

Date of Filing: 29.09.2023

Date of Order: 15.07.2024

BEFORE THE DISTRICT CONSUMER DISPUTES REDRESSAL
COMMISSION – II, HYDERABADP R E S E N T

SRI VAKKANTI NARASIMHA RAO ... PRESIDENT
SMT. D. SREEDEVI MEMBER
SRI V. JANARDHAN REDDY ... MEMBER

MONDAY, THE 15TH DAY OF JULY, 2024CONSUMER CASE NO.189/2023

BETWEEN:

Jonathan Brainard, S

...Complainant

AND

1. Tata Motors Ltd., CIN L28920MH1945PLC004520 Having its Reg. Office at Bombay House, 24 Homi Mody Street, Mumbai 400001 Maharashtra. Rep. by its Managing Director.
2. Tata Motors Passenger Vehicles Ltd., CIN U72900MH2020PLC339230 Having its Reg. Office at: Floor 3, 4, Plot-18, Nanavati Mahalaya, Mudhana Shetty Marg, BSE, Fort, Mumbai 400001. Maharashtra. Rep by its Managing Director.
3. M/s. Venkataramana Motors, 1-26/1/42, P Janardhan Reddy Nagar Gachibowli, Hyderabad 500 081, Telangana Represented by its Authorized Signatory.
4. M/s.Malik Cars Pvt. Ltd., Having its Reg. Office at: 3-6-422 & 422/A, Main Road, Street Number 3, Himayatnagar, Hyderabad, Telangana 500029.

.... Opposite Parties

This complaint is coming before us on this the 21st day of June 2024 in the presence of Learned Counsel M/s. Ranjan Matthew Advocate, appearing for the complainant and Learned Counsel M/s. M.V.R. Suresh & Associates Advocate, appearing for the opposite parties.no. 1 and 2 and Opposite Party.no.3 called absent and Learned Counsel Sri M. Ravi Kiran Reddy, Advocate appearing for opposite party No. 4, on perusal of material papers available on record, having stood over for consideration till this day, the Commission passed the following:

O R D E R

(BY SMT D. SREEDEVI, HON'BLE MEMBER ON BEHALF OF THE BENCH)

This complaint is filed on 29.09.2023 by the complainant under Section 35 of Consumer Protection Act, 2019 with a prayer to direct the opposite parties to:-

1. Refund the sum of Rs.16, 95,000/- (Rupees Sixteen lakhs Ninety-Five thousand only) due to deficiency in service and goods along with interest at the rate of 12% p.a. from the date of filing this Complaint.
2. Replace the defective vehicle with a new vehicle of the same make and mode or of better make and model.
3. Refund a sum of Rs.1, 50,000/- (Rupees One lakh Fifty thousand only) which was the cost paid by the Complainant to Mr. V. Balanarasaiah for his medical costs, subsistence, and cost of the second-hand motorcycle due to the accident caused by the defective vehicle made and sold by the Opposite Parties.
4. Pay Rs.5,00,000/- (Rupees Five lakhs only) towards compensation for jeopardizing the life of the Complainant and for causing harassment, humiliation, and mental trauma along with interest at the rate of 12% p.a. from the date of filing this Complaint.
5. Pay cost of litigation and further any other relief or reliefs of this Hon'ble Commission may deem fit and proper.

BRIEF FACTS OF THE COMPLAINT:

1. The Complainant on due consultation with the O.P. No. 3 who is the authorized dealer of opposite party No. 1 and 2, purchased the car on assurance the safety, convenience, comfort, and reliability features, including their much-coveted Global New Car Assessment Programme (Global NCAP) rating of 5 stars towards the Nexon EV.
2. As per the vehicle specifications, the vehicle is meant to travel an approximate range of 300 kms on a full charge. He purchased a Tata Nexon EV vehicle, variant XZ+ LUX BOV, Orc White colour,

from the Opposite Parties wherein the Opposite Parties No. 1 and 2 are the manufacturers, Opposite Party.No.3 is the authorized

