

**IN THE CONSUMER DISPUTES REDRESSAL COMMISSION,  
THRISSUR**

Present : Sri. C.T. Sabu, President  
Smt. Sreeja. S., Member  
Sri. Ram Mohan R., Member

09<sup>th</sup> day of July 2025  
CC 226/18 filed on 02/05/18

- Complainant : Rahul M.R., S/o Radhika, Madambi House,  
Talikkulam, Thrissur.  
(By Adv. Preejo Pauly, Thrissur)
- Opposite Parties : 1) Bajaj Auto Ltd., Bajaj Auto Limited Complex,  
Mumbai – Pune Road, Akurdi, Pune,  
Maharashtra – 411035.  
2) Grand Motors, Bajaj Dealer, Guruvayoor Road,  
Punkunnam, Thrissur – 680 002.  
3) Grand Motors, Bajaj Dealer,  
Nr, Thiruvani kavu Temple, Mannuthy, Thrissur.  
4) Grand Motors, Bajaj Dealer, Kalmandapam,  
Chandra Nagar, Palakkad – 7.

**FINAL ORDER**

**By Sri. Ram Mohan R, Member :**

1) Complaint in brief, as averred :

The complaint is filed under Section 12(1) of the Consumer Protection Act, 1986. The complainant is statedly an undergraduate student who claims to be a cricket player honoured by the Kerala Cricket Association for his participation in the 6<sup>th</sup> Inter School Cricket Tournament 2015 – 2016, held at Thrissur. The complainant claims to have purchased a Motor Cycle of the category “BAJAJ PULSAR NS 200 ABS” (hereinafter referred to as the vehicle) from the 2<sup>nd</sup> opposite party dealer paying them a sum of Rs. 1,57,746/- (Rupees One lakh fifty seven thousand seven hundred and forty six only) vide their Invoice No. 5920. The 1<sup>st</sup> opposite party is statedly the manufacturer of the vehicle, whereas the 2<sup>nd</sup>, the 3<sup>rd</sup> and the 4<sup>th</sup> opposite parties are the sister

concerns of the 2<sup>nd</sup> opposite party dealer. The complainant states that the 1<sup>st</sup> opposite party, as per their website, claims themselves to be the 3<sup>rd</sup> largest manufacturing company of Motor Cycles across the world. The vehicle which statedly bore Chasis No. MD2A36FY2HCG53268 & Engine No. JLYCHG17445, was registered with Registration No. KL 46 R 7542, the Registration Certificate in respect of which bears the name of the 3<sup>rd</sup> opposite party as its dealer. On 19/03/2018, the complainant while was riding the vehicle on the Engandiyoor to Vadanappilly route, happened to apply its rear disk brake at a junction called 'Ganeshamangalam Junction' and thereupon the brake pedal of the vehicle broke apart and it fell down. This untowardly incident made the complainant embarrassed. Owing to the incident, the complainant's right foot hit the road inflicting severe injuries on it. The complainant statedly could manage the vehicle applying its front wheel brake, as the vehicle was traversing only at a moderate speed. Having been inflicted with severe bleeding from the right foot, the complainant was immediately admitted to M.I. Mission Hospital, Engandiyoor. The doctor informed the complainant that his distal phalynx of the 3<sup>rd</sup> toe of his right foot got amputated owing to the trauma and the same was on the same day repaired by grafting skin from his right thigh. The complainant had to foot a bill worth Rs. 27,593/- (Rupees Twenty seven thousand five hundred and ninety three only) towards hospital expenses for the said purpose, apart from Rs.10,000/- (Rupees Ten thousand only) for other expenses. The complainant statedly spent a lot of money for continuing check-ups and medicines, as well. The complainant alleges that the accident inflicted permanent disability on him. The complainant thereafter claims to have known from a mechanic that the breaking apart of the brake pedal of the vehicle was attributed to the presence of voids therein at the time of its manufacture. Therefore, the complainant affirms manufacturing defect of the vehicle. Though the complainant approached the 2<sup>nd</sup> opposite party seeking its free of cost repair in view of the alleged manufacturing defect, the opposite party statedly denied

the same on unfounded grounds and besides retorted that the accident might have been caused due to some adventurous activities employed by the complainant. The complainant alleges deficiency in service on the part of the opposite parties. Hence the complaint. The complainant prays for an order directing the opposite parties to pay the complainant compensation for the physical injuries and permanent disability sustained by him, apart from that for agony and hardship inflicted on him and costs.

