

(2015) 02 NCDRC CK 0011

In the National Consumer Disputes Redressal Commission

Goyal Motors And Ors.

APPELLANT

Vs

Arvind Gupta And Ors.

RESPONDENT

Date of Decision : 26-02-2015

Acts Referred:

Citation : 2015 2 CPJ 506

Hon'ble Judges : V.K.JAIN J.

Final Decision : Petition Allowed

Judgement

1. THE complainant, Arvind Gupta who is an Advocate by profession, purchased an Indica Car from opposite party No. 1 -Goyal Motors, Rajpura Road, Patiala on 23.4.2004. The said car was manufactured by opposite party No. 2 -Tata Motors Ltd. The case of the complainant is that at the time of service of the vehicle on 20.8.2004 he noticed that the mats/carpets on the floor of the car had been damaged due to water having entered the cabin of the car through its chassis. The mechanic of the opposite party No. 1 applied sealant/solution in order to plug the holes in the floor of the car and told him that there were defects in the joints of its chassis. The complainant claims to have noticed some other defects also in the car and written letters to the opposite parties in this regard. This is also the case of the complainant that in the rainy season of 2005, the floor mats on the floor of the car again got damaged on account of water having entered the cabin of the car. He took the car to the workshop on 17.9.2005 and the car was handed over to him after 9 -10 days after re -fixing the damaged floor mats, though he had demanded replacement of the said floor mats. According to the complainant the power steering pump also gave a problem and had to be replaced with a new one. He also claimed some other defects in the car purchased by him. Alleging that a defective car had been sold to him, the complainant approached the concerned District Forum seeking its replacement or refund of the price of the car. He also sought compensation to the extent of Rs. 2,00,000. The complaint was resisted by the opposite parties. The opposite party No. 2 Tata Motors claimed in its reply that there was no manufacturing defect in the vehicle sold by its dealer. It was also stated in the reply that all the

grievances of the complainant were duly addressed during service of the vehicle, which included replacement of the mats on 18.1.2005, followed by replacement of power steering pump and the complainant was fully satisfied with the services rendered to him. This is also the case of the Tata Motors that in order to satisfy the complainant, the car was got examined from its engineer, Mr. Rupal Sharma and all the complaints were duly redressed. Mr. Sharma found no manufacturing defect in the car which was in a good running condition. It was also stated in the reply that when the complainant brought the car to the workshop on 17.9.2005, it was sought to be delivered to the complainant same day in the evening, after it had been checked, but the complainant said that he would take delivery of the car on the next day. He, however, took its delivery only on 27.9.2005 as per his convenience and a satisfaction note was duly given by him while taking delivery of the car. Opposite party No. 1, M/s. Goyal Motors in its reply filed before the District Forum denied the allegations of the complainant that the car suffered from manufacturing defects and its mechanic had stated so to the complainant.

2. THE District Forum vide its order dated 6.10.2008, held that the opposite parties were not deficient in rendering services and accordingly dismissed the complaint. The said Forum, however, gave liberty to the complainant to approach the opposite parties for removal of all the defects, which according to him, still persisted. Being aggrieved from the order passed by the District Forum the complainant approached the concerned State Commission by way of an appeal. Vide impugned order dated 6.8.2009 the State Commission directed the opposite parties to pay a sum of Rs. 1,00,000 as compensation to the complainant Neither the complainant nor the opposite parties are satisfied with the order passed by the State Commission and consequently all of them are before this Commission by way of these three separate revision petitions.

3. THE terms and conditions of the warranty given by the manufacturer, in respect of the car in question, to the extent it is relevant reads as under: "2. Our obligation under this warranty shall be limited to repairing or replacing, free of charge, such parts of the car which, in our opinion, are defective, on the car being brought to us or to our dealers within the period. The parts so repaired or replaced shall also be warranted for quality and workmanship but such warranty shall be co -terminus with this original warranty."

It would, thus, be seen that as per the aforesaid warranty, in the event of a component of the car being found to be defective the obligation of the manufacturer was only to repair or replace the said defective component free of charge. There was no obligation to replace the car itself in case any component used therein was found to be defective or was to develop a defect, during the warranty period.

4. A perusal of the job card issued to the complainant on 18.1.2005 would show that the mats provided in the car were replaced by the opposite parties. While receiving the car, the complainant made an endorsement to the effect that the manufacturing defects had not been removed but did not specify what the said