- dealer and Opposite Party no. 4 is the authorized company service provider (service center).
3. The complainant purchased the car from the Opposite Party. No. 3 vide Invoice No. VRM/2223/505 dated 03.05.2022 for a total consideration of Rs. 16,95,000/- (Rupees sixteen lakhs ninety-five thousand only). As on the date of purchase of the vehicle, the complainant was working as a Senior Analyst in Deloitte Support Services India Pvt. Ltd. and was earning an annual salary of Rs. 8,99,023/- (Rupees eight lakhs and twenty-three only). Therefore, the complainant had to go out of his way and beyond his means to buy this vehicle only, so that he would not compromise on safety for him and his family.
 4. It is to be noted that within 11 months of taking delivery of the vehicle, the vehicle started showing problems insofar that the car would not run even with 18% charge in the battery and would refuse to engage the normal drive mode. On 07-04-2023, the car refused to enter the drive mode. On 10-04-2023, once again the complainant faced issues with the car which had 18% battery remaining and got stranded on the way to his office and had to push the car to the nearest charger with some help from passersby. The complainant handed over his car to the Opposite Party. No.4 who is the authorized dealer and service center for the Opposite Party Nos. 1 and 2 in Hyderabad.
 5. The Complainant raised a complaint at the Opposite Party. No. 4 garage on 11-04-2023, wherein after their investigation informed him that the HV (High Voltage) battery pack itself has depleted and needed to be replaced. It is pertinent to mention here that the heart and soul of an electric vehicle is the HV battery pack. Unlike internal combustion engine vehicles, which derive their power from the combustion of liquid fuel such as petrol or diesel, electric vehicles have electric motors which derive their power from the HV battery pack. It is evident from the official service record of his vehicle that the Opposite Parties have supplied a vehicle to him which is substandard and has a major manufacturing defect.

6. The Complainant stated that the opposite party No. 4 took more than a month for procure the HV battery pack and during this time the complainant was asked to drive his car but not let it run under 50% battery as it might stop again. The complainant had to drive the car for a month making sure he never went under 50% battery which would mean, he had to limit his travel distance or choose other mode of transport to cover the distance.
7. That on 19-05-2023 the Opposite Party No. 4 informed him that the replacement HV battery pack was ready. The car was kept with the Opposite Party No. 4 for 4 days and on 23.05.2023 the car was returned to the complainant with a refurbished HV battery pack and not a new battery pack. While the car was still under warranty, instead of replacing the defective HV battery pack with a new battery pack, a refurbished battery pack was used. Within the first year of purchase of the vehicle itself, the Opposite Parties are guilty of deficiency of service and have supplied a faulty and defective product to the complainant.
8. On 01-06-2023, at around 6 pm, as the complainant was driving on military dairy farm road, he heard a loud exploding sound from somewhere under his car and the car lost control. In a panic, the complainant tried to steer the car but he ended up hitting a stationed motorcyclist, one Mr. V. Balanarsaiah, on the side of the road and the car slammed into a tree.
9. In a state of shock, he came out of the car and quickly checked to see fire burst that had caused the loud sound and loss of vehicular control but all the tires were intact. The motorcycle rider was badly injured and was laying on the side of the road and several pedestrians had already rushed to his aid. The Complainant noticed that a fire had started in the car and was spreading rapidly. The Complainant was unable to open any of the doors other than the driver door and when he tried to push the door unlock button on the dashboard, it wasn't functioning. As the fire gained intensity, the complainant smashed the rear boot window

with the help of pedestrians and managed to recover his work laptop and some other valuables from the car. It was a miracle that his baby boy was not in the car at that time as he would have been locked in the burning vehicle. The complainant had purchased a child safety seat from Amazon a short while ago which was strapped into the rear seat of the car and that has also got destroyed in the blaze. The complainant called the fire department who managed to reach the spot and douse the fire but the car was completely gutted by then. The fire service attendance certificate dated 01-06-2023 clearly records the details of the vehicle and also states that the cause of fire is of "electric origin".