## 2) NOTICE :

The Commission having issued notice, the opposite parties filed their version before the Commission and contested the complaint.

## 3) Version of the opposite parties :

The manufacturing of the vehicle by the 1<sup>st</sup> opposite party is admitted. But the opposite parties deny any manufacturing defect or any deficiency in service on their part. They aver that the vehicle was brought to the service station on 04/04/18, i.e. after the impugned accident, while no complaint regarding the breakage of the brake pedal was reported. They further state that the very occurrence of the accident on 19/03/2018 voids the warranty provided to the vehicle and that the complainant can raise the accident claims only against the insurance company. The complainant having not arraigned the insurance company, concerned, as an opposite party, the opposite parties allege non-jointer of necessary parties. It is also their stance that the complainant failed to provide any expert report regarding the alleged manufacturing defect and therefore terms the complaint baseless. The opposite parties also claim that the complainant had used the vehicle extensively and that it had covered more than 6000 km. Such an extensive use of the vehicle is claimed to be indicative of the vehicle's being free from any manufacturing defect.

#### 4) Evidence :

The complainant produced documental evidence that had been marked Exts. P1 to P8, apart from affidavit and notes of argument. The report filed by the Expert appointed by the Commission (vide IA No.208/18) is marked Ext. C1. The complainant's witness Dr. Muhamed Shelin who deposed as PW2 before the Commission confirmed Ext. P4, P6 and P7 (series) documents.

The opposite parties hardly did adduce any evidence on their part, despite several postings viz 05/08/22, 28/10/22, 10/2/23 and 21/9/23 allotted to them solely for adducing their evidence. Though the opposite parties have been represented through some lawyers since 5/9/2018 i.e., from the very commencement of the case, no vakalath is seen filed till date on their behalf.

During the pendency of the complaint, the Hon'ble High Court of Kerala by its order dtd. 24/03/25 in WP(C) No.11756/25 directed time bound disposal of the complaint.

#### 5) Deliberation of evidence and facts of the case :

The Commission has very carefully delved deep into the facts and evidence of the case. Ext. P1 comprises copies of 3 receipts viz (1) No.12270 dtd. 08/01/18 (2) No.12309 dtd. 17/01/18 and (3) No.12314 dtd. 19/01/18, issued by the 3<sup>rd</sup> opposite party to the complainant receiving from him Rs.5,000/-, Rs.1,00,000/- and Rs.27,255/-, respectively, towards consideration for "NS 200 white" / "NS 200 ABS", as the case may be. Ext. P2 is copy of the Invoice No.5920, dtd. 17/01/2018 issued by the 4<sup>th</sup> opposite party infavour of the complainant receiving from him a sum of Rs,1,15,491/- towards the sale of a vehicle of the category "PULSAR NS 200 ABS". Ext. P3 is copy of the Certificate of Registration in respect of Vehicle No.KL 46 R 7542 with Chasis

No. MD2A36FY2HCG53268, Engine No.JLYCHG17445 registered in favour of the complainant. Ext. P4 is the Treatment Certificate dtd. 19/04/18 issued by Dr. Muhamed Shelin P.I., M.B.B.S., M.S. Ortho, Consultant Orthopedic Surgeon, M.I. Mission Hospital, Engandiyur – 680 615. Ext. P5 is Certificate No.5104 dtd. Nil issued by Kerala Cricket Association in respect of the complainant's representation in the 6<sup>th</sup> Inter-School Cricket Tournament 2015-16. Ext. P6 is a consolidated statement comprising medical expense details in respect of the complainant, issued by Mary Immaculate Mission Hospital, Engandiyur, signed by PW2. Ext. P7 series (SP) comprise a set of Medical bills/Pharmacy bills. Ext. P8 is Invoice No.SICV/186/1920 dtd. 30/04/2019 issued by M/s Grand Motors in favour of the complainant receiving from him Rs. 1,468/- towards the charges for paid job service of the vehicle.

The report submitted by the Expert appointed by the Commission vide IA 587/25 is marked Ext. C1. The complainant's witness Dr.Muhamed Shelin P.I. deposed as PW2 before the Commission.

