
(2004) 02 NCDRC CK 0079

In the National Consumer Disputes Redressal Commission

GLOBE SERVICE STATION

APPELLANT

Vs

PAL-PEUGEOT LTD.

RESPONDENT

Date of Decision : 23-02-2004

Acts Referred:

Citation : 2004 2 CPJ 4

Hon'ble Judges : R.K.Anand , R.L.Sudhir J.

Final Decision : C.A. rejected

Judgement

1. THE applicant submitted an application to respondent No. 2, namely, M/s. Vivek Automobiles Ltd., for allotment of Peugeot 309 car along with a cheque for booking amount of Rs. 25,000/- on 28th October, 1995. In response thereto, Priority No. 61 was allotted for delivery of the car. Subsequently, the applicant deposited the balance amount of Rs. 3,90,928/- vide cheque No. 192866 dated 12.4.1996 with respondent No. 2 who acknowledged receipt of the same vide receipt No. 000867 dated 13.4.1996. It has been stated by the applicant that the payment of Rs. 3,90,928/- was made on a representation made by the respondent No. 2 that the car will be delivered within six weeks from the date of full payment. Having failed to receive the delivery of the car within the allegedly promised period of six weeks, the applicant sent a letter dated 8.6.1996 to the General Manager of respondent No. 1 and sent a copy of the same to respondent No. 2. THERE being no response to the said communication, the applicant wrote another letter to respondent No. 1 for looking into the grievance and for ensuring the delivery of the car.

2. IT is further stated that respondent No. 1 subsequently informed the applicant vide letter dated 20.7.1996 that the price of the said car had been raised from Rs. 4,13,173/- to Rs. 4,48,012/- with effect from 8.6.1996. The applicant deposited the balance amount of Rs. 34,839.23 with respondent No. 2 on 22.7.1996 under protest. The contention of the applicant is that failure on the part of the respondents to deliver the car within the allegedly promised time and subsequent revision in the price of the car is an unfair trade practice within the

meaning of Section 36A of the Monopolies and Restrictive Trade Practices Act, 1969 [referred to as the MRTP Act hereinafter. It has also been alleged that non-payment of interest on the advance payment made by the applicant also constitutes an unfair trade practice because the car was actually delivered three months after the date of receiving of full payment as against the promised time of six weeks. It is further alleged that according to the applicant's information, the respondent No. 2 withheld the delivery of the vehicle to collect enhanced price from the applicant. Thus aggrieved, the applicant filed an application in the MRTP Commission for grant of compensation amounting to Rs. 1,57,340/- which includes excess payment of Rs. 34,840/- due to increase in the price and interest amounting to Rs. 2,500/- calculated at the rate of 24% per annum. The applicant has also claimed Rs. 20,000/- as compensation for depriving the applicant of having the vehicle in time and a further sum of Rs. 1 lakh by way of mental agony and harassment.

The respondents filed their respective replies rebutting the applicant's claim of compensation and denying the allegations of unfair trade practices on their part. The applicant filed rejoinders to the replies of the respondents. On completion of the pleadings, the following issues were framed: (1) Whether the respondents have indulged in the unfair trade practice/restrictive trade practices as alleged in the application? (2) Whether the said unfair trade practices/restrictive trade practice are not prejudicial to consumer or consumers generally? (3) Whether the applicant has suffered any loss or damage due to the above? (4) Relief, if any.

3. PARTIES filed their respective affidavits of evidence along with supporting documents. Oral evidence led by the parties is also on record. We have heard the submissions made by the learned Counsel for the parties and have perused the relevant record. There is no dispute as to the payments made by the applicant and the date of delivery of the car. Although it has been alleged by the applicant that the car was promised to be delivered by R-2 within six weeks from the date of full payment, there is not an iota of evidence on record to support this contention. It is an admitted fact that no such assurance was made by respondent No. 1. The applicant's plea that the assurance was made by respondent No. 2, has also been denied by the respondent No. 2 both in its reply as well as the affidavits of evidence. In the absence of any documentary evidence on the subject, therefore, there is no ground for us to believe that the respondent No. 2 had made the alleged representation to the applicant. The question of fulfilling the same, therefore, does not arise.

4. AS regards increase in the price of the car before delivery, we find it difficult to accept the applicant's plea that the respondents were bound to deliver the car at the price paid by the applicant. In this connection, it is also important to refer to letter No. PPL /90 MKTG/331 dated 17th July, 1996 from respondent No. 1 to Shri Sanjeev Malik of respondent No. 2 in which it has been clearly stated as follows : "AS regards price of the car, kindly note that the price ruling at the time of the delivery will be applicable." The applicant's claim that the car should have

been delivered at the original price has no basis in the absence of any such assurance made by any of the respondents. On the other hand, it is abundantly clear from the communication referred to above that the price chargeable was not the price prevailing at the time of booking but the price prevailing at the time of delivery. We also agree with the contention of the respondents that if the car was not acceptable to the applicant at the revised price, he had every right to refuse the same and ask for refund of the deposited amount from the respondents. But the applicant did not choose to do so. In the absence of any evidence to prove failure on the part of the respondents to fulfil any of the representations made by them, there appears to be no case, in our view, for invoking the provisions of Section 36A of the MRTP Act. In this view of the matter, we do not consider it necessary to refer to the rulings cited by the parties. In view of the above, we find no merit in the compensation claim of the applicant. The Compensation Application No. 254/1997 is accordingly rejected with no order as to costs. C.A. rejected.