10. In the meanwhile, the Complainant's family members who had also rushed to the spot ferried the motorcycle rider to Srujana hospital, Quthbullapur. He had a fractured leg from the accident and was hospitalized for 5 days for which the complainant paid Rs. 80,000/- (Rupees eighty thousand only) towards his medical expenses. Due to the nature of the motorcycle riders' injuries, he was advised to take rest for two months and he couldn't attend his job duties as a helper in Deepak Nitrite Ltd. Out of his humanitarian nature, to help Balanarsaiah and his family, the complainant donated a sum of Rs. 20,000/- (Rupees twenty thousand only) to him in the month of June 2023, and Rs. 25,000/- (Rupees twenty-five thousand only) in the month of July 2023. The complainant also gifted a used motorcycle of make and model Hero Passion Pro bearing vehicle No. AP 10 AU 4654 (registered to Caleb Rayapati, i.e. father in law of the complainant) to Balanarsaiah for his use as his motorcycle was completely destroyed in the fire accident. A few days later, on 17-06-2023 the police handed over the burnt remains of the vehicle to the Opposite Party. No. 4 for investigation and to ascertain the cause of the fire.
11. On 27-06-2023 he received a call from the O.P. No. 4, particularly the regional service manager Mr. Ketan Chawda, who subsequently sent an email dated 27-06-2023 giving some statistical recorded information that was obtained from the vehicle. The version of the O.P. No. 4 clearly states that the crash occurred at 38.36 kilometers per hour speed. This is within the city speed limits and

any collision at this speed would not ordinarily result in a fire. The O.P. No. 4 further states in its email:

"Fire resulting post-crash could potentially generated due to external reason (Bike) involved in the crash or Low Voltage wiring short circuit."

12. Apart from the refurbished old HV battery pack installed by the OP. No. 4, there have been no material alterations or modifications done to the vehicle at any point of time. The complainant has only given the vehicle to the official service center, i.e., O.P. No. 4 and nowhere else. The O.P. No. 4 has no explanation for the loud sound that the complainant, Mr Balanarsaiah (motorcycle rider) and other motorists in the vicinity witnessed from the vehicle just before the vehicle lost control causing the vehicle to slam into the motorcycle and tree. The complainant replied by his email dated 07-07-2023 asking for details regarding the refurbished HV battery pack. The complainant (also asked the O.P. No. 4 as to why the vehicle caught fire, if according to them, it crashed at less than 40 kmph. The Opposite Parties have no credible answers to any of these questions except that in its further reply email dated 28-07-2023, they once again vaguely state:

"Regarding the thermal happens after crash, as informed you in our trailing mail, we have already mentioned that it may be due to external reasons or due to some wiring short circuit after the crash.

13. On 20-09-2023 he has received an email from the Opposite Party.No.4 representatives that they cannot keep the burnt car anymore in their premises and have to give the vehicle for scrap for a measly amount of Rs. 15,000 to 20,000/-. The internal communication of the O.P. No. 4 appended to the said email also shows that the vehicle is completely burnt.
14. The Opposite Parties are guilty of creating and propagating misleading advertisements which mislead and lured the complainant to purchase a so-called 5-star GNCAP safety certified automobile manufactured by the Opposite Parties.No.

1 and 2 and sold by the Opposite Party.No. 3. The Opposite Parties have given a false guarantee through their advertisements and assurances that that the vehicle shall be safe in all circumstances, especially during an accident where the safety of the occupants of the vehicle is of paramount importance. These false representations made by the manufacturers and seller and service provider constitute an unfair trade practice. The Opposite Parties have represented that the vehicle has performance, characteristics, and use which it does not have. The main power source of the vehicle, i.e., the HV battery pack itself failed within the period of warranty and the Opposite Party.no.4, presumably under instructions of the Opposite Parties.Nos. 1 and 2. has deliberately installed a poorly refurbished (reconditioned old goods) HV battery pack which according to the complainant exploded during driving the vehicle causing the vehicle to lose control and catch on fire even at a slow speed of near 35 kmph.

15. The Opposite Parties having realized that they have not tested the quality or performance of this electric vehicle enough, have already phased out the said vehicle and have launched the new Nexon EV into the market with upgraded safety features. The complainant has been getting multiple calls and reminders from the O.P. No. 4 to take away the charred and burnt remains of his vehicle from their premises because potential new customers and existing customers are asking as to why this vehicle has burnt and it is affecting their reputation and sales. The complainant, having no space to park the said bunt remains of the vehicle, has agreed under duress and having no other option, to scrap the said vehicle.

