courtkutchehry.com

Company : CourtKutchehry
Website : www.courtkutchehry.com
Printed For :
Date : 06/09/2026

(2013) 08 NCDRC CK 0012

In the National Consumer Disputes Redressal Commission

Skoda Auto India Private Limited And Anr. APPELLANT

Vs

Manu Puri RESPONDENT

Date of Decision : 13-08-2013

Acts Referred:

Citation : 2013 4 CPJ 188

Hon'ble Judges : VINAY KUMAR J.

Final Decision : Appeal dismissed

Judgement

1. THIS is in appeal under Section 27A of the Consumer Protection Act, 1986 against the order of State Consumer Disputes Redressal Commission, Chandigarh made on 30.1.2013 in execution application No. 37 of 2012. The execution application itself arose from the order of the same Commission in CC No. 65 of 2011 pronounced on 17.4.2012. While disposing of the Complaint, the State Commission had made the following order: In view of the above discussion, we are of the considered opinion that the complaint has merit and the same is liable to succeed. We, accordingly, allow the complaint with costs and direct the opposite parties as under - -

(i) Opposite party No. 2 (dealer) is directed to send, the vehicle in question (lying with it) for repair to the premises of opposite party No. 1 (manufacturer) within 30 days from the date of receipt a certified copy of the order, as its own expenses.

(ii) Opposite party No. 1 (manufacturer) is directed to take over the vehicle from opposite party No. 2, at its service centre, and repair the vehicle/replace the defective parts to the full satisfaction of the complainant within 45 days from the date of receipt of the vehicle from opposite party No. 2 under the supervision of its panel of experts and obtain their affidavit to the effect that the said vehicle has been fully rectified and made road -worthy, along with an extended warranty of one year from the date of repair.

(iii) Failure on the part of the opposite parties, to repair the vehicle to the full satisfaction of the complainant will make them liable to refund the full price of the vehicle to him.

(iv) The opposite parties are further directed to pay to the complainant Rs. 1,68,000 (Rs. 3,000 x 56 days, as held in para No. 10 of the order) as charges for hiring taxi.

(v) The opposite parties shall pay Rs. 50,000 as compensation to the complainant for mental agony and physical harassment.

(vi) The opposite parties are further directed to pay Rs. 5,000 towards costs of litigation.

If the process of detailed consideration of the application for execution of the above order, the State Commission observed that the executing Court/Tribunal cannot go behind the order passed in the complaint. The question before the executing Court is only to determine whether judgment debtor/opposite party has complied with the directions contained in the order which decided the complaint. The State Commission has allowed the execution application in the impugned order in the following terms:

In view of the reasons recorded above, the execution application is allowed with no order as to costs. Let Certificate of Recovery under Section 25(3) of Consumer Protection Act, 1986, after preparing the correct calculation sheet, in respect the same (said amount) from the Judgment Debtors/opposite parties, in the same manner as arrears of land revenue - -

(i) Rs. 18,73,874 (as per Invoice along with interest @ 12% per annum, from the date of filing the complaint i.e. 7.9.2011, till the date of actual payment;

(ii) Interest @ 12% per annum on the amount of Rs. 2,18,000 i.e. [Rs. 2,23,000 - Rs. 5,000 (costs of litigation)] for the period from 7.9.2011 to 13.8.2012.

14. The execution application, is adjourned to 5.3.2013, for awaiting the execution of certificate of recovery from the District Collector, U.T. Chandigarh, as regards the recovery of the aforesaid amounts.

15. In view of the above, the Miscellaneous Application No. 107/2012, filed by Judgment Debtor/opposite party No. 2, for directing the Decree Holder/ Complainant, to take possession of the car, is dismissed, as having been rendered infructuous.

