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Court : Haryana State Consumer Disputes Redressal Commission SCDRC Panchkula

Decided On : Apr-22-2014

Judge : The Honourable Mr. B.M. Bedi, Judicial Member & the Honourable Mrs. Urvashi Agnihotri, Member

Appeal No. : First Appeal No. 950 of 2013

Appellant : Niren Dabas

Respondent : M/S. Bas Engineering Pvt. Ltd. Through Its Managing Director/Principal Officer and Another

Judgement :

B.M. Bedi, Judicial Member:

1. Delay of 13 days in filing of the appeal is condoned.
2. This appeal has been preferred against the order dated October 15th, 2013 passed by District Consumer Disputes Redressal Forum (for short District Forum), Gurgaon, whereby complaint filed by complainant was disposed of in the following terms:-

æthe complainant is directed to pay the Bill (C-5) within 15 days and to receive his vehicle with a Warranty of at least one year for the repaired vehicle. He is, however, entitled to litigation expenses of Rs.5,000/- while complaint against OP-2 stands dismissed. The complaint stands disposed off accordingly.?

3. Naren Dabas-complainant (appellant herein) had purchased a second hand Honda Car Accord VTI-L, Model No.2009, bearing registration No.PB-10/CN-5132. The appellant wanted to overhaul the vehicle and accordingly brought his vehicle to M/s Bas Engineering Private Limited-respondent No.1, the authorized workshop of M/s Honda Siel Cars India Limited “respondent No.2 on June 8th, 2010. After examining the vehicle, the appellant was told that the estimate of expenses to the tune of Rs.1.00 lac with respect to the repair of the car and to deliver the car to the appellant within twenty days.

4. On July 6th, 2010 when the appellant visited the respondent No.1 to take the delivery of the car, he was asked to wait for some more days. The appellant visited the respondent No.1 many times but of no avail. On September 27th, 2010 when the appellant went to the workshop of the respondent No.1, he was told the estimate of Rs.2,25,794/- with respect to the repair of his vehicle.

5. Appellant-complainant filed complaint under Section 12 of the Consumer Protection Act, 1986 with the averments that he spent Rs.1,80,000/- for hiring taxi for visiting their workshop since June 8th, 2010 for about nine months. Legal Notice (Annexure C-7 and C-8) were served upon the respondents. The appellant-complainant sought compensation of Rs.3.00 lacs from the respondents alleging deficiency in service on their part.

6. Respondents-opposite parties contested complaint by filing their separate written replies.

7. Respondent No.1 in its written reply stated that the car was brought to their workshop duly towed by a crane in a wrecked condition on June 8th, 2010 and only after a preliminary inspection, the estimate of expenses was given to the appellant, however, the final expenses were to be disclosed after repairs. During repairs, it was noticed that some critical costlier parts were required to be replaced

for which the appellant was reluctant to give his approval besides of some other parts. The appellant was interested in getting the car repaired according to his own wishes and specification by any method. In fact, the appellant was interested in disposing of his vehicle for that he was requesting the employees of the respondent No.1 to explore suitable buyer and not succeeding in doing so, the appellant levelled false allegations against the respondents. The car of the appellant was lying ready in the workshop of the respondent No.1 since January 4th, 2011 but he did not turn to take the delivery of his car.

8. Respondent No.2 in its written reply stated that the appellant had purchased the vehicle for commercial purpose and therefore he could not be termed as a consumer as defined in Section 2(1)(d) of the Consumer Protection Act, 1986. The complaint was also filed after the expiry of Warranty period because the vehicle had covered distance of 46000 Kilometers upto June 8th, 2010. It was prayed that the complaint merited dismissal.

9. On appraisal of the pleadings of the parties and the evidence brought on the record, District Forum disposed of the complaint as noticed in the opening part of this order.

10. Indisputably, the appellant had purchased a second hand car from its owner M/s Master Trust, Limited, Ludhiana. In order to bring its condition to new, the appellant brought the vehicle to the workshop of the respondent No.1 and the engineering staff in the workshop after inspection observed as per Job Card Annexure C-4 as under:-

- (i) Vehicle not start.
- (ii) Both side view mirror RKL
- (iii) RHS FT door Glass New Fix up
- (iv) Ft Door Trip new fix up
- (v) RR Door handle check

11. It is admitted by the appellant that during repairs of the car, it was found that the car had a history of major accident. Therefore, the respondents gave the fresh estimate with respect to the expenses of his car. It has also come on the record that neither the vehicle was within warranty nor it was insured with any insurance company. The repair was to be on payment basis.

12. The dispute between the parties is with respect to the estimate of repair of the car. The District Forum disposed of the complaint with the following observations:-

œ..In fact, the complainant has also produced the Car on the very first day on 08.06.2010 after towing it with the help of a crane in wrecked condition and as some critical costlier parts were subjected to be replaced he was reluctant to give approval except of some parts as he was interested in getting the Car repaired according to his own wishes and specification by any method to put it on the road which is also pleaded by the complainant himself. The Car, however, was got ready and lying with the Op-1 since 04.01.2011 but complainant failed to collect it which is duly supported by the OP-1 with their affidavit though the complainant has not denied it specifically, however, he wants to get the vehicle repaired to make it roadworthy at the original estimate of Rs.1 Lac dated 08.06.2010 while the Op after dismantling the vehicle as against the previous outside estimate has submitted the estimate of Rs.2,25,794/- (C-5) which even shows that the vehicle has already covered 461176 km which admittedly the complainant has received on 27.09.2010. Thus, it is a dispute regarding estimate of repair of the Car in dispute. Under the above circumstances a prudent person from the very first observation of a vehicle when it is not in working order from outer observation having several damages as mentioned in first Job Card (C-4) without opening or dismantling the engine, the OP simply gave the estimate of outside repair of Rs.1 Lac + only which even was accepted by the complainant and when the engine etc were opened the OP-1 has given its estimate to the complainant vide Estimate (C-5) and sought complainants approval necessary though orally to which he remained reluctant being allegedly highly inflated estimate of Rs.2,25,794.16 on 27.09.2010 though after some discussion OP (who has already opened and dismantled the vehicle) with his tacit consent (as it is not his case that he directed the OP not to repair it) started its repair by arranging necessary valuable parts which were initially and

admittedly were not available with the manufacturer as production of the said model has already been stopped by the manufacturer (as admitted by complainant) which necessitated the delay in repairing the vehicle in time as well as due to approval of the complainant. Thus, we are of the considered opinion that the original estimate from outside observation as well as its repairing charges after dismantling of the vehicle was very much within the knowledge of the complainant. The complainant has also admitted in his pleading that he handed over the vehicle for its entire repair and overhauling job? which clinches the matter as overhauling means overhauling of the engine and the vehicle itself. Thus, it amounts to effective consent of the complainant for its repair though he remained reluctant to bear this Bill later on though he wants to get the vehicle brought on road according to his wishes and liking i.e. not according to norms and standard of the company but such repair only could have been done from outside not from an authorized dealer workshop, thus, he has to bear with it and such heavy repair require sufficient time to make it roadworthy according to the manufacturers well establish norms and standards for their vehicle in the market.?

13. The car already stands repaired. The appellant-complainant is not collecting the car by paying the bill. The grievance of the complainant was that only the original estimate be charged. Since the car had met with major accident and initial estimate was only on visual inspection, the car having been repaired could only be delivered on payment of charges.

14. Having taken into consideration the facts and circumstances of the case, no case for interference in the impugned order is made out. The appellant is liable to pay the expenses regarding repairs/overhauling of his vehicle.

15. No merit. Dismissed.

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