16. The Complainant has lost the entire sum of Rs. 16,95,000/- (Rupees sixteen lakhs ninety-five thousand only) and the Opposite Parties have brazenly turned a cold shoulder towards their customer with no regard whatsoever for the customer or

his family. The Opposite Parties have openly told the complainant that the car is mangled beyond repair and that there is nothing they can do. The complainant submits that the Opposite Parties are guilty and liable under the Consumer Protection Act 2019 for indulging in unfair trade practices, deficiency of service, and deficiency of selling sub-standard and poorly manufactured and defective goods to the complainant, goods manufactured by the Opposite Parties have caused threat to the Complainant's life. The Complainant since he spent nearly double his annual pay on the vehicle, the quantum of loss was extremely high for him and his family to suffer as a result of which he went through great mental agony. The insurance policy of the vehicle bearing policy No. 83000031220900001987 issued by New India Assurance Co. Ltd. had Own Damage (OD) cover from 03-05-2022 till 02-05- 2023, and Third Party (TP) cover from 03-05-2022 to 02/05/2025. The complainant submits that due to paucity of funds, he could not renew the OD cover, i.e., comprehensive coverage but his car continued to have TP cover till 2025.

WRITTEN VERSION OF THE OPPOSITE PARTIES NO.1 and 2:-

1. The Complainant has made misconceived and baseless allegations of manufacturing defect in the car without relying on any expert report from a recognized and notified laboratory under sec. 38 (2) of the Consumer Protection Act. 2019 and deficiency in service without any documentary evidence in support of the allegations made in the complaint. the complaint filed by the Complainant does not fall within the definition of a consumer dispute under the Consumer Protection Act as there is neither any manufacturing defect proved in the car in question nor any deficiency in service being established against this Opposite Parties, hence the averments and/or allegations made therein are

frivolous, baseless and misconceived and, the complaint is liable for rejection. The car, purchased by the Complainant, is a well-established product in the market and over a period of years, the consumers are using the product and the Complainant had taken delivery of the car, after being satisfied with the condition of the car and its performance. The said car was delivered after carrying out of Pre-Delivery Inspection (in short, PDI) by the dealer. All passenger cars and commercial vehicles manufactured by this Opposite Party are marketed only after the prototype of the car being approved by the Automotive Research Association of India (in short, ARAI). All the cars manufactured in the plant of this Opposite Parties are put through stringent control systems, quality checks and test drives by the Quality Assurance Department before being cleared for dispatch to the market.

2. Every car manufactured at the plant of this Opposite Parties undergoes various quality control tests till the assembly line and thereafter it is made ready for dispatch. It is pertinent to state that this Opposite Party is "180 TS/16949" certified, which is the international standard for quality systems for all the automotive companies and this international standard specifies requirements for a quality system where an organization needs to demonstrate its ability to consistently provide product meeting customer's satisfaction and applicable statutory and regulatory requirements. After being dispatched to the authorized dealers of this Opposite Party, the said dealers carry out Pre-Delivery Inspection (PDI) of all new cars before selling it to customers as per the standard checklist.
3. Whenever any car reports to a workshop for scheduled services or for any repairs, the complaints/grievances of the customer are recorded in the job card, which do not imply admission of any defects in the car, but a mere representation of the customer's grievances on the said car. Thereafter standard checks are carried out at the workshop and observation is recorded by the Service Advisor on the backside of the job-card. It helps the

concerned workshop to provide necessary consultancy/advise regarding the condition of the car to the customer. The car is checked at the workshop by the Quality Inspector (Q.1.) and by Diagnostic Expert cum Trainer (DET) during pre and post repairs to ensure quality workmanship. The Service Advisor of the workshop who interfaces with the customer, is adequately trained to provide proper job explanation of the works carried out and even provides test drive to the customer at the time of delivery of the car after every service/repair to the entire satisfaction of the customer. The car as attended by this Opposite Party's dealers/service points fully comply with the warranties, assurances, and specifications, provided for it by the manufacturer, regarding quality and performance of the car. Hence, there cannot be any complaint of deficiency of service against this Opposite Party by the Complainant, and the complaint deserves to be dismissed with cost.