2. THE above order is now in challenge before this Commission in the present proceedings. Mr. Vipin Singhania, Advocate for the appellant/Skoda Auto India Pvt. Ltd. and Mr. Nikhil Goel, Advocate for the respondent/complainant have been heard. The ''records produced have also been carefully perused. On 18.4.2012, the two sides were also permitted to file their written submissions. The memorandum of appeal raised large number of issues as grounds of appeal. On perusal they are found to be in the nature of re -agitation of facts of the case. Thus, the memorandum of appeal in para 4L states: Because impugned order did

Downloaded from CourtKutchehry — https://dev.courtkutchehry.com/judgments/skoda-auto-india-private-limited-and…

not appreciate that ''finding of fact'' as recorded by the State Commission is abrupt and perpetuates an inherent dichotomy. Whereas the State Commission goes on to affirm the claim of lack of repair upon subject vehicle in terms of Directions (i) and (ii) of the Final Order, the finding,

- - Is unsubstantiated;

- - Is passed in oblivious, to material placed on record and/or made available for perusal by the petitioners herein;

- - Is oblivious to manufacturers'' warranty thereupon which was got extended following Final Order passed in the Consumer Complaint;

- - Is passed without independent examination of subject vehicle which under given circumstances was necessary and perhaps the only certain way to "cap" the issue;

- - Is substantially based upon the affidavit of the complainant which is vague, ambiguous and shorn of technical and/or supportive data.

This is clearly an attempt to widen the scope of execution proceedings and cannot be permitted. If the appellant intended to challenge the directions given by the State Commission in its order of 17.4.2012, the only proper course would have been to file an appeal against it. The present appeal is not against the order of 17.4.2012 but in execution proceedings.

3. THE impugned order is made in execution proceedings filed before the State Commission on 27.7.2012. It is clear from the impugned order and the material brought on record in the present proceedings that the very first direction viz. that the vehicle should be sent by O.P. -2 (dealer) to O.P. -1 (manufacturer) within a period of 30 days was not complied with. Similarly, the second direction that O.P. -1 should repair the vehicle/replace the defective parts within the next 45 days under the supervision of its panel of experts and obtained their affidavit to the effect that the vehicle has been fully repaired, has also been not complied. The e -mail sent by O.P. -2 on 30.6.2012 to the Complainant informing that the vehicle had been repaired and the affidavit of Mr. Amit Srivastava filed on behalf of the O.Ps. cannot constitute compliance with the direction in the order of 17.4.2012. In this behalf the State Commission has observed: Admittedly, the Judgment Debtors/opposite parties, failed to comply with direction contained in the order dated 17.4.2012, within the stipulated period, resulting into the filing of the present execution application. Even subsequently, despite granting them a fair opportunity to comply with the said order, they miserably failed to do so, and instead of furnishing the affidavits of panel of experts, they chose to file only single affidavit of Sh. Amit Shrivastava, which was again in contravention of the order dated 15.4.2012. From the facts and circumstances, it is established that the Judgment Debtors/opposite parties, neither rectified the defects nor in failure to do so, refunded the price of the vehicle, in question, as already directed vide the order dated 17.4.2012. Therefore, they are now liable to refund the full price

Downloaded from CourtKutchehry — https://dev.courtkutchehry.com/judgments/skoda-auto-india-private-limited-and…

of the vehicle, in question, as per Direction No. 11(iii) of the said order.

4. NO material has been brought by the appellant on record to show that the vehicle was sent to O.P. -1 and was got repaired under the supervision of experts of O.P. -1. Instead the appellant has sought to rely upon the following two decisions: 1. Sushila Automobiles v. Birendra Narain Prasad and Others, 2010 (3) CPJ 130 (NC).

In this case the question for decision was what would constitute manufacturing defect. The National Commission held that non -supply of accessory and evidence of minor defects would not amount to manufacturing defect.

2. Rakesh Gautam v. Sanghi Bros and Others, III, (2010) CPJ 105 (NC) : Revision Petition No. 40 of 2006, decided by the N.C.D.R.C. on 4.5.2010:

In this matter also the issue was nature of defects in the vehicle. The National Commission came to a conclusion that the vehicle in question suffered only from minor defects, which cannot be termed as manufacturing defects.

Both these decisions are on facts different from the question in the present execution appeal. His question is not the nature of defects in the vehicle but the manner and adequacy of compliance with the directions of the State Commission. In view of the above, the First Appeal No. 137 of 2013, filed by M/s. Skoda Auto India Pvt. Ltd. under Section 27A of the Consumer Protection Act, 1986, is held to be devoid of any merit. Consequently, the appeal is dismissed. No order as to costs.

Downloaded from CourtKutchehry — https://dev.courtkutchehry.com/judgments/skoda-auto-india-private-limited-and…