
(2015) 01 NCDRC CK 0039

In the National Consumer Disputes Redressal Commission

Manisha W/O Amit Kumar

APPELLANT

Vs

Mehta Motors , Tata Motors Ltd

RESPONDENT

Date of Decision : 20-01-2015

Acts Referred:

Citation : (2015) 01 NCDRC CK 0039

Hon'ble Judges : V.K.JAIN , B.C.Gupta J.

Advocate : ATULESH KUMAR

Judgement

1. THE complainant/petitioner purchased a Tata Manza vehicle from opposite party No.1 on 24 -03 -2010 for a consideration of Rs.6,17,994/ -. The case of the complainant is that when she visited opposite party No.3 Goyal Motors, she was informed that some parts of the vehicle i.e. side rear view mirrors, back door pillars, boot and back bumpers were not new and had been repainted. She approached the dealer, M/s. Mehta Motors with a grievance that they had sold the old vehicle to him against price of a new vehicle and sought its replacement or refund of the price paid by her. According to the complainant the Manager of M/s. Mehta Motors admitted that the vehicle had been repainted and assured her that the matter would be taken up with higher ups. He, however, refused either to replace the vehicle or to refund the price which the complainant had paid for it. Being aggrieved the complainant approached the concerned District Forum, seeking the following reliefs: "It is therefore prayed that the complaint may kindly be accepted the opposite parties may kindly be directed to replace the aforesaid old car with fresh/brand new car of the same model or in alternative to refund the total amount of the complainant along with interest thereon and the opposite parties may also be directed to pay compensation to the tune of Rs.1,00,000/ - and also costs of present complaint to the tune of Rs.11,000/ -.

2. IN its reply the seller of the vehicle which was impleaded as opposite party No.1 in the complaint denied the allegation made by the complainant and claimed that neither the vehicle had been repainted nor did it have any defect. Opposite party No.3 Goyal Motors also filed a reply denying the averments made

in the complaint. It was stated in the reply that though the complainant had visited them for general checkup of the vehicle on 12 -06 -2010 and 04 -12 -2010, they did not tell her that certain parts of the vehicle had been repainted.

3. THE District Forum vide its order dated 09 -12 -2011 directed the manufacturer and seller of the vehicle to pay compensation amounting to Rs.1,00,000/- along with Rs.5,000/- as cost of litigation to the complainant but dismissed the complaint qua opposite party No.3. Being aggrieved from the order of the District Forum the manufacturer of the vehicle Tata Motors Ltd. approached the concerned State Commission by way of an appeal. The seller of the vehicle also filed a separate appeal impugning the order of the District Forum. The State Commission vide its order dated 10 -02 -2014 allowed both the appeals. Being aggrieved, the complainant is before us by way of this revision petition.

4. THE only disputed question in this case was as to whether certain parts of the vehicle such as side rear view mirrors, back door pillars, boot and back bumpers had been repainted before this vehicle was sold to the complainant or not. The case of the complainant as noted earlier is that it was opposite party No.3 M/s. Goyal Motors who had told her that the aforesaid parts of the vehicle had been repainted. Since Goyal Motors denied the aforesaid averment made in the complaint, the very foundation behind the complaint stood demolished.

5. ON the request of the complainant, the vehicle was examined by M/s. Bhagat Ford during pendency of the complaint. In its report, M/s. Bhagat Ford stated as under: "That on inspection front bumper, rear bumper, both side mirrors, rear outer panel (right hand side) 10 X 2 inside tail gate near hinges. Nut bolts were found repainted as shade of colour of these parts were slightly different from main body of the car and it was slightly rough to feel of hands from main body of the car which was more smooth and finished than front bumper, rear bumper, both sides mirror, rear outer panel (right hand side) inside tail gate near hinges."

It would thus be seen that though there is evidence of certain parts of the vehicle having been repainted, there is no evidence to prove that the aforesaid parts were painted before the vehicle was sold to the complainant. No expert was examined by the complainant to prove the age of the repaint found on the aforesaid parts of the vehicle. The onus was upon the complainant to prove that the aforesaid parts had been repainted before the vehicle was sold to her. In fact, the onus on her became stronger considering that in its reply opposite party No.3 Goyal Motors denied having told the complainant that the aforesaid parts had been repainted. The complainant clearly failed to discharge the onus placed upon her. The possibility of the aforesaid parts of the vehicle having been repainted after purchase of the vehicle by the complainant and before it was examined by Bhagat Ford on 10 -10 -2011, therefore, cannot be ruled out.

6. FOR the reasons stated hereinabove, we are of the view that the complainant has failed to prove the case set out by her in the complaint. We, therefore, find

no ground to interfere with the view taken by the State Commission. The revision petition is, therefore, dismissed.