

Date of filing: 16.10.2021, 28.10.2021
Date of Disposal: 05.12.2025

BEFORE THE KARNATAKA STATE CONSUMR DISPUTES
REDRESSAL COMMISSION, BENGALURU
(PRINCIPAL BENCH)

DATED: 05th DAY OF DECEMBER 2025

CORAM: HON'BLE Mr. JUSTICE T.G. SHIVASHANKARE GOWDA – PRESIDENT
and

HON'BLE Mrs. DIVYASHREE M – LADY MEMBER

SC/29/A/825 & 857/2021

In A/825/2021:

Honda Cars India Ltd.,
Plot No.A-1, Sector 40/41,
Surajpur-Kasna Road,
Greater Noida Industrial Development Area,
Dist Gautam Budh Nagar, U.P.-201306.
Shriram Transport Finance Co., Ltd.,
Mookambika Complex,
Lady Deshikachar Road,
Chennai, Tamilnadu..... **Appellant/s**

(By Smt.Meena Venugopal, Advocate)

VS

1. Prathap.M
S/o Madhavan Nair,
Aged about 48 years,
R/at No.270, Amehinadka House,
Pernaje Post, Putur taluk,
Dakshina Kannada.

(Served – absent)

2. Peninsula Honda
Prop.Patel Cars Pvt., Ltd.,
N.H.66, Kottara, Mangaluru.

(By Sri.Kumar A Patil, Advocate)

3. Bajaj Allianz General Insurance Co., Ltd.,
1st floor, No.2-1-1 (1 to 3)
Opp. More Super Market,
Chilimbi, Mangaluru..... **Respondent/s**

(By Sri.Manoj Kumar.M.R, Advocate)**In A/857/2021:**

Peninsula Honda
Prop.Patel Cars Pvt., Ltd.,
N.H.66, Kottara, Mangaluru..... **Appellant/s**

(By Sri.Kumar A Patil, Advocate)**VS**

1. Prathap.M
S/o Madhavan Nair,
Aged about 48 years,
R/at No.270, Amehinadka House,
Pernaje Post, Putur taluk,
Dakshina Kannada.

(Served – absent)

2. Honda Cars India Ltd.,
Plot No.A-1, Sector 40/41,
Surajpur-Kasna Road,
Greater Noida Industrial Development Area,

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Shriram Transport Finance Co., Ltd.,
Mookambika Complex,
Lady Deshikachar Road,
Chennai, Tamilnadu.

(By Smt.Meena Venugopal, Advocate)

3. Bajaj Allianz General Insurance Co., Ltd.,
1st floor, No.2-1-1 (1 to 3)
Opp. More Super Market,
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(By Sri.Manoj Kumar.M.R, Advocate)

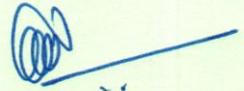
4. The Manager
M/s.Shama Honda,
No.3-58E, NH-66, Puttur,
Udupi Taluk and District. **Respondent/s**

(Served – absent)

COMMON ORAL ORDER

(PER: HON'BLE Mr. JUSTICE T.G. SHIVASHANKARE GOWDA, PRESIDENT)

These Appeals are filed U/s.41 of Consumer Protection Act, 2019 (in short CP Act) by Appellants challenging the order dated:11.08.2021 passed in CC/218/2017 on the file of Dakshina Kannada District Consumer Disputes Redressal Commission, Mangaluru (in short the District Commission).



2. A/825/2021 is filed by Opposite Party.1 (in short OP.1) and A/857/2021 is filed by Opposite Party.2 (in short OP.2) against whom order was passed and they have filed these individual appeals. Both appeals are taken together for common disposal.

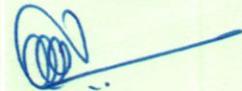
3. Respondent.1 (in short R1) is the Complainant, R3 is OP.3, R4 (in A/857/2021) is OP.4 before the District Commission. The Rank of the parties shall be referred to as per their status before the District Commission.

4. The Brief facts of the case are that: The Complainant is owner of Honda Amaze Car (in short car) bearing reg.no.KA21 P 2357. OP.1 is the manufacturer and OP.2 is dealer of the said car. OP.3 is the insurer. OP.4 is the service centre.

4a. The Complainant has purchased the said brand new car on 23.03.2016 by paying Rs.8,20,000/- from OP.2 and insured with OP.3 by paying premium of Rs.23,748/- for the period 23.03.2016 to 22.03.2017.