4. The Complainant has purchased the vehicle on or around 26.04.2022 from the M/s Venkataramana Motors /O.P.No.3 (authorized dealership of Tata Motors Ltd) and the said vehicle in question till 19.06.2023 had covered around 24,968 km. The said fact proves that the subject vehicle is in absolute roadworthy condition and that the jobs carried out on the vehicle in question are minor and running repairs, which were required to be carried out due to regular, continuous, extensive and faulty usage of the said vehicle. This Opposite Party has been prompt and swift to attend to the alleged grievances reported by the Complainant under the warranty as and when reported. Therefore, the prayers as made by the Complainant for replacement of the car or refund of the price of the vehicle are untenable and unsustainable. In the case of Maruti Udyog Ltd. vs. Susheel Kumar Gabgotra & Anr. (JT 2006 (4) SC 113), the Hon'ble Supreme Court held that, the manufacturer cannot be ordered to replace the car or refund its price merely because some defect appears which can be rectified, or defective part can be replaced under warranty. In view thereof, the Complainant seeking for replacement or full

refund for the vehicle is contrary to law and is untenable. The relationship exists between the opposite parties is on 'principal to principal basis. The Opposite Party cannot be held liable for any independent act and/or omission, committed by the other Opposite Party. Thus, for the acts of the one opposite party, another opposite party cannot be held vicariously liable.

5. The Complainant purchased the subject vehicle "TATA NEXON EV" on or around 26.04.2022 from the 3rd Opposite Party (authorized dealership of Tata Motors. The sales representative of Opposite Party.no.3 would have explained the various features and aspects of the vehicle to the Complainant as part of standard business practice, but the final decision to purchase the vehicle was voluntarily made by the Complainant himself, upon doing his own research and diligence checks. It may be noted that all vehicles manufactured by this Opposite Party undergo strict quality checks, certified and thereafter dispatched to the dealers across the country. The vehicle sold at the dealership point undergoes pre- delivery inspection and being satisfied with the condition and performance of the vehicle, it is sold to the consumers and in this case also, the said process ought to have followed at the dealership. The Opposite Party has been further given to understand that there was no problem with the vehicle at the time of delivery and the Complainant had taken the delivery after proper inspection and satisfaction and the same ought to have acknowledged by the Complainant in the vehicle delivery acknowledgment note. The vehicle bears Reg. No. 7807J84640.

6. This Opposite Parties are a renowned manufacturer of various types of vehicles and is widely acclaimed for its class and quality. It is strictly denied that there was any problem in the vehicle within 11 months of the purchase. It is submitted that after purchase, the vehicle was brought only for 1st, 2nd, 3rd Free Services wherein only scheduled service and accessory fitments were done. No complaint was either reported by Complainant nor observed by the

dealership/service center during these servicing. On 03.05.2023, the Complainant brought the vehicle to the service center of M/s Malik Cars with complaint of EV not starting. The car was duly checked by the service team, and to rectify the purported problem, the HV battery was replaced by the vendor. Thereafter vehicle was delivered to Complainant on 23.05.2023 to his satisfaction. After the alleged fire incident, the service center thoroughly investigated the vehicle with the technical team and telematics data. Based on the analysis, it was found that there was nothing wrong in the performance of the car at the time of incident. Based on the steering angle and direction just before the accident, it may be attributed that due to some driving condition, steering was rotated in anticlockwise direction resulting in sudden movement of vehicle towards left side and collision. The speed of vehicle at the time was found to have reduced from 57.6 KMP 36.45 KMPH. Just after the steering movement toward left side steering movement was found to be in clockwise direction that there was no steering issue in vehicle as well as driver has tries to turn the vehicle on right side, but could not avoid the collision with the tree. At this point, accelerator pedal movement was also observed (speed increased from 36.45 KMPH to 38.36 KMPH) indicating that instead of brake, accelerator pedal was pressed. There was no brake pedal movement observed in the vehicle in the last 10 seconds of collision. Crash alert was raised immediately after the impact. The fire occurring post-crash could potentially have been generated due to external reason such as bike involved in the crash or low voltage wiring short circuit. Hence, it is evident that the alleged incident cannot be traced to any problem in the vehicle; rather the accident and fire incident have occurred due to external factors.

7. As the vehicle was completely damaged, the service team sought Complainant's approval to sell the vehicle as scrap. Accordingly, the vehicle was sold to scrap dealer for an approx. value of Rs 15,000-20,000/- which was credited to Complainant's account. Further the chassis plate was cut and sent to Complainant for removal of vehicle name from the RTA. It is reiterated that the

purported incident was not due to any manufacturing defect in the vehicle, but rather due to the external factors as explained above. All necessary facts were shared with the Complainant, explaining the factual representation of enumeration of fire and consequential damage. It is further clarified that the loud sound heard by Complainant before the alleged accident, could be due to any external reasons. There was absolutely no fault in the battery pack replaced and there was no abnormality found in the vehicle functions. From a bare perusal of the facts involved in the incident, it is evident that the sudden drop in vehicle speed might be due to impact with the bike which got dragged with the car till it hit the tree (at the same instant steering movement was observed. As per design strategy, the door got unlocked after detection of crash which is corroborated with the fact that Complainant was able to come out from the vehicle after opening the driver door easily. The reason why tailgate/rear door did not open, may be due to non-function of lock system in front portion of vehicle to due to damage in wiring due to thermal in front end.

