
(2016) 09 NCDRC CK 0142

In the National Consumer Disputes Redressal Commission

Case No : 425 of 2016

INDIAN PUBLIC SCHEEL SOCIETY THROUGH ITS SECRETARY
VINOD GUPTA

APPELLANT

Vs

TATA MOTORS LTD. & ORS.

RESPONDENT

Date of Decision : 29-09-2016

Acts Referred:

[Consumer Protection Act, 1986](#), [Section 21\(b\)](#) - Jurisdiction of the National Commission

Citation : 2016 4 CPR 164

Hon'ble Judges : B.C. Gupta

Advocate : Dipendra Mishra

Judgement

1. This revision petition has been filed u/s 21(b) of the Consumer Protection Act, 1986, against the impugned order dated 05.11.2015, passed by the Rajasthan State Consumer Disputes Redressal Commission (hereinafter referred to as the State Commission) in appeal No. 1221/2013, "Tata Motors vs Indian Public School Society," vide which, while partly allowing the appeal, the order passed by the District Forum, Sikar in consumer complaint No. 34/2008, filed by the present petitioner, allowing the said complaint, was modified.

2. The facts of the case are that the petitioner Indian Public School Society / Committee purchased a bus manufactured by respondent No. 1/OP-3 Tata Motors Limited for a sum of 9,48,754/- for their school, after obtaining a loan of 8,05,000/- from the ICICI Bank. The bus was purchased from the dealer of Tata Motors, M/s Crossland Works Private Limited at Sikar. It has been alleged in the consumer complaint that at the time of delivery of the vehicle, it had already run about 1432 Kms and moreover, there were manufacturing defects in the vehicle. The complainant contacted the OPs who assured them that the defects in the vehicle shall be removed. However, despite several requests, the defects were not removed. It has been stated that all four tyres of the vehicle became out of order, even on running only 15263 kms. The complainant also made request for replacement of the vehicle, but the OPs refused to change the same. A consumer

complaint was then filed, seeking directions to the OPs to replace the defective vehicle, or to return the amount of 9,48,754/- with interest, alongwith compensation of 3 lakh.

3. The complaint was resisted by the dealer Crossland Works by filing a written reply before the District Forum, in which they denied the allegations raised in the complaint and further stated that if there was any manufacturing defect in the said vehicle, the same could be taken care of by the manufacturer only. The OPs also stated that there was no deficiency in service on their part, because the defects pointed out by the complainant from time to time had been removed completely.

4. The District Forum after taking into account the version of the parties, allowed the complaint against the petitioner Tata Motors only, and directed them to provide a new vehicle to the complainant, or to make payment of 9,48,754/- to them alongwith 5,000/- as compensation and 2,000/- as litigation cost. The District Forum concluded that there was manufacturing defect in the said vehicle. Being aggrieved against the said order of the District Forum, the petitioner Tata Motors challenged the same by way of an appeal before the State Commission, which was partly allowed. In modification of the order passed by the District Forum, the State Commission directed payment of 1 lakh as compensation to the complainant by M/s. Tata Motors. The State Commission observed that the matter was 9 years old and hence, they did not think it proper to order replacement of hub assembly and four tyres of the bus. Being aggrieved against the order of the State Commission, the petitioner/complainant is before this Commission by way of the present revision petition.

5. During hearing, the Ld. Counsel for the petitioner/complainant stated that there was manufacturing defect in the vehicle, as evident from the job cards referred in the order of the State Commission. The State Commission should, therefore, have upheld the order of the District Forum and allowed replacement of the vehicle. He stated that there was defect of extra play in hub assembly, and the tyres of the vehicle were in a damaged condition.

6. I have examined the entire material on record and given a thoughtful consideration to the arguments advanced before me.

7. The State Commission in the impugned order dated 05.11.2015 have stated as follows:-

"12. In view of the above discussion, we wish to partially accept this appeal. The Judgment of the Id. DCF dated 13.09.2012 is modified, and order of replacement of the whole vehicle is set aside. The matter is as old as 9 years, we do not think it proper to order replacement of Hub assembly and four tyres of the bus now as it cannot be believed that bus was not being used. Complainant has been using this vehicle and defects might have been rectified at its own cost.

13. In view of this, we think that complainant should be compensated for

harassment and difficulty faced by them. We order that Rupees one lakh should be paid to the complainant by the appellant within one month of this order as compensation."

8. It is clear from the facts and circumstances of the case that the complainant has been using the vehicle for a number of years, since its purchase, although the State Commission concluded that the hub assembly was defective and the excessive wear and tear of the tyres was due to that factor. It is also made out that OP-1&2 made efforts to repair the defect in the said vehicle. In any case, the State Commission has already compensated the complainant by awarding a compensation of 1 lakh. During arguments also, the Ld. Counsel for the petitioner was pointedly asked if they had produced any expert evidence in support of their version in the complaint, but he pointed attention to the job cards only. Since the vehicle is being used for a long time, there does not appear any illegality, irregularity or jurisdictional error in the order passed by the State Commission, which may require interference in the exercise of the revisional jurisdiction. The present revision petition is, therefore, ordered to be dismissed and the order passed by the State Commission upheld. There shall be no order as to costs.