

**(2012) 11 NCDRC CK 0021**

**NATIONAL CONSUMER DISPUTES REDRESSAL COMMISSION**

**Case No:** None

SUKHVINDER SINGH

APPELLANT

Vs

Classic Automobile

RESPONDENT

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**Date of Decision:** Nov. 6, 2012

**Citation:** 2012 0 NCDRC 887 : 2013 1 CPJ 47

**Hon'ble Judges:** J.M.MALIK , VINAY KUMAR J.

**Final Decision:** Petitions dismissed

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**Judgement**

1. THIS order shall decide both the revision petitions filed by Sukhvinder Singh, the car owner. According to him, there was manufacturing defect in his newly purchased Indigo Dicor car on 12.2.2008 from Classic Auto Mobile, Authorised Dealer, OP-1, of TATA Motors Ltd., OP-2. It is alleged that the car has manufacturing defect due to over heating of the car. Since those defects were not removed or the new car was not replaced, therefore, a complaint was filed before the District Consumer Forum.

2. THE District Consumer Forum directed that Classic Auto Mobile, Authorised Dealer, would replace the vehicle of the complainant by new one with the consultation of Tata Motors, opposite party of the same price along with Rs. 20,000 as compensation or cost of Rs. 5,000 to be paid by the opposite party to the complainant. It further held that both the opposite parties are jointly and severally liable for the said damage.

Aggrieved by this order, the opposite parties filed first appeals before the State Commission. The State Commission accepted the appeals on the ground that the

lower Forum did not consider the service record and placed reliance on oral submissions. The State Commission opined that in such a case, the opinion of an automobile expert was essential. It was also observed that the car was running more than 10,000 kms. In 5 months " time, over heating of car engine appears unlikely.

3. WE have heard the learned Counsel for the petitioner at the time of admission of this petition. He has invited our attention towards two authorities of this Commission reported in the case of Nachiket P. Shirgaonkar v. Pandit Automotive Ltd. and Anr., II (2008) CPJ 308 (NC) and Kinetic Motor Co. Ltd. and Anr. v. Shiv Charan Negi, IV (2007) CPJ 167.

4. IN order to prove that there was a defect in the car of the complainant, the petitioner has invited our attention towards Annexure P-4, service history which mentions:

"Complaints (Complaint Code, Complaint Description, Repeat complaint (Y/N), Customer Voice A1, engine overheating, N, Over heating D9, Type wear high, N, Jobs (Job code, Job Description, Remarks, Billing Type, Subcontracted (Y/N), Status) 203000, thermostat remove and install-renew gasket, Thermostate Valve Assy Change, Warranty-3003230-Shastringr, N, Invoiced 401040, front wheel alignment, check and adjust, PAID-3003230-Shastringr, N, Invoiced. "

The District Forum has placed reliance only on the affidavit of the respondent. To our mind this much evidence is exiguous. The service history only reveals that there was overheating which defect was removed. The above stated authorities hardly dovetail with the facts of this case. There is no evidence except P-4 that the vehicle became defective again. The above said judgments are not applicable to the present case. The observation made by the State Commission assumes importance. The report of expert was essential or some other evidence showing manufacturing defect should have been adduced. The mere fact that the vehicle was taken to the service station for one or two times does not ipso facto prove the manufacturing defect. Due to lack of evidence, the value of the petitioner 's case evanesces.

5. BOTH the revision petitions are ill-founded and, therefore, the same are dismissed in limine. Revision Petitions dismissed.