

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

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

25th day of July 2025
CC 298/17 filed on 09/05/2017

- Complainant : P.K Abdul Malik, Puthenpeedikayil House,
Puthusseri P.O., Cheruthuruthi, Thrissur District.
(By Adv. A. D Benny, Thrissur)
- Opposite Parties : 1. Manager, Sreevari Auto motives Pvt. Ltd.,
V/225/DEF, Akamala, P.O Mullurkkara,
Vadakkancheri Branch, Thrissur District.
2. Sreevari Automotives Pvt. Ltd., Represented
By Managing Director, East Fort, Thrissur,
Pin – 680 005.
(By Adv. P.R Suresh, Thrissur for OP1 & OP2)
3. Honda Motor Cycles & Scooters India Pvt. Ltd.,
Rep. by Managing Director, Commercial Complex II,
Sector 49-50, Golf Course, Extension Road, Gurgaon,
Haryana, Pin – 122 018.
(Ex-parte)

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 claims to have purchased from the first opposite party dealer a “3 Unicon 150 Black” bike (hereinafter referred to as the vehicle), paying them a total sum of Rs. 81,826/- (Rupees eighty one thousand eight hundred and twenty six only) vide two invoices issued by them viz, 1). No. 04-VDKY PREC 2343 dated 22/10/2016 for a sum of Rs. 25,000/- (Rupees twenty five thousand only) and 2). No. 04-VDKY PREC 2367 dated 25/10/2016 for a sum of Rs. 56,826/- (Rupees fifty six thousand eight hundred and twenty six

only). The vehicle allegedly started exhibiting oil leakage from its engine, in one month of its purchase. The fault having been reported, the second opposite party had given it repaired. But the defect having allegedly recurred thereafter, the second opposite party replaced its parts, but in vain. The 3rd opposite party is statedly the manufacturer of the vehicle. The complainant affirms that the opposite parties effectuated the sale of an inferior quality vehicle to him and hence alleges deficiency in service on their part. A lawyer notice caused by the complainant statedly elicited no result. Hence the complaint. The complainant prays for an order directing the opposite party to refund to him the purchase price of the vehicle, apart from other reliefs of compensation and costs.

2) NOTICE :

The Commission having issued notice, the first and the second opposite parties filed their written version and contested the complaint. The 3rd opposite party failed to file their written version, despite proper service of notice as per proceedings dated 27/12/2017. Hence the Commission was constrained to proceed ex-parte against the 3rd opposite party.

3) Version of the first and the second opposite parties :

The sale of the vehicle is admitted, but they deny any manufacturing defect of the vehicle. On the other hand, it is averred that the defect of the vehicle is attributed either to hitting of its engine on a hard object or to a disassembling of its engine by an incompetent workshop. They claim to have productively repaired the vehicle replacing its parts, after thoroughly examining the vehicle while it was brought to their service station on 04/03/2017. They also allege that the complainant failed to produce the vehicle thereafter, despite their willingness to further repair the same. They also affirm their readiness, even as of the time of version, to productively repair the vehicle by way of replacing its engine, instead of replacing the vehicle in its entirety.

4) Evidence :

The complainant produced documental evidence that had been marked Ext. P1 to P8, apart from affidavit and notes of argument. The report submitted by the Expert Commissioner appointed by the Commission (vide I.A 605/17), is marked Ext. C1.

The first and the second opposite parties produced documental evidence that had been marked Ext. R1 to R4, apart from affidavit and notes of argument. Proceedings against the 3rd opposite party being ex-parte, no evidence adduced on their part.

5) Deliberation of Facts and Evidence :

The Commission has very carefully examined the facts and evidence of the case. Ext. P1 is Receipt no. 04-VDKYPREC 2343 dated 22/10/2016 issued in favour of the complainant by the first opposite party receiving from him a sum of Rs. 25,000/- (Rupees twenty five thousand only) pertaining to 3 Unicorn Black. Ext. P2 is Invoice No. 04-VDKYPREC 2367 dated 25/10/2016 issued in favour of the complainant by the first opposite party receiving from him a sum of Rs. 56,826/- (Rupees fifty six thousand eight hundred and twenty six only) pertaining to 3 Uni 150 Black. Ext. P3 comprises Postal Acknowledgment Cards (2Nos). Ext. P4 is copy of Lawyer Notice. Ext. P5 is Job Card invoice No. 04-VDKYJIFS 6730 dated 15/02/2017 issued by the first opposite party. Ext. P6 series comprise Job Card invoice No. 02-TCR-JIFS 23961 dated 08/03/2017 issued by the first and second opposite parties in favour of the complainant. Ext. P7 is Job Card invoice No. 02-TCR-JIFS 19081 dated 31/12/2016 issued in favour of the complainant by the first and second opposite parties. Ext. P8 is 'HONDA CB UNICORN' Owner's Manual issued in favour of the complainant. Ext. C1 is the Report filed by the Expert Commissioner.

Ext. R1 is copy of Reply Notice. Ext. R2 is Postal Receipt. Ext. R3 is copy of the first opposite party's letter dated nil issued to the complainant. Ext. R4 is Postal Receipt.

6) Points to be deliberated:

- (i) Whether the alleged manufacturing defect stands proved and also whether the complainant is entitled to receive refund of the invoice price of the vehicle? If yes;
- (ii) Whether there is any deficiency in service on the part of any or all the opposite parties? Also whether the complainant is entitled to receive any compensation from the opposite parties? If so its quantum?
- (iii) Costs?

