

**Vasdev Vs. Tata Motors Limited and Another**

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**Court :** Punjab State Consumer Disputes Redressal Commission SCDRC Chandigarh

**Decided On :** Jan-31-2013

**Judge :** THE HONOURABLE MR. INDERJIT KAUSHIK, PRESIDING MEMBER & THE HONOURABLE MR. JASBIR SINGH GILL, MEMBER

**Appeal No. :** First Appeal No. 1379 of 2008

**Appellant :** Vasdev

**Respondent :** Tata Motors Limited and Another

**Judgement :**

Inderjit Kaushik, Presiding Member

1. Sh. Vasdev, appellant/complainant (In short the appellant) has filed this appeal against the order dated 08.10.2008 passed by the learned District Consumer Disputes Redressal Forum, Ferozepur (in short the District Forum).

2. Facts in brief are that the appellant filed a complaint under section 12 of the Consumer Protection Act, 1986 (in short, the Act) against the respondents, on the allegations that on 15.01.2008, he purchased a HCV vehicle from respondent no.2 vide sale invoice dated 15.01.2008 bearing chassis no.466337MSZ23183, engine no.70M62633387, model 2007 for value of Rs.15,07,686/-, but the delivery of the said vehicle was handed over to the appellant on 18.01.2008 vide temporary certificate of registration bearing book no.DML 531, serial no.A 26552 and the temporary number of the vehicle was PB-10/BV/2007/8513.

3. At the time of handing over of the vehicle in question by respondent no.2, it did not handover the sanctioned drawing of the said vehicle and promised that the same will be delivered shortly. The appellant purchased the vehicle in question after getting the same financed from HDFC Bank and the said loan was to be paid in equal monthly installments of Rs.32,686/-. Rs.3.00 lacs were spent for making its body and cabin etc. The said vehicle was got insured from Bajaj Allianz and one driver and one helper was employed on monthly salary of Rs.5,000/- and Rs.3000/- respectively.

4. The appellant visited the office of respondent no.2 and asked to hand over the sanctioned drawing of the vehicle in question as the same was required for getting the vehicle registered, but the officials of respondent no.2 put off the matter and the appellant was harassed mentally and physically. The appellant was surprised to know that the vehicle in question which purchased by the appellant was only a demo vehicle which could not be sold as the same was not launched at the time of its purchase nor it has the sanctioned drawing was available. The said vehicle was launched in the State on 21.02.2008 i.e. much later than its purchase by the appellant.

5. In the month of February, the budget was announced and in the budget, 2% duty was exempted on the purchase of every heavy vehicle and the appellant paid approximately Rs.40,000/- excess than its actual rate after the date of its launching in the State. The appellant requested the respondents to hand over the

sanctioned drawing and to return the excess mount, but no heed was paid. There is deficiency in service on the part of the respondents and appellant suffered mental tension and harassment.

6. It was prayed that the respondents may be directed to pay Rs.5.00 lacs as compensation on account of harassment, mental tension and agony.

7. In the written reply filed on behalf of respondent no.1, the preliminary objections were taken that the complaint is not maintainable in the present form. The appellant has not approached the District Forum with clean hands and has concealed the material facts. The complaint is false and fictitious and is liable to be dismissed.

8. The vehicle sold to the appellant was of highest quality and the appellant has taken the delivery of the vehicle after pre-delivery inspection and entire satisfaction and it fully complied with the warranties, assurances and specifications. There was no deficiency in service on the part of the answering respondent. The relationship between the respondents is on principal to principal basis and the answering respondent cannot be held liable for any independent act or omission committed by the other party. The prayer of the appellant is beyond the warranty conditions. The vehicle is being utilized by the appellant regularly from the date of its purchase. There is no territorial jurisdiction and the complaint is liable to be dismissed due to misjoinder of necessary parties, as HDFC Bank from where the appellant availed the loan has not been impleaded as party. The vehicle in question was purchased by the appellant for commercial purpose and the complaint is not maintainable. The District Forum is not competent to try and decide the complaint.

9. On merits, it was admitted that the appellant purchased a HCV vehicle from respondent no.2. The appellant has not provided any of the documents with the complaint to respondent no.1 and respondent no.1 is filing the reply without waiting for the supply of documents. Respondent no.2 has delivered all the documents along with the vehicle in question. All the documents were delivered by respondent no.1 to the appellant. Respondent no.1 is not having any kind of demo vehicle. The vehicle in question was sold by respondent no.1 to respondent no.1 for sale. It was denied that the vehicle in question was launched in the State of Punjab on 21.02.2008. The excise duty is payable to the Excise Department on the date when the vehicle is rolled out from the factory premises. The excise rules do not permit respondent no.1 to extend any such excise benefit to the appellant. Respondent no.2 has charged the price on the basis of the price prevalent on the date of sale. No loss was suffered by the appellant. Other similar pleas were repeated and denying allegations of the complaint, it was prayed that the complaint may be dismissed with costs.

10. In the written reply filed on behalf of respondent no.2, similar preliminary objections as well as on merits similar pleas, as raised by respondent no.1, were repeated and denying allegations of the complaint, it was prayed that the complaint may be dismissed with costs.

