

Mrf Limited Vs. P.K. Vijayan and Another

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Court : Kerala State Consumer Disputes Redressal Commission SCDRC
Thiruvananthapuram

Decided On : Aug-12-2010

Judge : The Honourable Shri. Justice K.R. Udayabhanu, President

Appeal No. : First Appeal No. A/10/227 (Arisen out of order dated 25/02/2010 in Case No. CC 33/08 of District Kottayam)

Appellant : Mrf Limited

Respondent : P.K. Vijayan and Another

Judgement :

JUSTICE SHRI. K.R. UDAYABHANU, PRESIDENT

The appellants are the opposite parties in CC No. 33/2008 in the file of CDRF, Kottayam. The appellants/second opposite party manufacturer are under orders to pay a sum of Rs. 2,000/- as compensation and Rs. 1,500/- towards costs.

The respondent was present in person.

It is the case of the complainant that he purchased two tyres for a sum of Rs. 3,300/- from the first opposite party dealer. One of the tyres cracked on sidewalls at three places. The tyre had run only 545 kms and the damage occurred within the warranty period. As the first opposite party informed that warranty will be honoured only by the manufacturer he sent the tyre to the second opposite party.

The second opposite party issued a rejection advise stating that there was no manufacturing defect and denied the request for replacement.

The first opposite party was absent in the proceedings before the Forum.

The second opposite party contended that there was no manufacturing defect. The life of the tyre being a rubber product depends on many factors like terrain, speed, load, driving habits and impact with internal objects.

The evidence adduced consisted of the proof affidavits of the respective parties and Ext.A1 to A7 and B1 to B4 and C1.

It is the case of the complainant that the tyre was damaged within 22 days of its purchase. The Forum has noted that the damage was within the warranty period. The damaged tyre was referred to the Rubber Research Institute of India and the report received is Ext.C1. In Ext.C1 the expert has noted that there were 4 cracks on one side of the tyre and two of them were diagonally opposite to the sidewall. He has noted that the cracks can be result of stress on the tyre from the vehicle aggravated by running in under inflated condition. He has also mentioned that no signs of internal impact are seen on the tyre. It is also noted in Ext.C1 that the conclusions arrived at in the report are based on physical/visual examination made on the tyre. It is also mentioned that his institute is not having full-fledged facilities for testing the quality.

The complainant was present in person. He has mentioned that it was radial tyre and that the tube did not deflate. It was used in a Maruti Omni Van. The vehicle was used for his family requirements. He had also to spent Rs. 300/- as testing fee and had to take the tyre to the Rubber Research Institute which was situated far away from his place of residence and had to incur considerable expenditure.

We find that the complainant was not cross examined. Nothing has been brought out to indicate that the tyre was used in an under inflated condition. The fact that the other tyres sustained no damage is also relevant. It was damaged within a very short period of purchase. In the circumstances, we find that there is no patent illegality in the appreciation of evidence by the Forum. Hence there is no scope for

admitting the appeal.

In the result, the appeal is dismissed in limine.

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