
(2003) 10 NCDRC CK 0022

In the National Consumer Disputes Redressal Commission

HERO HONDA MOTORS LTD.

APPELLANT

Vs

DURGA SHANKAR DASH

RESPONDENT

Date of Decision : 31-10-2003

Acts Referred:

Citation : 2004 4 CPJ 471

Hon'ble Judges : D.M.Patnaik , Arati Mohanty , Pramodnath Das J.

Final Decision : Appeal dismissed

Judgement

1. THIS is an appeal by the Hero Honda Motors Limited and their functionaries along with the dealers M/s. Bharat Motors Pvt. Ltd. and J.M.G. Automobiles against the judgment of the District Forum, Cuttack making the O.Ps. jointly and severally liable to refund the complainant a sum of Rs. 36,427/- i.e., the costs of the Hero Honda Motor Cycle along with interest at the rate of 12 per cent per annum from 24.2.2000 till payment. Besides the complainant has been allowed Rs. 20,000/- as compensation towards mental agony, harassment etc.

2. THERE is no dispute that the complainant purchased on 23.8.1999 a Hero Honda Motor Cycle for Rs. 36,427/- from the dealer M/s. Bharat Motor Pvt. Ltd., Bhubaneswar (O.P. No. 4). It is his case that right from the beginning the vehicle gave various problems that included starting trouble, defect in the shock absorber, low milage, dragging sensation etc. Even though this was attended for several times by the O.Ps. the same problem still persisted for which he filed the complaint case. The appellants denied the vehicle of having any inherent manufacturing defect. They also denied the allegation of deficiency in service stating that whenever the vehicle was produced for servicing and for removing the defect they were earnestly attended.

Heard Mr. R.K. Pattnaik the learned Counsel for the appellants and the complainant in person. Perused the impugned order and materials on record.

3. THE District Forum has given an elaborate reason covering the judgment about 11 pages. THEY have also taken into account the various job cards proved

from the side of the complainant. THE main contention of the appellants challenging the allegation of inherent defect alleged by the complainant, was that the complainant used adulterated fuel and secondly it was for bad maintenance. THE District Forum gave the reason discarding both the pleas. This was as follows : With regard to the adulterated fuel, the Forum directed a test to be made before them in presence of the Service Engineer etc. and the parties. Test was carried on in presence of the Members of the Forum which did not bring out any sign of the fuel in the fuel tank to be in any way adulterated. We confirm the view of the Forum that the complainant did not use any adulterated fuel. So far as the case that the complainant did not properly maintained the vehicle, we accept the reasoning of the District Forum that the complainant had about 10 years experience in driving the motor cycle prior to purchasing this one. Therefore, it could not be said as rightly held by District Forum that the complainant was ignorant of proper maintenance of Hero Honda Motor Cycle. That apart, the onus was on the appellants as the manufacturer and the dealer of the vehicle to prove that on what way the vehicle was badly maintained. There is no material to that. Therefore, we accept the finding of the District Forum, that, there was no improper maintenance of the vehicle by the complainant. But considering the very nature of the case amount of Rs. 20,000/- as compensation awarded for the mental stress and agony is on the higher side that too after awarding interest at the rate of 12 per cent per annum. Since this matter is of Rs. 2,000/- , we do not reduce the rate of interest as awarded by the District Forum. We reduce the compensation to sum of Rs. 10,000/- which we find to be reasonable in the facts and circumstances of the case. The appeal is dismissed with above modification. No cost. Appeal dismissed.