide Annexure "B" of the application on 8th September, 1997. But the same problem resurfaced on 12th September, 1997 only after 4 days

after the kit was changed and necessity arose to replace, which was done by the respondent No. 1. It is an established fact that piston kit was replaced thrice within a short period of 5 months. It shocked the complainant and he was convinced that there is a serious defect in the engine of his vehicle and the warranty period of the vehicle was about to expire and after expiry of the warranty no body will pay attention to his grievances and he finally instituted a complaint in the District Forum-II demanding the replacement of the vehicle with costs etc. We have heard the learned Counsel of the appellants and Anil Kumar, the respondent in person. It has been brought out by the learned Counsel for the appellant Nos. 1 and 2 that there is no provision in the warranty card that the complete vehicle can be replaced but only defective parts of it can be replaced. We hold that there is a very serious defect in the engine of the vehicle as the piston kit was replaced 3 times in a short period of five months. This itself is sufficient to infer that the engine of the vehicle suffers from very serious defects which necessitated the replacement of piston kit thrice. The deficiency is well established.

Consequently, we partly allow Appeal No. 63 of 1999, preferred by M/s. Escorts Yamaha Motors Ltd., the manufacturer and direct the appellant to replace engine assembly of the motorcycle at the place of posting of the consumer or nearby station. In case engine assembly is not replaced with a new one within a period of two months, the appellant manufacturer shall be liable to pay a sum of Rs. 15,000/- together with interest @ 18% per annum. We also order that M/s. Escorts Yamaha Motors Ltd., shall pay a sum of Rs. 10,000/- on account of mental harassment and agony.

3. CONSEQUENTLY connected Appeal No. 51 of 1999 filed by M/s. Classy Mobike Pvt. Ltd., who was only local distributor, is hereby accepted and it stands absolved. With these directions, the impugned order of the District Forum-II stands modified and two appeals are disposed of. Order modified. Appeals disposed of.