
(2013) 10 NCDRC CK 0062

In the National Consumer Disputes Redressal Commission

Honda Cars India Ltd

APPELLANT

Vs

Jatinder Singh Madan

RESPONDENT

Date of Decision : 11-10-2013

Acts Referred:

Citation : 2013 0 NCDRC 715 : 2014 4 CPJ 258

Hon'ble Judges : K.S.CHAUDHARI , B.C.Gupta J.

Advocate : DHRUV WAHI , MAHALING PANDARGE , SAURABH SHARMA

Judgement

1. THIS revision petition has been filed by the petitioner against the order dated 16.04.2012 passed by the Punjab State Consumer Disputes Redressal Commission, Chandigarh (in short, "the State Commission ") in Appeal No. 302 of 2007 - Jatinder Singh Madan Vs. Honda Cars India Ltd. by which, while allowing appeal, order of District Forum dismissing complaint was set aside.

2. BRIEF facts of the case are that Complainant/Respondent No. 1 Proprietor of G.N. Associates purchased Honda Seil GXI Car No. PB 02 AP 8283 from OP No. 2/ Respondent No. 2 manufactured by OP No. 1/Petitioner on 16.9.2005 and price of the Car was paid and there was warranty of 24 months or 40,000 kmts. whichever is earlier. It was further alleged that after its first service at 1000 kms. Power steering of the car jammed and became heavy which was repaired by OP No. 2. Again after few days some problem occurred and car was delivered after 9 days after replacement of steering wheel and gear box assembly. Same fault developed again after 1 1/2 months and steering wheel and gear box assembly was replaced. 4th time on 14.1.2006 and 5th time on 15.2.2006 same fault occurred. In such circumstances, complainant insisted for replacement of car, but OP refused. Alleging deficiency on the part of OP, complainant filed complaint before District Forum. OPs resisted complaint and submitted that no technical/ expert evidence has been led by the complainant to prove manufacturing defect. It was further submitted that default may be due to mishandling and rough driving by the complainant. It was further submitted that complaint involves disputed questions of law and fact which can be decided only by Civil Court;

hence, prayed for dismissal of complaint. Learned District Forum after hearing both the parties dismissed complaint as car was registered in the name of M/s. G.N. Associates whereas complaint was filed by Jatinder Singh Madan. Appeal filed by the complainant was allowed by the State Commission by impugned order and directed petitioner to replace the steering wheel and gear box assembly and other connected parts and further awarded compensation of Rs.1,00,000/ for mental agony and Rs.10,000/ as litigation expenses against which, revision petition has been filed. Heard learned Counsel for the parties finally at admission stage and perused record.

3. LEARNED Counsel for the petitioner submitted that complainant has sold the car during pendency of appeal; hence, he remains no more consumer under the Consumer Protection Act and complaint is liable to be dismissed. It was further submitted that merely because car has been taken to workshop for 4 to 5 times, it does not amount to manufacturing defect as steering wheel and gear box assembly had already been replaced; even then, learned State Commission has committed error in allowing complaint; hence, revision petition be allowed and impugned order be set aside. On the other hand, learned Counsel for the Respondent No.1 submitted that order passed by learned State Commission is in accordance with law; hence, revision petition be dismissed. Learned Counsel for the Respondent No. 2 supported cause of petitioner.

4. LEARNED Counsel for the petitioner submitted that as during pendency of appeal car has been sold by Respondent No. 1 to Amritpal Singh on 13.4.2010 and further it has been transferred to Rajinder Bawa on 17.6.2011 without permission from State Commission, Respondent No. 1 remains no more consumer under the Consumer Protection Act and not entitled to any relief. Perusal of copy of registration certificate proves fact of transfer of vehicle by complainant to Amritpal Singh and in turn to Rajinder Bawa. Learned Counsel for the Respondent no. 1 also admitted sale of vehicle. Learned Counsel for Respondent No. 1 has nowhere submitted that vehicle was transferred during pendency of appeal with the permission of State Commission. We have held in R.P. No. 2562 of 2012 - Tata Motors Ltd. and Anr. Vs. Hazoor Maharaj Baba Des Rajji Chela Baba Dewa Singhji (Radha Swami) and Anr. decided on 25.09.2013 that once vehicle is sold during pendency of the complaint, complainant does not remain consumer for the purposes of Consumer Protection Act. In that judgment, we have placed reliance on I (2008) CPJ 249 (NC) - Hoshiarpur Improvement Trust Vs. Major Amrit Lal Saini and judgement dated 23.4.2013 passed by this Commission in Appeal No. 466 of 2008 - Mr. Rajiv Gulati Vs. Authorised Signatory M/s. Tata Engineering and Locomotive Co. Ltd. and Ors. In this case, as vehicle has been sold by complainant during pendency of appeal which was filed in the year 2007 and decided in the year 2012, complainant ceases to be a consumer under C.P. Act and complaint is liable to be dismissed. Had Respondent No. 1 brought this fact to the notice of State Commission learned State Commission would not have directed petitioner to replace the steering wheel and gear box assembly and other connected parts because Respondent no. 1 was not

possessing vehicle at the time of passing the judgement.

5. LEARNED Counsel for the petitioner submitted that there was no manufacturing defect in the vehicle; even then, learned State Commission wrongly allowed complaint and directed to replace steering etc., though, it had already been replaced twice before filing complaint. Perusal of record reveals that steering gear box was replaced twice before filing complaint and again learned State Commission vide impugned order directed petitioner to replace the steering wheel assembly and other connected parts without any expert report or opinion. We are not inclined to decide this aspect whether by taking vehicle to workshop for 4 to 5 times it would amount to manufacturing defect or not because we have already held that complainant ceases to be a consumer under the Consumer Protection Act and in such circumstances; complaint is liable to be dismissed on this sole count.

6. CONSEQUENTLY , revision petition filed by the petitioner is allowed and impugned order dated 16.4.2012 passed by learned State Commission in in Appeal No. 302 of 2007 - Jatinder Singh Madan Vs. Honda Cars India Ltd. is set aside and complaint stands dismissed with no order as to costs.