

(2015) 03 NCDRC CK 0055

NATIONAL CONSUMER DISPUTES REDRESSAL COMMISSION

Case No: NO 2211 of 2009

MARUTI SUZUKI INDIA LTD.

APPELLANT

Vs

VJAYAN V. ANAND & ORS.

RESPONDENT

Date of Decision: March 20, 2015

Acts Referred:

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

Citation: 2015 3 CPJ 16

Hon'ble Judges: B.C. Gupta

Advocate: K.P. Sundar Rao, A. Subhashini

Judgement

1. This revision petition has been filed under section 21(b) of the Consumer Protection Act, 1986 against the impugned order dated 23.03.2009, passed by the Kerala State Consumer Disputes Redressal Commission (hereinafter referred to as the State Commission) in FA No. 97/2009, "General Manager, M/s. Indus Motor Co. Pvt. Ltd. Vs. Vijayan V. Anand", vide which, while dismissing appeal, the order dated 31.12.2008, passed by the District Forum Palakkad, Kerala, allowing the consumer complaint No. 101/2006 was upheld.

2. The facts of the case are that the complainant/respondent-1 Vijayan V. Anand filed complaint No. 101/2006 before the District Forum under section 12 of the Consumer Protection Act, 1986, stating that he purchased a vehicle Maruti Baleno LXI, manufactured by petitioner Maruti Suzuki India Limited through the dealer, Indus Motor Company Pvt. Limited, respondent no. 2 & 3 / OP no. 2 & 3. The said vehicle was purchased as per invoice number 83511 dated 10.02.2005. It has been alleged in the complaint that the dealer informed the complainant at the time of purchase that the vehicle will be of 2005 model. However, the certificate of registration of the

vehicle as per registration no. KL09Q-6194 issued by the Regional Transport Office, Alathur mentions the year of the manufacture of the vehicle as 2004. The complainant asked respondent no. 2 & 3 / OP No. 2 & 3 to replace the vehicle as he had purchased the vehicle under the impression that he was being supplied a vehicle of 2005 model. On their failure to replace the vehicle, he filed the consumer complaint in question, seeking direction to the OPs to deliver the latest model of the vehicle or pay a compensation of 1lakh, alongwith a sum of 25,000/- for the mental agony suffered and also the cost of proceedings. The complaint was resisted by the petitioner/OP-1 by filing a written statement saying that the petitioner manufacturer was not a party to the transaction of sale/purchase of vehicle between the complainant and OP No. 2 & 3. There was, therefore, no cause for deficiency in service or unfair trade practice against petitioner/OP No. 1. It was also stated that the petitioner/OP No. 1 was not responsible for any alleged act of omission or commission of OP No. 2 & 3 in any manner and hence, complaint against them was not maintainable. As stated in the order of the District Forum, OP No. 2 & 3 contended before the District Forum that the year of manufacture of the vehicle was certified by the RTO, based on the cut-off chassis number received from OP No. 1, manufacturer every year and this could not be changed by any one. They denied that they had given assurance to the complainant that the model of the vehicle will be of 2005.

3. The District Forum vide their order dated 31.12.2008 allowed the complaint stating that in the sale certificate on form 21, issued by the dealer, it had been stated that the year of manufacture was January 2005, although the vehicle was of 2004 model. The District Forum directed the OPs including the petitioner to pay an amount of 30,000/- as compensation to the complainant alongwith 1,000/- as cost of the proceedings. Being aggrieved against this order, the petitioner as well as OP No. 2 & 3 filed an appeal before the State Commission, but the same was dismissed in limine vide impugned order dated 23.03.2009, saying that in the sale certificate on form 21, it was wrongly mentioned that the year of manufacture was January 2005. The present revision petition has been filed by the OP No. 1/manufacturer of the vehicle alone against the order of the State Commission.

4. At the time of hearing before me, learned counsel for the petitioner argued that the petitioner Maruti Suzuki India Limited was the manufacturer of the said vehicle, but they were not party to the transaction of sale/purchase that took place between the complainant and the dealer. He stated that as per practice, the manufacturer sends an intimation every year to the Registration Authority about the number and particulars of vehicle (including engine number, chassis number etc.) which makes it clear that a particular vehicle was manufactured during that very year only. In the instant case also, the Registration Authority must have registered the vehicle based on the information supplied to them by the manufacturer. The learned counsel stated that the petitioner was not responsible in any manner if the dealer gave an

impression to the purchaser that the vehicle was of 2005 model, OR if the dealer had stated on the sale documents that the year of manufacture of the vehicle was 2005. The State Commission and District Forum had, therefore, taken an erroneous view that the petitioner shall be jointly and severally responsible for the deficiency in service, caused towards the complainant in the present case.

5. In support of his argument, learned counsel for the petitioner has drawn attention to an order passed by the Hon'ble Supreme Court of India in " Indian Oil Corporation vs. Consumer Protection Council, Kerala" [II (1994) CPJ 21 (SC)] , saying that unless there was privity of contract between the petitioner and the consumer, no liability could be inflicted upon the petitioner. He has also drawn attention to cases decided by this Commission, "Maruti Udyog Limited vs. Nagendra Prasad Sinha" [II (2009) CPJ 295 (NC)] and "Maruti Udyog Limited vs. Arjun Singh & Anr." [RP No. 2636/2006 decided on 21.04.2009] , saying that the relationship between the petitioner and OP No. 2 & 3 was of principal to principal basis and hence the petitioner was not liable to give any compensation for the fault of the dealer.

6. I have examined the entire material on record and given a thoughtful consideration to the arguments advanced before me. A perusal of the material on record including the orders passed by the State Commission and District Forum indicates that on Form - 21 sale certificate, issued by respondent No. 2 & 3/OP No. 2 & 3, the year of manufacture of the vehicle in question was mentioned as January 2005. However, the vehicle was registered by the RTO stating that the year of manufacture of the vehicle was 2004. This must have been based on the information supplied by the manufacturer to the Registering Authority as narrated by the counsel for petitioner during the course of arguments. It is quite obvious, therefore, that the responsibility for giving wrong information or documents to the complainant lies solely on the dealer and only he should be liable to pay the necessary compensation. During hearing before this Commission, notice was issued to respondent No. 1/complainant and also to respondent No. 2 & 3 dealer but they did not choose to appear before this Commission despite service. Moreover, the dealer has not challenged the impugned order by way of any revision petition etc. meaning thereby that the impugned order has become final qua the dealer. Under these circumstances, it is held that the petitioner manufacturer is not liable in any manner for the deficiency in service towards the complainant by the dealer and hence, it is clear that the District Forum had taken an erroneous view that the petitioner manufacturer is jointly and severally liable to pay compensation to be complainant. The present revision petition is, therefore, allowed and the order passed by the State Commission and District Forum are modified to the extent that the entire liability shall be borne by the respondent No. 2 & 3 / OP No. 2 & 3 jointly and severally. The amount deposited by the petitioner in response to the order passed by this Commission during the course of hearing shall be returned to them.