7) Point No.(i)

Ext. C1 report submitted by the Expert after inspecting the vehicle on 17/11/2017, affirms that the vehicle exhibited oil leakage on driving. He further affirmed that the engine and the drive chain of the vehicle were faulty. The opposite parties filed objection on Ext. C1 report, alleging that the Expert had not considered the marks that they showed on the engine of the vehicle which were claimed to be indicative of an alleged hitting of the engine on a hard object. We examined the issue in the light of this objection, as well. The contesting opposite parties (the 1st and 2nd opposite parties) affirm that they had replaced the parts of the vehicle after thoroughly inspecting the vehicle while it was brought to their service centre on 04/03/2017. Ext. R3 letter issued by the first opposite party to the complainant also affirms that they had replaced the engine case of the vehicle. The Ext. C1 report also bears the mention that the engine number of the vehicle is not mentioned thereon, as it is a replaced part. The items mentioned as serial No. 7 and 8 in Ext. P6 series service job card

invoice dated 08/03/2017 issued by the contesting opposite parties, unveil the fact that they had free of cost replaced the “CRANK CASE COMP R” and “CRANK CASE COMP L” of the vehicle, the combined cost of which is marked therein as Rs. 5225/33. The very fact that the contesting opposite parties took the effort to replace free of cost a very crucial and costly part of the vehicle in less than six months of the purchase of the vehicle, is unambiguously indicative of the bare fact that the fault of the vehicle which the opposite parties attempted to cure, was one which was intrinsic to the vehicle. Had it been a defect or fault attributed to the vehicle’s engine having hit on any hard object on riding or to an unauthorised repair by an incompetent workshop, as averred by the contesting opposite parties, they, by any stretch of imagination, would not have taken the pain to free of cost replace a crucial and costly part of the vehicle. It is, therefore, a matter beyond doubt that the fault of the vehicle reported by the complainant was innate to the vehicle and hence the vehicle suffered a manufacturing defect. Ext. C1 report which affirms oil leakage even as of the date of inspection, ie., 17/11/2017, reveals the fact that the opposite parties were not successful in productively curing the fault of the vehicle, despite replacement of a crucial and costly part of it.

Therefore, we are of the contemplated opinion that the vehicle suffered manufacturing defect. In view of the fact that the opposite parties could not productively repair the vehicle, despite their having replaced a crucial and costly part of it, we are of the further stance that the complainant is entitled to receive refund of the invoice price that he paid. The defect being a manufacturing defect, the manufacturer, ie., the 3rd opposite party alone is liable to refund the purchase price of the vehicle.

Point no. (i) is thus proved in favour of the complainant.

8) Point No.(ii) & (iii)

As elaborated supra, there is manufacturing defect in the vehicle. Causing the sale of a vehicle with intrinsic manufacturing defect, is certainly a deficiency in service on the part of the manufacturer, ie., the 3rd opposite party herein. The 3rd opposite party-manufacturer has not cared to file their written version before the Commission, in spite of proper service of notice as per proceedings dated 27/12/2017. The 3rd opposite party's conscious failure to file their written version, is tantamount to admission of the allegations levelled against them by the complainant. The Hon'ble National Commission held the same view by its judgement dated 09/10/2017 in ***RP 579/2017 [2017 (4) CPR 590]***. The complainant who purchased the vehicle paying a handsome sum of Rs. 81,826/- (Rupees eighty one thousand eight hundred and twenty six only), would certainly be not satisfied, if the vehicle repeatedly exhibited major faults that too in a few months in its purchase, and more particularly so, if the contesting opposite parties including the service centre could not productively repair such defect. The complainant shall necessarily be compensated. The defect being a manufacturing defect, the manufacturer alone is liable to compensate the complainant for the agony and hardship inflicted on him. We are of the considered view that the complainant is entitled to receive from the 3rd opposite party a sum of Rs. 25,000/- (Rupees twenty five thousand only) towards compensation for the agony and hardship inflicted on him, and a sum of Rs. 10,000/- (Rupees ten thousand only) towards costs.

In the result, the first and the second opposite parties are exonerated from the liabilities arising from the allegations raised in the complaint, and the complaint is allowed against the 3rd opposite party and the 3rd opposite party is directed to pay the complainant:

- a). a sum of Rs. 81,826/- (Rupees eighty one thousand eight hundred and twenty six only) towards refund of the invoice price of the vehicle,
- b). a sum of Rs. 25,000/- (Rupees twenty five thousand only) towards compensation for the agony and hardship inflicted on him, and
- c). a sum of Rs 10,000/- (Rupees ten thousand only) towards costs,

all with 9% interest per annum from the date of filing of the complaint till the date of realisation. The 3rd opposite party shall comply with the above direction within 30 days of receipt of a copy of this order.

Once all the above directions are fully complied with, the 3rd opposite party shall be at liberty within 30 days thereafter, to take back, at their own expense, the vehicle from the complainant, issuing him proper acknowledgment.

Dictated to the Confidential Assistant, transcribed by her, corrected by me and pronounced in the open Commission this the 25th day of July 2025.

Sd/-
Sreeja S.
Member

Sd/-
Ram Mohan R
Member

Sd/-
C. T. Sabu
President

Appendix

Complainant's Exhibits :

Ext. P1 is Receipt no. 04-VDKYPREC 2343 dated 22/10/2016 issued in favour of the complainant by the first opposite party receiving from him a sum of Rs. 25,000/- (Rupees twenty five thousand only) pertaining to 3 Unicorn Black.
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Ext. C1 is the Report filed by the Expert Commissioner.

Opposite parties' Exhibits :

Ext. R1 is copy of Reply Notice.

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Ext. R3 is copy of the first opposite party's letter dated nil issued to the complainant.

Ext. R4 is Postal Receipt.

Id/-
Ram Mohan R
Member

//True copy//

Assistant Registrar

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