

(2005) 10 NCDRC CK 0062

In the National Consumer Disputes Redressal Commission

Tata Engineering and Locomotive Company Limited

APPELLANT

Vs

Chandrashekar

RESPONDENT

Date of Decision : 27-10-2005

Acts Referred:

Citation : 2006 1 CPJ 485 : 2006 2 CPR 174

Hon'ble Judges : Chandrashekhar , J.N.Srinivasa Murthy , Rama Ananth J.

Final Decision : Appeal dismissed

Judgement

1. THIS appeal is by opposite party (for short, "O.P.") No. 3, which is the manufacturer of "Tata Indica Cars", challenging the order of the District Forum allowing the complaint of complainant.

2. THE facts in this case are as follows: THE complainant has purchased Tata Indica Diesel car bearing No. KA-18/M-9499 from O.P. No. 2, which is the dealer of the cars manufactured by O.P. No. 3, on 25.6.1999 by borrowing loan from the Corporation Bank, Kogre Branch in Koppa Taluk of Chickmagalur District, after seeing the vehicle in question in an exhibition of the vehicles conducted by O.P. No. 3 at Koppa. As there were some defects in the vehicle in question, the said defects were intimated to O.P. No. 2, which is at Mangalore. According to the complainant, in spite of the fact that O.P. No. 2 attended to the defects pointed out by the complainants, the defects were not rectified. In this regard, the complainant had also written several letters to O.P. No. 3, which is the manufacturer of the cars in question. THE manufacturer in reply to the letters written by the complainant has stated that the defects would be cured. But, according to the complainant, the vehicle in question was not repaired to the satisfaction of the complainant. O.P. No. 1 has no dealing with the complainant but it is the Branch Office of O.P. No. 2, which is the dealer of the cars. O.P. No. 2 has filed its version stating that the District Forum, Chickmagalur, has no jurisdiction to entertain the complaint, as no cause of action arose within the jurisdiction of the District Forum, Chickmagalur. It is further averred in the version that prompt and best service was provided and there is no such

manufacturing defect in the car as stated by the complainant in his complaint. It is further stated that the performance of any vehicle depends on the method of user, condition of the road, fuel, load applied, air pressure in the tyres, driving habits or manner of driving etc. O.P. No. 3 though had put in appearance has not filed any version disputing or denying the averments made by the complainant in the complaint.

Before the District Forum, the complainant examined himself as P.W. 1 and got marked Exhibits P-1 to P-49. On behalf of O.P. Nos. 1 and 2, Shriyuths Sunilkumar and Tilango were examined as R.Ws. -1 and 2 and got marked Exhibits R-1 to R-24. The District Forum after considering the evidence adduced by the parties allowed the complaint with a direction to the O.Ps. to replace the engine and pay damages of Rs. 25,000 and cost of Rs. 2,000 to the complainant. This order is under challenge by O.P. No. 3 in this appeal.

3. THE only point that arises for consideration in this appeal is: Whether the District Forum is justified in allowing the complaint of the complainant by directing the O.Ps. to replace the engine and awarding damages as stated above? So far as the jurisdiction aspect is concerned, the complainant has established that he has purchased the car at Koppa after seeing the car in the demonstration conducted by the O.Ps. Koppa comes within the jurisdiction of Chickmagalur District. If that is so, the complaint filed by the complainant before the District Forum, Chickmagalur, is maintainable.

4. IT is in evidence that free services to the vehicle were attended to by O.P. No. 3 from time to time as per the service manual. IT is also in evidence that during the warranty period, O.P. No. 3 replaced four tyres of the vehicle free of cost and two tyres on charging 50% of the cost. Replacement of the tyres was within few months from the date of delivery of the vehicle to the complainant. This fact itself discloses that the tyres fitted to the vehicle were of sub-standard quality. In order to prove that the tyres were of standard quality, the O.Ps. have not produced any evidence before the District Forum. If the tyres were of standard quality, there was no occasion for the O.Ps. to replace the tyres. In addition to this, there were several defects in the vehicle as seen from the Job Card No. 25582 dated 23.9.1999. The said Job Card discloses that the defects to be attended were as follows: "(1) Carry out II free services, (2) check for front both tyre wear, (3) Adjusted wheel alignment and kept under observation, (4) Check for engine oil leakage, (5) Check up F/L and R/both door lock and tail gate lock, (6) Check for water leakage from rear, (7) Check for F/L wheel rim for bend, (8) Check blower switch for not working, (9) Check up temperature gear, (10) Check up rear wheel for block and break shippage, (11) Floor mat replace V/w and alternatur belt replace V/w."

The said Job Card is marked as Exhibit R-8. From a reading of the above Job Card, it is seen that no one would expect that there would be so many defects in the new vehicle. Exhibits R-6 and R-7 are also the job cards relating to the vehicle in question. Sri Sunilkumar who has been examined as R.W. -1 has

admitted in his deposition that the complaints mentioned in the job cards at Exhibits R-6 to R-8 have been repeated. In spite of attending to the defects during the time of free service if the defects were to occur repeatedly, then the only conclusion that could be drawn is that the vehicle in question is not up to the satisfaction as per the advertisement issued by the O.Ps. One of the major defects in the vehicle is leakage of Oil from the Engine. This leakage of Oil from the Engine is mainly due to the manufacturing defect in the Engine itself. If there is no defect in the Engine, then there would be no scope for leakage of Oil from the Engine. No purchaser would expect that there would leakage of Oil from the Engine within three months from the date of the purchase of the vehicle. In addition to this, there were several defects such as colour was dim; dust and water were entering inside the car from the back dikky portion, Air conditioner was not working properly and the vehicle was giving low mileage. The complainant purchased the car relying upon the advertisement issued by the O.Ps. after seeing the car in the demonstration. No person would expect that there would be so many defects in a new car. But, unfortunately, in the instant case, there were several defects in the car and even though the complainant brought the defects to the notice of the manufacturer, the manufacturer did not make any attempt to rectify the defects pointed out by the complainant. The manufacturer has also not filed any version disputing the averments made by the complainant in the complaint before the District Forum. Taking all these facts into consideration, we are of the view that the District Forum is justified in directing the O.Ps. to replace the Engine, though the complainant has asked for replacement of the vehicle. The District Forum is also justified in awarding the compensation of Rs. 25,000 taking into consideration the fact that the complainant has purchased the car by borrowing loan from the Bank and he was made to use the car with all these defects. Further, the purchaser of a new car is not expected to face any inconvenience due to the defects referred to above. Therefore, we are of the view that the impugned order passed by the District Forum considering the evidence placed before it does not call for any interference. In the result, we pass the following order. The appeal is dismissed. Appeal dismissed.