The case stood posted to various dates viz 05/08/22, 28/10/22, 10/02/23 and 21/09/23 solely for the purpose of the opposite parties' evidence. The opposite parties having not cared to adduce evidence on any of these occasions, their evidence was closed as of 21/09/23.

6) Points of deliberation :

- (i) Whether the complaint, as alleged, is bad for non-jointer of necessary parties ? If in the negative ;
- (ii) Whether the alleged manufacturing defect of the vehicle stands proved ? If yes, whether such manufacturing defect is the reason for the impugned accident ? If in the affirmative ;
- (iii) Whether the averred disability, agony and hardship sustained by the complainant and the alleged deficiency in service on the part of

the opposite parties are proved ?

Also, whether the complainant is entitled to receive any compensation from the opposite parties ? If so its quantum ?

(iv) Costs ?

7) Point No.(i)

The opposite parties state that the very occurrence of the accident has voided the warranty provided to the complainant's vehicle and affirms that the instant kind of claim will stand against the insurer only. Hence they plead non-jointer of necessary party. But in the case at hand, the gist of the complaint is the alleged manufacturing defect that was stated to be innate to the brake pedal of the vehicle which statedly caused the accident in question. If the alleged manufacturing defect of the vehicle is cogently proved to be the reason for the accident, such an accident, by any stretch of imagination, can't void the warranty provided to the vehicle. Moreover, services not provided under warranty, are not the only dispute raised before the Commission, instead the major one is the alleged manufacturing defect of the vehicle and the calamities incidental thereto, suffered by the complainant. Resultantly, the presence of the insurer, concerned, as a party to the complaint is undoubtedly not essential in the case at hand, unlike argued by the opposite party, and we find that the complaint is not bad for non-jointer of the insurer.

Hence Point No.(i) is proved in the negative i.e. in favour of the complainant.

8) Point No (ii) :

The complainant alleges manufacturing defect innate to the brake pedal of the vehicle and that the same caused the accident and inflicted consequential injury to him. The Expert Commissioner appointed by the Commission reportedly submitted Ext. C1 report after inspecting the vehicle on 12/06/18, in

presence of the complainant and the representatives of the opposite parties viz Mr. P. Senthil, Area Sales Manger, Bajaj Auto Limited, for the 1<sup>st</sup> opposite party and Mr. Savyasaji Prathap, Manager Services, Grand Motors, NH Bypass, Thrissur, for the 2<sup>nd</sup>, the 3<sup>rd</sup> and the 4<sup>th</sup> opposite parties. Ext. C1 report unambiguously affirms that the vehicle at the time of inspection was free from dust, rust, dents, scratches, paint peel-offs and damages other than the breakage of the RH foot step holder. The head lamp and tail lamp indictors, mirrors, tyre rim and other fibre / plastic parts of the vehicle were also reported to be free from any sort of defects and damages. It is also reported that the critical components of the vehicle such as engine, gear box, battery etc. were in good condition. But the expert affirms as follows :

*“The RH side footstep & brake pedal holder bracket of the vehicle was found fractured and the rear end portion of the bracket that holds the brake pedal together with the brake pedal was found missing”.*

He has also incorporated therein the photographs of the fractured holder bracket along with that of a similar model vehicle in good condition, for the sake of ready comparison. The report affirms explicitly that *“the foot step and brake pedal holder bracket which was found fractured and the rear end of the bracket together with the brake pedal was missing”*. The expert further reports his findings on thorough examination of the surface of the fractured step holder bracket that the bracket is manufactured using *“some special light-weight die-cast alloy (such as aluminium – magnesium alloy or so)”*. Further from the examination of the fractured surface, he finds that the nature of the fracture is so brittle such that the back portion of the bracket was cracked off without any deformation or elongation. He also states that *“in the normal condition (when the brake pedal is not depressed for applying brake), the clearance (gap) between the bottom most end of the foot rest and the upper most end of the brake pedal is only a few millimetres”*. Absence of any kind of damage to the