8. Under the warranty policy of the subject vehicle, the manufacturer undertakes to repair or replace the parts if found to be defective when brought to the notice of the manufacturer. Needless to say there is no defect in the vehicle, consequently there lies no cause for replacement or refund of the vehicle.
9. The Complainant is baselessly alleging problems in the vehicle without producing any expert report in support of his allegations, as stipulated under Section 38 (2) (c) of the Act. It is submitted that the said vehicle till 19.06.2023 had covered around 24,968 km which indicates that the vehicle is in absolutely roadworthy and perfectly usable condition. Had the vehicle not been roadworthy, it would not have run for over 24,000 km within a span of 14 months. The Opposite Party's network of service centers has an excellent workshop setup for after-sales servicing of vehicles, which are manned by qualified and experienced personnel only. Without prejudice to the aforesaid, it is clarified that this

Opposite Party is a manufacturer of vehicles and sells the said vehicles to its authorized dealerships for onward sales to the customers, further this Opposite Party engages with the said Dealerships/Service centers on a principal to principal' basis and hence cannot be held accountable for lapses, if any, of the dealerships/service centers. Without prejudice to the aforesaid, it is reiterated that this Opposite Party has always rendered proper service through their authorized dealerships/ centers and maintained communication channels for the repairs a diagnoses.

10. The Complainant has no and cannot have any grievance against this Opposite Parties and the Complainant has failed to prove any cause of action or prima facie case in the complaint against this Opposite Parties and therefore, failed to pray for any reliefs, hence this Opposite Parties are fit to be discharged from the instant proceedings in the absence of any prima facie case.
11. None appears for the Opposite Party.no.3 despite service of notice and fail to file Written Version.

WRITTEN VERSION OF THE OPPOSITE PARTY NO.4:-

1. It may be true that the Complainant was looking in the market for a safe electric vehicle as he was recently became a father to his baby boy. It may also be true that the Complainant spoke to the car dealer i.e. O.P.No.3 and they assured him of all the safety, convenience, comfort and reliability features, including their much-coveted Global New Car Assessment Programme (Global NCAP) rating of five stars towards the Nexon EV. It is true that as per the vehicle specifications, the said vehicle is meant to travel an approximate range of 300 kms on a full charge.
2. The Complainant purchased a Tata Nexon EV vehicle variant XZ LUX BOV, Orc White Colour, bearing Reg. No. TS07JE 4640 AND HAVING Chassis No. MAT635005NLD03722 Engine No. TZ 230X556F12202020927 from the Opposite Party No. 3 on 03-05 2022 for a Tax Invoice price of Rs. 16,95,000/- wherein the O.P. Nos. 1 and 2 are the manufacturers, O.P.No.3 is the authorized dealer and

Opposite Party.no.4 herein is the authorized company service provider. This Opposite Party No.4 does not aware about the profession and earnings of the Complainant.

3. Opposite Party No.4 does not aware about the event on 07-04-2023 the car refused to enter the drive mode and within 11 months of taking delivery of the vehicle, it started showing problems in so far that it would not run even with 18% charge in the battery and similarly on 10-04-2023 once again the Complainant faced issues with the car which had 18% battery remaining and got stranded on the way to his office. It is true that the Complainant brought the vehicle to the service center of this Opposite Party No.4 on 11-04-2023. It is true that after investigation, it was found that the HV battery pack of the EV was depleted and suggested for replacement of the same. It is true that the heart and soul of an Electric Vehicle is the HV Battery pack. It is absolutely falsely alleged that the Opposite Parties have supplied a vehicle to the Complainant which is substandard and has a major manufacturing defect. After taking the instructions of the Complainant, the O.P No. 4 has immediately proceeded to procure the HV battery pack and during the period of procurement, the Opposite Party No. 4 has given guidelines to the Complainant the protocol of using of the EV. It is pertinent to mention here that on purchase of every EV, the customer would be given instructions regarding the protocol the method of using of EV.
4. The Electric Vehicle (EV) industry is growing by the day, with several top automobile players launching new and affordable models in the market. The availability of safe, affordable, and accessible charging infrastructure is the greatest enabler to mass EV adoption. However, even with the growing awareness of the benefits of owning an electric vehicle, EV safety remains an important task for the owners of the vehicles. The owner of the EV should strictly follow the protocols to ensure its safety. The Ministry of Power has also issued EV charging safety guidelines to accelerate the adoption of EVs in the country by ensuring a safe and reliable charging ecosystem. A few things for proper utilization of an EV are:

