(1992) 03 NCDRC CK 0072

In the National Consumer Disputes Redressal Commission

RATNAPRABHA MOTORS APPELLANT

Vs

JAGDISH RANCHHODAS VAISHNAV RESPONDENT

Date of Decision : 09-03-1992

Acts Referred:

Citation : 1992 2 CPJ 833

Hon'ble Judges : G.G.Loney , M.G.Gavai J.

Final Decision : Appeal allowed

Judgement

1. THIS is an appeal against the order of District Forum, Aurangabad dated 20.7.1991 passed in Complaint No. 125/90. The respondent complained before the District Forum, Aurangabad alleging that he was required to pay Rs. 2,253/- as entry tax for the purchase of his scooter from opposite party. The learned District Forum allowed the complaint and ordered the appellant to refund the entry tax and pay the damages of Rs. 5,000/- to the complainant. We have heard Shri D.S. Chaudhari, Advocate for the appellant and respondent in person. We have also perused the relevant record.

2. FROM the facts of this case, it is clear that the complainant despite the knowledge that the scooter which he was purchasing, was in the name of one Prakash Gulabchand who purchased it. The complainant also paid Rs. 100/- for getting the scooter transferred in his own name to one Shri Abbas as his remuneration. These facts clearly indicate that knowing fully well that the scooter owned by another person was being purchased by the complainant. He cannot blame the dealer for selling the old scooter. In fact, the scooter was not old but the complainant was a second owner of the scooter. Under these circumstances, the blame cannot be shifted on the dealer to have sold the old scooter. Consequently, the complainant is not entitled for any compensation. As regards the payment of Rs. 2,253/- as entry tax, we find that it is a legal tax and has to be borne by the consumer. We find in this case that the complainant did not exhibit awareness and carefulness while purchasing the scooter and, therefore, he cannot take the advantage of his own mistakes by claiming the compensation.

Taking into consideration the peculiar facts and circumstances of this case, we find that the impugned order passed by the District Forum is contrary to the facts appearing in this case. Hence, the said order requires to be set aside. Hence we pass the following order: ORDER

The appeal is allowed. The impugned order of the District Forum is hereby set aside. Appeal allowed.