other parts of the vehicle particularly at the right side makes him conclude with certainty that the vehicle had not fallen down following the breakage of the holder bracket with brake pedal. He places reliance on the very same reason to further categorically rule out the possibility of the breakage of the holder bracket with the brake pedal being attributed to an accidental hitting of the brake pedal on some stationary object on the road, while riding. He further affirms that such a hitting, if had occurred, would certainly have unbalanced the vehicle and would have resulted in falling of the vehicle on the road, however moderate its speed be. The brittle nature of the brake which is revealed from its morphology, is also reported to be indicative of the lack of toughness of its material, which is expected of the one used for making the bracket, with a view to withstanding any untowardly hitting of the same on any hard object on the road. The expert arrives at the same conclusion from the location of the fracture on the bracket, the fracture having occurred not at the place where the bracket is having the minimum cross sectional area, but at a place where the cross sectional area is quite more than that at the point having the minimum one. The expert, relying on these findings of his, arrives at his considered conclusion that the step holder bracket of the vehicle originally suffered a hairline or micro- crack at the location where the fracture occurred and such hairline or micro-crack developed or grew gradually each time with every application of the brake, and eventually resulted in its cleavage. The expert is seen, thus, to have logically arrived at his conclusion of the existence of an innate manufacturing defect in the step holder bracket of the vehicle. The opposite party is not seen having filed any objection on Ext. C1 report. Nor did they care to cross examine the Expert Commissioner, concerned, as well, or to lead any evidence at all in rebuttal, despite their having been allotted several dates viz 05/08/22, 28/10/22, 10/02/23 and 21/09/23 solely for that purpose. Besides, one of the reasons raised by the opposite parties for their having denied any manufacturing defect, was the extensive use of the vehicle to the tune of



more than six thousand km. But a careful scrutiny of Ext. C1 report unveils the fact that the vehicle had covered only 5138 Km even as of 12/06/2018 i.e. the date of its inspection by the Expert, which in turn renders this contention of the opposite parties unfounded. Moreover, manufacturing defect is found only in respect of the step holder bracket of the vehicle, whereas Ext. C1 report itself affirms that all the other parts of the vehicle including crucial parts like engine, gear box etc, were in good condition which itself makes an extensive use of the vehicle possible. Therefore, the extensive use of the vehicle averred by the opposite parties cannot by itself rule out the manufacturing defect existed in the step holder bracket of the vehicle. Though the opposite parties baldly aver that the breakage of the step holder bracket was not reported by the complainant when the vehicle was brought to the service station on 04/02/2018, they have not cared to place on record before the Commission any evidence to that effect. The opposite parties having not cared to place any evidence at all on record before us to substantiate the contentions that they raised in their version, their pleadings turn out to be bald and remain unproved.

Any man of reasonable prudence on an in-depth comprehension of Ext. C1 report, can directly elucidate the following facts.

- 1) The cleavage of the step holder bracket of the vehicle had not occurred due to its hitting on any hard stationary object on the road, while riding.
- 2) The cleavage of the step holder bracket of the vehicle was not the impact of any accident.
- 3) The vehicle had not fallen down as a result of the impugned accident.
- 4) There was manufacturing defect innate to the step holder bracket of the vehicle.
- 5) The manufacturing defect of the step holder bracket was the reason for its cleavage.

- 6) The cleavage of the step holder bracket of the vehicle was the direct and proximate reason for the impugned accident that had inflicted injury to the complainant.

All considered, we are of the firm conclusion that there was manufacturing defect in the step holder bracket of the vehicle and that the said manufacturing defect innately existed in it, had turned out to be the *raison d'être* for the impugned accident that had caused injury to the complainant.

Point No.(ii) is thus proved in the affirmative.

9) Point No.(iii) & (iv) :

The doctor who treated the complainant, deposed as PW2 before the Commission that he had administered the surgery for repair of the injured toe of the complainant's right foot and also confirmed Ext. P4, P6 & P7 documents. The 4<sup>th</sup> document in Ext. P7 (series) of bills (Bill No.2081 dtd.19/03/18 of M.I. Mission Hospital Engandiyur), evidences that complainant had undergone "S.S. Grafting" on the date of the accident and the 6<sup>th</sup> one in Ext. P7 (series) (Discharge bill No.6025 dtd.28/03/18 of M.I. Mission Hospital, Engandiyur) that the complainant had again been admitted to the hospital for further treatment. The doctor (PW2) also stated that the complainant having lost the tip of his toe may encounter difficulty to run etc. It is a matter beyond doubt that a handicap restraining activities like running etc. will eventually be a permanent disability which may make the complainant at least partially incapable of actuating his movements at the desired level. The opposite parties have not raised any contention at all against the injury sustained by the complainant and the harm it had inflicted on him. Nor did they care to cross examine the witness doctor (PW2), as well. Therefore, it remains undisputed that the nature of the harm or disability that the impugned accidental injury imparted on the complainant, is permanent. Ext. P8 is indicative that the complainant had to