“When using a public charging station, make sure all the components are in good working order and there are no signs of misuse or disrepair to ensure charging station safety; Never use an EV charger, if it is damaged or off its base; Always follow the EV charging safety guidelines and car safety guidelines laid down by the manufacturer when charging your vehicle. Check with your dealer for more information: While installing home charging equipment, make sure to use only certified devices for maximum electric vehicle safety; If the charging of EV at home, it is to plug the charger directly into an accurate outlet instead of using a multi-plug adapter or extension cord; Property maintain the charging station components as per the manufacturer's guidelines to avoid a potential shock hazard and ensure electric car crash safety; Avoid charging the EV battery immediately after using the vehicle. It is best to let the batteries cool down before charge them to ensure electric vehicle safety”.

5. Evidence affidavit of the complainant filed and examined himself as PW1. Ex.A-1 to Ex.A-34 and M.O.No.1 are marked for the complainant. Evidence Affidavit of Opposite Parties No.1 and 2 was filed by reiterating the contentions of their written version through Mrs. Mahima Dhanhem as DW-1. Ex.B1 to Ex.B7 marked on their behalf. No evidence filed for the opposite party No. 3.
6. Written arguments of the complainant and opposite parties' No. 1 and 2 are filed. Heard both parties. On perusal of material available on record the points to be answered for determination are:-
 1. Whether any deficiency of service is there on the part of the opposite parties as claimed under the complaint?
 2. Whether the complainant is entitled for the relief sought?
 3. To what relief?

POINT NO.1 & 2:-

1. It is an admitted fact that the Complainant purchased a Tata Nexon EV vehicle, variant XZ+ LUX BOV, Ore White colour on 03.05.2022 on payment of Rs.16, 95,000/- (Rupees Sixteen lakhs Ninety five thousand only) and Ex.A3, Ex.A4 and Ex.A5 are the brochures of the said car which clearly shows that the vehicle was manufactured with

completely on safety measures and the Complainant purchased the car on impressed with the advertisement in brochures only.

2. Ex. A3 to Ex.A6 brochures clearly stated that the vehicles “Tata Nexon-India’s safest SUV CAR” “THE FIRST AND ONLY SAFEST CAR IN INDIA”. “BECAUSE WE PUT # SAFETY FIRST “obtained 5/5 star from Global NCAP”. The Opposite Parties have given advertisement through brochures making the public at large to believe that, the said model car has manufactured with high equality for safety of the purchasers. By attracting and believing all these the Complainant has purchased by paying high amount of Rs.16,95,000/- (Rupees Sixteen lakhs Ninety Five thousand only) believing that car has high standards of safety and quality advertised by the Opposite Parties.
3. Opposite Party No.4 admitted in Written Version para No.4 that “It is true that the Complainant brought the vehicle to their service center on 11.04.2023 and further admits that on investigations, it was found that HV battery pack of the EV was detected and suggested for replacement of the same. It is true that the heart and soul of an Electric vehicle is the HV Batter pack”, and the Opposite Parties also admitted that the Opposite Party No.4 changed the battery to that vehicle. The Opposite Party No.4 admitted in its Written Version para No. 7 that “It is true that on 19.5.2023, they informed the Complainant that the replacement of HV battery pack was ready within four days and on 23.05.2023 the car was returned to the complainant with a refurbished HV battery pack”. Ex.A10 is the screen shot of service App. dated 03.05.2023 mentioned that “Running repairs”, in problem description mentioned as “EV- not starting -Starting Problems”.
4. Admittedly, as per Ex. A13 to Ex.A21 and M.O.No.1 clearly established that said car was burned totally on 01.06.2023 and Ex. A24, Ex.A25 and Ex.A26 are final Hospital bills of Mr.V.Balanarasaiah and payment details of Rs.20, 000/- (Rupees Twenty thousand only) and Rs. 25,000/-(Rupees Twenty five thousand only) to the Mr. Balanarasaiah in the month of June 2023 and July 2023. When the

