

(1991) 09 NCDRC CK 0022

In the National Consumer Disputes Redressal Commission

E. ABOO

APPELLANT

Vs

Tata Engineering and Locomotive Co. Ltd.

RESPONDENT

Date of Decision : 12-09-1991

Acts Referred:

Citation : 1992 0 CPC 40 : 1992 1 CPJ 80 : 1992 1 CPR 56 : 1993 1 CLT 333

Hon'ble Judges : V.Balakrishna Eradi , A.S.Vijayakar , Y.Krishan , B.S.Yadav J.

Advocate : M.K.Michael , R.S.Nariman , R.Satish

Final Decision : Dismissed

Judgement

1. - BRIEFLY the complainants case is that originally in 1979 the complainants had placed orders for supply of "1210 D" model vehicle manufactured by the opposite party No.1 (TELCO) and the failing to get this model vehicle till September, 1981, the first respondent changed the purchase order to another model vehicle "1312" manufactured by the same opposite party. The second complainant also changed over the purchase order to the different model LPTW "1312" : The date of this purchase order is, however, not mentioned in the complaint petition (para 14). According to the complainants they experienced minor problems and breakdown resulting in loss earnings and necessitating repairs immediately after they started plying the vehicles. They brought these complaints to the notice of the respondent No. 11, the sales agent of Respondent No. 1 and that from the beginning of 1985 i.e., after about 2 to 3 years the vehicles became white elephants with mounting maintenance and repairs costs and idling time. According to the complainants the running of the vehicles became an uneconomical burden, a liability beyond endurance. As a result in September, 1985, the complainants surrendered the vehicles to the branch-cum-service centre of the Respondent No. 11, requested them to take back the vehicles and pay them their dues. The complainants have alleged that the model "1312" was not properly designed or thoroughly tested for performance before being put into the market, that there were inherent design and manufacturing defects and that they suffered a loss of Rs. 20,10,000/-.

2. THE opposite parties have denied all the allegations made by the Complainants in their petition. In particular, the Respondent No. 11 has submitted that the complainants carried out minor repairs in unauthorised garages during the period of warranty, that the complainants never made any complaint against the performance of the vehicles within the guarantee period and that the vehicles were damaged by poor maintenance and handling by unqualified persons. The Respondent No. 1 has submitted that the complaint is highly belated. According to him, the purchase of the vehicles took place in the year 1979 and 1981 and therefore any claim for damages/compensation has become time barred under the law of limitation. He has further pointed out that the Complainants had previously filed an identical complaint before the M.R.T.P. Commission on the same issues (Para 1(d) of the written statement of Respondent No.1) and that the M.R.T.P. Commission had dismissed complaint. In consequence, according to the Respondent the petition before this Commission is barred due to the operation of res judicata. The Respondent No. 1 has also emphasised that the Consumer Protection Act, 1986 came into force in 1986 whereas the transactions took place in 1979 and 1981 and that the Act had no retrospective application. The Respondent No. 1 has further submitted that the model "LPTW 1312" is operating satisfactorily and is free from any manufacturing defect or any defect in the design of the vehicle and that the said vehicle is still under production and that there were no complaints from other customers. There are a few other technical grounds also on which the respondents have contested, the claim of the petitioners. But it is not necessary for us to go into those details further.

From the perusal of the complaint it is evident that there is no precise submission by the complainants as to what was the deficiency in service what was the precise defect in design, in what respect the performance of the vehicle was deficient viz-a-viz the prescribed performance specifications. We also do not find it necessary to examine the complaints on these aspects because there is no doubt that the complaint is highly belated and is barred by the law of Limitation. The complaint cannot also be entertained inasmuch as the Consumer Protection Act, 1986 has no retrospective application. With these observations the complaint is dismissed. The Complainants will pay a sum of Rs. 5,000/- to the opposite parties by way of costs. Complaint dismissed.