cure the defect of the vehicle by way of paid job. The defect being a manufacturing defect, the 1<sup>st</sup> opposite party manufacturer does bear the bounden duty to give the defects cured free of cost. Ext. P6 evidences the monetary expenses that the complainant had to foot, for the surgical repair of the injury caused by the impugned accident. Causing the sale of a vehicle with parts having innate manufacturing defect, is certainly a deficiency in service on the part of the manufacturer i.e., the 1<sup>st</sup> opposite party, and this deficiency in service on their part, in the instant case, apart from causing agony and hardship pertaining to the hassle-free use of the vehicle, had inflicted harm of permanent nature on the complainant. All considered, we are of the firm view that there is deficiency in service on the part of the 1<sup>st</sup> opposite party - manufacturer of the vehicle. The defect of the vehicle being a manufacturing defect, the 2<sup>nd</sup> opposite party dealer and its associates i.e. the 3<sup>rd</sup> and the 4<sup>th</sup> opposite parties cannot be faulted for the allegations raised in the complaint. Hence the 2<sup>nd</sup>, the 3<sup>rd</sup> and the 4<sup>th</sup> opposite parties are exonerated from the liabilities, arising from the allegations raised in the complaint.

As elaborated supra, there is deficiency in service on the part of the 1<sup>st</sup> opposite party. The 1<sup>st</sup> opposite party shall necessarily have to compensate the complainant for the permanent disability, financial loss, agony and hardship inflicted on him. While awarding compensation, the Commission must look the case at its totality based on the case specifics. It is trite law that compensation shall be “just, fair & proper” which shall neither be a bonanza nor a windfall and at the same time, shall not be a pittance. The complainant had not placed on record any document to prove the extent of permanent disability (the percentage of permanent disability) sustained by him. However, the deposition of the PW2 witness Dr. Muhamed Shelin who treated the complainant makes it evident that the disability sustained by the complainant is of permanent nature. Moreover, equating the extent of compensation to the extent of permanent disability will

give rise to its erroneous quantification. The deposition of PW2 doctor unearths the fact that the complainant, would not anyhow, be able to move or run as the one who is 100% healthy and bodily able. The complainant is statedly only 20 years of age at the time of institution of the complaint. The PW-2 doctor has affirmed that the complainant has lost the tip of the 3<sup>rd</sup> toe of his right foot. The loss of the tip of the complainant's third toe of his right foot, would certainly restrain his movements atleast to a small extent, but at a young age. Ext. P5 Certificate evidences that the complainant is an enthusiast of the game of cricket. Capability to run as fast as, if not faster than, the competitors / other members of the teams, concerned, is an essential skill to be a skilled cricketer. The disability sustained by the complainant would thus render him incapable of fully enjoying those things and amenities which he would have enjoyed but for the injury. The impact of the loss of even a bit of a body part will be stressful for the victim. Even in the quietitude of midnight, the complainant might have shuddered at the very thought that his body is incomplete or that his body lacks a bit of it. The damage which the permanent disability may impart on the complainant in respect of his future prospects, cannot, to the fullest extent, be anticipated by us at this stage, more particularly so, as the complainant is presently a student only. It depends on various factors such as the career he likes to opt, the needs that he may have to fulfil in his future life, etc. Obviously, there are certain career options where the candidates, concerned, have to prove their physical efficiency which often includes their ability to cover a specified distance by running in a specified time. It is pertinent to recollect that the ability to cross the "10 second barrier" i.e. the ability to cover 100 m in less than 10 seconds, was once considered to be the hallmark of a world class male sprinter. Immediate instances of such career opportunities are that of an Army Officer or a Police Officer. Anyhow, from the specifics of the case at hand, it is evident that the injury sustained by the complainant would certainly inflict damages that are non-pecuniary in nature i.e. which are