manufacturing defects were. He did not make an endorsement that the seepage of water in the cabin of the car through its chassis had not stopped. Therefore, one really does not know what were the manufacturing defects, the complainant was advertising while making the aforesaid endorsement. A perusal of the job card would show that the steering was checked for wobbling and no defect was noticed at the speed of 110 km. per hour. More importantly, a perusal of the later job card dated 17.9.2005 would show that the complainant had complained, at that time, regarding water entering the car and on his complaint underbody rubbers were checked. The job card also shows that it was estimated that the vehicle would be delivered on the same day. It is, however, an admitted case that delivery of the vehicle was eventually taken by the complainant on 27.9.2005. At the time of taking delivery of the vehicle on 27.9.2005 it had already run for 20573 kms. and the complainant gave a satisfaction note, certifying therein that the service and the repair had been carried out to his full satisfaction. In view of the aforesaid satisfaction note given by the complainant it cannot be disputed that whatever defects the complainant brought to the notice of the service station on 17.9.2005 were removed and all his issues were addressed to his full satisfaction. In view of the aforesaid satisfaction note the complainant cannot claim that the problem of water entering the cabin of the car through its chassis was not addressed, while giving delivery of the vehicle to him on 27.9.2004. As noted earlier the warranty given by the manufacturer while selling the car envisaged repair or replacement of the defective component and not the replacement of the car itself in case any component was found to be defective. The defect pointed out by the complainant having been removed to his complete satisfaction on 27.9.2005, the obligation placed upon the manufacturer under the warranty clause stood fully fulfilled.

5. THE complaint before the District Forum came to be filed on 19.4.2006. After filing of the complaint, the complainant took the vehicle to the workshop on 19.5.2006. A perusal of the invoice issued to him on that date would show that he paid for water pump and gas kit and submitted a satisfaction note dated 19.5.2006 stating therein that the service and repair had been carried out to his full satisfaction, A perusal of the job card issued to the complainant on that date would show that the only complaint made by him was of leakage of the engine coolant and some problem with the water pump. He did not complain that water through the chassis of the car continued to enter its cabin. The satisfaction note given by him to the service centre on that date clearly shows that whatever directions were brought by him to the notice of the service station were duly addressed to his complete satisfaction. Therefore, it cannot be said that after 17.9.2005 the problem of water entering the cabin of the car through its chassis had continued to persist.

6. WHEN this revision petition came up for hearing on 18.12.2009 the learned Counsel for car manufacturer and car dealer stated that they were willing to remove defects if any in the car but the complainant was not forthcoming to get the said defects removed despite opportunity having been granted to him by the

District Forum. This Commission directed the complainant to take the car to the dealer on 26.12.2009. The dealer was directed to remove the defects pointed out by the complainant. It was further directed that if the defects cannot be rectified, the shell of the car shall be replaced. However, despite direction given by this Commission the complainant did not take the car to the workshop of the dealer. When this revision petition came up for hearing on 9.4.2010, the complainant was again directed to take the vehicle to the service centre at Patiala on 24.4.2010 so that his complaints could be attended to. The date was fixed with the consent of the parties. However, despite the aforesaid direction given with the consent of the parties, the complainant did not take vehicle to the workshop. When this matter came up for hearing on 30.7.2010, an affidavit of Mr. Anirudh Lamba, Customer Support Manager of Tata Motors was filed, complaining against the conduct of the complainant. It was noticed by this Commission that since the complaint had not cared even to file an affidavit to report compliance, no further opportunity was required to be given to him to agitate any point regarding repairs, etc., by mutual consent. The aforesaid order passed by this Commission clearly indicates that the complainant was not at all interested in taking the vehicle to the workshop. The obvious inference in these circumstances would be that there was no such defect in the car which required rectification by the workshop and that is why he did not take the vehicle to the workshop. The petitioners have placed on record a job card dated 24.4.2010, opened by the car dealer when the complainant took the aforesaid car to a workshop on 24.4.2010. The aforesaid job card would show that no specific complaint was made by the complainant to the workshop and the vehicle was taken there only for general checks and rectification. The job card also shows that the vehicle had run for 64983 kms as on 24.4.2010. This is yet another circumstance indicating that the vehicle did not have any persistent problem after repair was carried out on 17.9.2005.

7. FOR the reasons stated hereinabove, we are of the considered view that since the defects brought by the complainant to the notice of the car dealer were duly addressed to his satisfaction and there was no deficiency in the services rendered to him.

8. THOUGH the complainant has claimed that there were manufacturing defects in the vehicle the facts and circumstances as discussed hereinabove leave no doubt in our mind that there was no manufacturing defect as such in the vehicle purchased by the complainant. As far as problem of water entering the cabin of the car through its chassis is concerned, the complaint was finally addressed on 17.9.2005 to the satisfaction of the complainant and there is no evidence of the said problem having been cropped up again at any time thereafter. The vehicle having been run for more than 64,000 kms. by April 2010, it would be difficult for us to say that it suffered from a manufacturing defect. Though the complainant filed a report from a surveyor who opined that the car had manufacturing defect in it, the said report cannot be accepted, considering that the defects pointed out by the complainant were fully addressed by 17.9.2005.

and there was no recurrence of such a defect. For the reasons stated hereinabove, we find no justification for grant of any compensation to the complainant, particularly when he did not avail the opportunity given by this Commission to him to take the vehicle to the workshop for carrying out repairs to his complete satisfaction and even replacing its shell in case the defect could not be rectified. Consequently the Revision Petition No. 4581 of 2009 filed by the complainant is dismissed whereas the Revision Petition No. 4273 of 2009 and Revision Petition No. 4368 of 2009 filed by Goyal Motors and Tata Motors respectively are allowed. The complaint is accordingly dismissed. No order as to costs.