
(1997) 07 NCDRC CK 0015

In the National Consumer Disputes Redressal Commission

GAUTAM AUTO

APPELLANT

Vs

KIRAN PRABHA

RESPONDENT

Date of Decision : 22-07-1997

Acts Referred:

Citation : 1997 3 CPJ 330

Hon'ble Judges : A.P.Chowdhri , Desh Bandhu J.

Final Decision : Order modified

Judgement

1. BRIEF facts giving rise to this appeal are that Smt. Kiran Prabha, complainant for short, purchased one Bajaj Super Scooter from an authorised dealer of M/s. Bajaj Automobiles Ltd. on 16.10.1989. At that time the dealer was M/s New United Motors. During the pendency of these proceedings the management was taken over by M/s Gautam Auto Ltd. and they were duly brought on record. According to the complainant she was handed over receipt No. 489909 issued by Registering Authority showing the registration number of the scooter No. 3316. The complainant submitted the said receipt and received registration book. After some time she discovered that the engine number and chassis number were not correctly given in the registration book. She approached the dealer and having failed to get the correction made a complaint before D.F.-II against the manufacturer and the said dealer. The plea of the opp. parties was that the mistake was pointed out to the Registering Authority but they failed to rectify the mistake. The D.F. impleaded. the Registering Authority but the impleaded Authority failed to appear in spite of service and it was, therefore, proceeded ex parte.

2. THE D.F. held that the scooter sold to the complainant was not a second hand scooter but it was a new scooter received from the manufacturer only three days prior to the date of delivery. It was further held that the mistake in giving the registration number, engine number and chassis number appeared to have occurred in the office of the Registering Authority. THE opp. parties including the Registering Authority having failed to carry out the correction, the complaint was

allowed with a direction that the opp. parties would carry out the correction and pay Rs. 5,000/jointly and severally by way of compensation to the complainant. Against the order dated 14.5.1993 passed by the D.F. the manufacturer and the dealer preferred appeal, which was registered as appeal No. A-340/93. THE Registering Authority failed to appear in the appeal and was, therefore, proceeded ex-parte. By order-dated 2.5.1994, this Commission partly accepted the appeal and set aside the order insofar as the manufacturer and the dealer are concerned. THE order against the Registering Authority was, however, affirmed. The Registering Authority, the correct description of which is Motor Licensing Officer (West Zone), Directorate of Transport made an application dated 21.11.1995 for setting aside the ex-parte final order dated 2.5.1994 passed by this Commission. The said application was allowed by our detailed order dated 9.8.1996 in application registered as A-599/95.

When the appeal came up for hearing none except Mr. M.L. Mahajan, Counsel for respondent No. 2 appeared. We have carefully gone through the record and have heard Mr. Mahajan. The first question arising for consideration is whether the order of the D.F. dated 14.5.1993 can be interfered with at the instance of the Motor Licensing Officer who had not filed any appeal against order of the D.F. For detailed reasons given in our order dated 9.8.1995 while setting aside the ex-parte order passed in appeal, we have stated that the designation and address of the Motor Licensing Officer had not been correctly furnished by the complainant and accordingly there was no proper service on the Motor Licensing Officer either in the D.F. or in the appeal. In other words, the ex-parte proceedings against the Motor Licensing Officer held by the D.F. as also by the State Commission were irregular and un-justified. For the same reason we take suo motu notice and the prayer of the Motor Licensing Officer is treated as a revision and we proceed to deal with the appeal in this light.

3. THE next question arising for consideration is whether the Motor Licensing Officer was responsible for the mistake in entering the particulars given in the registration book. THE system being followed is that the dealer submits separate files in respect of each scooter mentioning the engine number, chassis number and other required particulars along with a list of purchasers. THE Motor Licensing Officer assigned individual registration number to all such buyers and for each scooter a slip mentioning name of the owner, engine number and chassis number is given to the dealer. On the production of such slip the Motor Licensing Officer issues registration certificate to individual buyers in due course. Mr. Mahajan submitted that what appears to have happened in the present case is that the dealer while issuing the slip issued slip relating to one Ravi Bhushan Chopra, who had been assigned registration No. DNM 3316 instead of the slip which was meant for the complainant namely bearing registration No. DNM 3314 and vice versa. Mr. Mahajan produced for our perusal the original files in respect of the two scooters. THE complainant without verifying the fact that the slip issued to her really, in fact, related to the scooter purchased by her submitted the slip to the Motor Licensing Officer. Accordingly, registration certificate issued

relating to scooter, which had, in fact, been sold by the dealer to Mr. Ravi Bhushan Chopra. In the registration book which was given to the complainant not only the engine number and chassis number are different from the one borne by the scooter of the complainant but even the name of the owner is that of Mr. Ravi Bhushan Chopra. THE mistake which was committed in the office of the dealer was inter-changing the slip meant for Mr. Ravi Bhushan Chopra with the slip meant for Ms. Kiran Prabha complainant. In other words, no mistake was committed in the office of Motor Licensing Officer as the particulars given in the registration book relating to the complainant were correctly mentioned in the book issued in respect of scooter No. DNM 3316, there was no question of rectifying any mistake. In other words, there was no deficiency in service as far as Motor Licensing Officer is concerned. Mr. Mahajan also contended that the Motor Licensing Officer was performing a statutory duty by issuing registration certificates and it was not service within meaning of Consumer Protection Act. We do not propose to examine this question in the present case, which can be disposed of on other grounds. Assuming that the Consumer Protection Act applied, no case of any deficiency is made out against the Motor Licensing Officer. As the mistake resulting in inconvenience and loss was committed by the dealer, it is the dealer who is liable to pay the damages to the complainant.

4. WITH regard to the amount of damages we find that no case for interference has been made out. For these reasons, the order of the D.F. dated 14.5.1993 is modified. The complaint filed by Mr. Kiran Prabha is dismissed against the Motor Licensing Officer. The manufacturer is also not liable as the mistake was committed by the dealer. The order of the D.F. with regard to payment of damages shall, therefore, be complied with by M/s. Gautam Auto Ltd. within four weeks of the receipt of a copy of this order failing which they would render themselves liable for action under Section 27 of the Act. The appeal is disposed of in these terms. A copy of this order be communicated to the parties as well as D.F.-II. Order modified.