incapable of being assessed by arithmetic calculation. Obviously, the complainant appears to have been inflicted with damages for the loss of amenities of life which may include a variety of matters i.e. on account of the injury, the complainant may not be able to run as fast as he could, but for the permanent disability, and also on account of the consequential inconvenience, hardship, discomfort, disappointment, frustration and mental stress in life. All considered, we are of the contemplated view that the complainant is entitled to receive from the 1<sup>st</sup> opposite party a sum of Rs.7,50,000/- (Rupees Seven lakh fifty thousand only) towards compensation for the permanent disability, financial loss, agony and hardship inflicted on him and a sum of Rs.10,000/- (Rupees Ten thousand only) towards costs.

In the result, the 2<sup>nd</sup>, the 3<sup>rd</sup> and the 4<sup>th</sup> opposite parties are exonerated and the complaint is allowed against the 1<sup>st</sup> opposite party and the 1<sup>st</sup> opposite party is directed to pay the complainant :

a) a sum of Rs.7,50,000/- (Rupees Seven lakh fifty thousand only) towards compensation for the permanent disability, financial loss, agony and hardship inflicted on him, and

b) a sum of Rs.10,000/- (Rupees Ten thousand only) towards costs,

both with 4% interest p.a. from the date of filing of the complaint till the date of realisation. The 1<sup>st</sup> opposite party shall comply with the above direction in 30 days of receipt of a copy of this order.

The order dtd. 24/03/25 passed by the Hon'ble High Court of Kerala in WP (C) No.11756/2025 directing time bound disposal of the complaint, stands complied.

Dictated to the Confidential Assistant, transcribed by her, corrected by me and pronounced in the open Commission this the 09<sup>th</sup> day of July 2025.

Sd/-  
Sreeja S.  
Member

Sd/-  
Ram Mohan R  
Member

Sd/-  
C. T. Sabu  
President

### Appendix

#### Complainant's Exhibits :

- Ext. P1 comprises copies of 3 receipts viz (1) No.12270 dtd. 08/01/18  
(2) No. 12309 dtd. 17/01/18 and (3) No.12314 dtd. 19/01/18, issued by the 3<sup>rd</sup> opposite party to the complainant receiving from him Rs.5,000/-, Rs.1,00,000/- and Rs.27,255/-, respectively, towards consideration for "NS 200 white" / "NS 200 ABS", as the case may be.
- Ext. P2 copy of the Invoice No.5920, dtd. 17/01/2018 issued by the 4<sup>th</sup> opposite party in favour of the complainant receiving from him a sum of Rs,1,15,491/- towards the sale of a vehicle of the category "PULSAR NS 200 ABS".
- Ext. P3 copy of the Certificate of Registration in respect of Vehicle No.KL 46 R 7542 with Chasis No. MD2A36FY2HCG53268, Engine No.JLYCHG17445 registered in favour of the complainant.
- Ext. P4 the Treatment Certificate dtd. 19/04/18 issued by Dr. Muhamed Shelin P.I., M.B.B.S., M.S. Ortho, Consultant Orthopedic Surgeon, M.I. Mission Hospital, Engandiyur – 680 615.
- Ext. P5 Certificate No.5104 dtd. Nil issued by Kerala Cricket Association in respect of the complainant's representation in the 6<sup>th</sup> Inter-School Cricket Tournament 2015-16.
- Ext. P6 consolidated statement comprising medical expense details in respect of the complainant, issued by Mary Immaculate Mission Hospital, Engandiyur, signed by PW2.
- Ext. P7 series (SP) comprise a set of Medical bills/Pharmacy bills
- Ext. P8 Invoice No.SICV/186/1920 dtd. 30/04/2019 issued by M/s Grand Motors in favour of the complainant receiving from him Rs. 1,468/- towards the charges for paid job service of the vehicle.

Ext. C1. The report submitted by the Expert appointed by the Commission vide IA 587/25

Complainant's Witnesses :

PW1 Rahul M.R.

PW2 Dr. Muhamed Shelin

Opposite Parties' Exhibits :

Nil

Id/-  
Ram Mohan R  
Member

//True copy//

Assistant Registrar