11. Parties led evidence in support of their respective contentions by way of affidavits and documents.

12. After going through the documents and material placed on file and after hearing the learned counsel for the parties, the learned District Forum observed that the respondents have failed to satisfy the Forum as to why the sanctioned drawing of the vehicle was not delivered to the appellant along with the vehicle. The appellant suffered lot of mental harassment and purchased the vehicle for a valuable consideration of Rs.15,07,686/- and thereafter, spent huge amount on construction of cabin and body structure. The respondents have not placed on file the invoice of the vehicle from which the actual price of the vehicle can be seen. The respondents have concealed the material facts and have not come to the Forum with documentary evidence to prove their case. The complaint was accepted with Rs.10,000/- as compensation and Rs.1,000/- as litigation expenses, directing the respondents to hand over the sanctioned drawing of the vehicle to the appellant within a period of one month and to pay compensation and litigation expenses.

13. Not satisfied by the impugned order dated 08.10.2008, the appellant has come up in appeal, seeking enhancement of the compensation.

14. We have gone through the pleadings of the parties, perused the record of the learned District Forum and have heard the arguments advanced by the learned counsel for the parties.

15. Learned counsel for the appellant contended that the appellant purchased the vehicle in question from respondent no.2, which was manufactured by respondent no.1. It was contended that the appellant applied to the District Transport Officer, Ferozepur for passing the vehicle vide application dated 30.07.2008 and the Motor Vehicle Inspector, Ferozepur made report that for passing the said vehicle, the drawing has to be approved by the State Transport Commissioner, Punjab, Chandigarh. Due to non-availability of the passing of the drawing, the vehicle cannot be passed. It was further argued that the vehicle was purchased on 15.01.2008, but the same could not be plied on the road in the absence of passing of its drawing for a long time and the appellant suffered financial loss and mental harassment, but the District Forum has awarded only Rs.10,000/- as compensation which is a meager amount and the compensation may be enhanced.

16. On the other hand, learned counsel for the respondent has argued that no financial loss was suffered by the appellant and the vehicle in question is being plied on the road from the date of sale and at the time of sale, the vehicle in question was approved by the competent authority and the appeal being without any merit is liable to be dismissed.

17. We have considered the respective submissions advanced on behalf of the parties and have thoroughly scanned the entire record and other material placed on the record.

18. The appellant purchased the HCV vehicle from respondent no.1 on 15.01.2008 vide tax invoice Ex.C-4. Sale certificate dated 15.01.2008 Ex.C-3 was issued and the temporary certificate of registration Ex.C-2 was also issued which was valid from 15.01.2008 to 14.02.2008. Another certificate Ex.C-5 was issued by the respondents, mentioning the different provisions of the Motor Vehicles Act and then further certifying that the vehicle complies with the provisions of the Motor Vehicle Act, 1988 and the rules made thereunder, subject to the following remarks, but no remark was given. Vide Ex.C-6 dated 04.02.2008, the token tax was paid.

19. The grouse of the appellant is that the vehicle was sold much prior to the approval/passing of the said vehicle by the competent authority and after spending huge amount of Rs.15.00 lacs, he could not ply the same on the road and suffered financial loss as well as mental torture and harassment, but the compensation awarded is inadequate.

20. The appellant vide application Ex.C-8 dated 30.07.2008 wrote to the District Transport Officer, Ferozepur to pass the vehicle in question, by giving the detail of the vehicle purchased on 15.01.2008 and the Motor Vehicle Inspector, Ferozepur made a report on this application, mentioning that for the passing of the above vehicle, the State Transport Commissioner, Punjab, Chandigarh has to pass the drawing. The said drawing of the above vehicle has not been passed and, as such, the vehicle cannot be passed. The said vehicle will be passed after the same is approved by the State Transport Commissioner, Punjab, Chandigarh. Thus, it is clear that from 15.01.2008 till 30.07.2008, the drawing was not approved by the competent authority, nor the vehicle in question was passed by the competent authority and when the drawing was passed, thereafter the vehicle was passed by the competent authority, but when it was passed, there is nothing such on the file. The respondents sold the vehicle without getting the drawing of the vehicle passed from the competent authority, nor it was approved for plying on road in the State of Punjab by the State Transport Commissioner, Punjab, Chandigarh. As such, the vehicle remained idle for more than six and a half months. The District Forum has awarded only compensation to the tune of Rs.10,000/- which is inadequate and the same is required to be enhanced.

21. In view of above discussion, the appeal filed by the appellant is allowed and the impugned order under appeal dated 08.10.2008 passed by the District Forum is modified to extent that the compensation of Rs.10,000/- awarded by the District Forum is enhanced to Rs.1,00,000/- (Rupees One Lac) which shall be paid by the respondents within one month from the date of receipt of copy of the order, failing which the interest

@ 7.5% p.a. on this amount shall be payable from the date of filing of the complaint till realization. With this modification, the remaining part of the impugned order is affirmed and upheld.

22. The arguments in this appeal were heard on 29.01.2013 and the order was reserved. Now the order be communicated to the parties.

23. The appeal could not be decided within the stipulated timeframe due to heavy pendency of court cases.

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