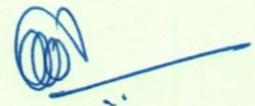


On 15.10.2016 while the car was driven by one Sri.Ganesh Kumar, brother of the Complainant from Puttur towards Murudeshwara, near Kapu, Udupi, temperature meter showed alarming heating up of the car and the car was also moving slowly. Thus, the driver stopped the car and call OP.4. Mechanic of OP.4 came to the spot and checked and then towed the car to their garage informing the car needs to be repaired. After two days, when the Complainant visited the service centre, he informed that there is a major engine failure, they would contact Insurance Company and then they will repair the car. But even after 15 days, the car was not repaired by OP.4 as the car engine has failed and it has to be taken to bigger repairer i.e. OP.2 situated at Mangaluru. Accordingly, the Complainant towed the car from Udupi to Mangaluru. OP.2 got repaired the car and raised invoice for Rs.3,06,012/- which was paid by the Complainant. Though there is valid insurance coverage which is bumper to bumper, insurance Company repudiated the claim holding that they are not liable to make payment in respect of consequential loss,



depreciation, wear and tear, mechanical electrical break down failures or breakages. On the date of incident, the car was just about 7 months old and it had run only 10,000 kms, but it was broke down on the middle of the road. Hence there is deficiency in service on the part of OPs.1 & 2 for having sold the car and OP.3 for having taken extra premium disallowed the claim holding there is no insurance coverage for the damage in that nature.

5. Before the District Commission, OPs.1 to 3 have opposed the complaint by filing the version. OP.4 remained absent and it was placed exparte. According to OP.1 there is no manufacturing defect; the car was perfect and it had run 10000 kms; with respect to the repairing of the car is solely on the part of the authorized dealer/OP.2. Whereas, it is the contention of OP.2 that, while the car was checked at the spot it was found over heated and due to driver's negligent driving the major damage was caused to the engine. Since OP.3 has not honoured the claim/repair charges, the Complainant is

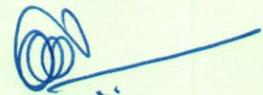


making false allegations of manufacturing defect and deficiency in service.

6. It is the contention of OP.3 is that, due to negligent driving, the major damage was caused to the engine which is not covered under the policy and thereby they have rightly repudiated the claim and the Complainant has to bear repair expenses on his own. Hence pleading no deficiency in service sought for dismissal of the complaint.

7. Before the District Commission, the Complainant has filed his affidavit evidence as CW1 and marked 7 documents as Ex-C1 to C7. On behalf of Ops, Service Manager of OP.2 filed his affidavit evidence and marked 14 documents as Ex-R1 to R14.

8. The District Commission after hearing both parties dismissed the complaint against OPs.3 & 4 and allowed against OPs.1 & 2 directing them to pay a sum of Rs.2,65,550/- with interest at 6% p.a.; to pay Rs.10,000/- towards towing charges; to pay Rs.20,000/-

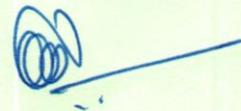


towards compensation. Aggrieved by the same, OP.1 has filed A/825/2021 and OP.2 has filed A/857/2021.

9. We have heard the arguments of Learned Counsels for OPs.1 to 3. The Complainant served with appeal notice – he remained absent in both appeals.

10. It is the contention of Learned Counsel for OP.1 that, if there is a manufacturing defect, the car would not have run for one day, contrary, it had run on the road about 7 months covering up to 10,000/- kms. The car has not properly maintained as per owner's manual, therefore consequential loss was occurred. There is no manufacturing defect. Order of the District Commission liable to be set aside.

11. Learned Counsel for OP.2 contended that, service brochure has been given to the Complainant at the time of delivery of the car. He is required to bring the car regularly for service maintenance. He has not brought the car before OP.2 for proper maintenance or service. As per Honda Cars India Ltd., (in short HCIL)



norms, he has not maintained/serviced the car. Since there was no proper maintenance, while it was driving suddenly involved high temperature on account of radiator issue. There is no technical defect in the car. The Complainant himself stated in claim form submitted before OP.3 that *"While driving on Kapu main road, radiator cap came out which my brother had not noticed and he run the car without the radiator cap. Finally vehicle is stopped with a jerk. On opening the bonnet he found that radiator cap had fallen down. After that we tried to start the car, but car was not self starting."* Since OP.3 refused to honour the claim of repair charges allegations of manufacturing defect is made. The District Commission erroneously accepted the contention of the Complainant without any basis and technical evidence and forming personal opinion proceeded to allow the complaint which cannot be sustainable and sought for interference.

12. Learned Counsel for OP.3 has contended that, though policy was in force, the Complainant is entitle to

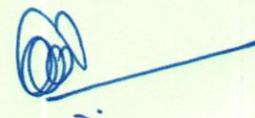


claim own damage only in case of accidental damages. He has brought to the notice of this Commission that, the Complainant himself stated that wrong handling of the car while it was driving by the brother of the Complainant near Kapu, Udipi resulted major engine failure. Such consequential loss is not covered under the policy. Insurance Company has rightly repudiated the claim and this has been ratified by the District Commission in its order. He argued in support of the order of dismissal against OP.3.

13. We gave our anxious consideration to the arguments addressed on behalf of OPs.1 to 3. Perused the materials on record.

14. Now the point that arise for our consideration is:

- (i) Whether the Complainant has established manufacturing defect in the car ?**
- (ii) Whether the Complainant has established deficiency in service on the part of OPs.1 to 4 ?**

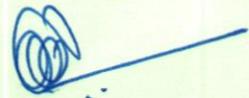


(iii) Whether the order of the District Commission is perverse, illegal, does call for interference ?

Point (i):

15. The materials on record clearly establish that, the Complainant is owner of the car in question. It was broken down on the road near Kapu, Udupi on 15.10.2016, by that time it was 7 months old car and had run 10,000 kms. From the date of delivery till 7 months of the incident taken place, there is no allegations against OPs.1 & 2 regarding defect in the car. As rightly argued by the Learned Counsel for OP.1, after taking the delivery of the car, it was run on the road without proper maintenance. As per service brochure, the car was not brought before OP.2 for regular service. We have particularly read the statement of the Complainant given in the claim form/Ex-R2 which reads as follows:

"While driving on Kapu main road, radiator cap came out which my brother had not noticed and he run the car without the



radiator cap. Finally vehicle is stopped with a jerk. On opening the bonnet he found that radiator cap had fallen down. After that we tried to start the car, but car was not self starting."

By reading the said statement, it is clear that, the damage caused to the car was due to negligent driving of the car. According to Ex-R7/Manual Service Repair Form, car was expected to be brought before OP.2 for regular maintenance, but the car was not brought to the service centre for proper maintenance. At one side, the Complainant blames OP.1 that car is having manufacturing defect, on the other hand, he himself ignored instructions of owner's manual given by OP.2. The Complainant except his self serving testimony, he has not lead evidence/opinion of vehicle expert as to there is manufacturing defect in the vehicle. In that view of the matter, we do not find any evidence on record to show that there is manufacturing defect in the car. Accordingly, we answer point (i).



Point (ii):

16. As we discussed above, there is no manufacturing defect in the car. While driving the car on Kapu main road i.e. on 15.10.2016, the radiator cap came off which caused high temperature and damage to engine as a result the car was broke down. The car has been brought to OP.4 who recommended to take the car to bigger repairer/service centre/OP.2 as there is major engine failure. OP.2 gets the car repaired and brought to the running condition. Issue is only as to repudiation of the claim/repair charges by OP.3. We do not find any evidence to show that OP.2 or OP.4 have committed deficiency in service in repairing the car. The car is expected to be brought to the service centre as per owner's manual for regular maintenance. Since, the owner/Complainant failed to do so, it is his fault, not the fault of OP.2 or OP.4. The consequential loss is caused due to driver's negligence. Hence claim towards such loss rightly repudiated by OP.3. The Complainant has to blame himself for his mismanagement of the car. We do not find



deficiency in service on the part of OPs. Accordingly, we answer point (ii).

Point (iii):

17. We have carefully perused the order of the District Commission. The Insurance Company/OP.3 raised the issue in respect of coverage under the policy and repudiated the claim holding it is not liable for consequential losses. Accepting the said contention, the District Commission rightly dismissed the complaint against OP.3.

18. When the Complainant himself failed to establish manufacturing defect or deficiency in service on the part of OPs.1, 2 & 4, order of the District Commission will not stand to its reason. Due to negligent act of the driver the car was broke down on the road. For such act, we cannot blame OPs.1, 2 & 4. Thus, order of the District Commission is perverse, illegal and call for interference. Accordingly we answer point (iii).



19. In view of our findings on point (i) to (iii), we held that, both appeals of OPs.1 & 2 merits consideration. In the result, the following:

ORDERS

- (i) A/825 & 857/2021 are allowed.**
- (ii) Impugned order in so far as allowing the complaint against OPs.1 & 2 is set aside.**
- (iii) In CC/218/2017 complaint against OPs.1 & 2 is hereby dismissed.**
- (iv) Amount in deposit in both appeals shall be returned to the respective Appellants.**
- (v) Keep the original order in A/825/2021 and copy in connected A/857/2021 to complete the records.**
- (vi) Notify copy of this Order to the District Commission and parties.**



**(JUSTICE T.G.SHIVASHANKARE GOWDA)
PRESIDENT**

Divyashree M
5/12/25

**(DIVYASHREE M)
LADY MEMBER**

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