Motor Cyclist after discharging from hospital and he could not attend his job duties. Mr. V. Balanarasiah also stated through a letter which is marked under Ex.A29. This letter clearly establishes that the Complainant has incurred Rs. 1, 45,000/- (Rupees One lakh Forty five thousand only) and also gave a used Hero Passion Pro motorcycle (AP10AU4654) to him. Ex.A.27 is the Complaint to the Inspector of Police, Bowenpally Police Station on 01.06.2023 regarding the fire accident given by the complainant and that FIR No.292/2023. Ex.A-28 is Fire service attendance certificate issued by the Telangana State disaster response which and Fire Services Department clearly stated that cause of fire was "Electric Origin".

5. Ex.A30 is the email from the Opposite Parties No.1 and 2 to the Complainant on 27.06.2023 stated that "collusion at that speed reduction was also found from 57.66 KMPH to 36.45 KMPH". "Fire resulting post-crash could potentially generated due to external reason (Bike) involved in the crash or low voltage wiring short circuit" and as per Ex.A.32 the Complainant's email to Opposite Parties 1 and 2 stated that "the fire as seen in the images clearly shows that it started within the car and not outside the car. The bike had not caught fire until the car was half covered in fire as seen in videos" and also stated that "also in our telephone conversation, I had mentioned to you that only my door opened and none of the other doors opened along with the boot. First, I tried opening the boot it did not open. I went in to the burning car and pushed the unlock buttons on the dash and tried opening and it still did not open. I tried opening the back doors as well in which my 1.5-year-old son's baby seat was there. But it did not open. I went to the other side as well and the doors did not open. There were witnesses who saw me try to open the doors and finally suggested to breaking the glass to take my personal belongings. I could only take a few things out as the fire was rapidly moving to the back. This incident was a total threat to my life. If my wife and child were in the car, this could have fatal. Tata is selling the car with highest safety rating but in a crash like this at a low speed, all the doors were jammed. Since most cars with a high safety rating are with the highest safety rating, but in a crash like this at a

low speed all the doors were jammed. Since most cars with the high safety rating are supposed to unlock the doors in the event of a crash and you have also mentioned on the call that doors should open, can you please explain the fault in the doors not opening?”. Ex.A32 reply mail on 28.7.2023 from the Opposite Parties No. 1 and 2 to the Complainant stated that “ regarding the thermal happens after crash, as informed you in our trailing mail, we have already mentioned that it may be due to external reasons or due to some wiring short circuit after the crash” and also stated that “Regarding the doubt on door not opened, please note that as per design strategy, door got unlocked after detection of crash which is evident from your statement also that you came out from the vehicle after opening of driver door easily. However, as mentioned by you regarding tail gate/ rear door not opened after initiation of thermal in front portion of vehicle, there are possibility of non-function of lock system due to damage of wiring due to thermal in front end”.

6. The Complainant relied upon the following citations in support of his complaint and filed before the Commission:

1. Vinod Prem Chand Rohida Vs. Skoda Auto India Pvt. Ltd., and another (2021) SCC online NCDRC 342)
2. Kandi Shailaza and anr. Vs. M/s. Benling India Energy and Technology Pvt. Ltd., and anr. (CC.No.36 of 2023), DCDRC, Medak at Sangareddy.
3. Shivani Vs. Managing Director, Mahindra and Mahindra Ltd., and ors. (2023 SCC online NCDRC 228)

In Vinod Prem Chand Rohida Vs. Skoda Auto India Pvt. Ltd., and another case in para -12 of the judgement it was observed that “the Complainant pressed the principle of “ res-ipsa loquitur” for the cause of fire being attributed to manufacturing defect in the car. The principle of res-ipsa loquitur” has been judicially recognized in India throughout. It has also been statutory recognized under section 4, 113, 113-A, 114 and 114-A of Evidence Act, 1872, giving power of “may presume” to the court. According to the Complainant as he has provided the incident of fire in the car during drive, initially from the side of engine although the car was almost

new and well maintained. In the absence of any other probable cause of fire, it has to be attributed to manufacturing defect in the car, applying the principle of “res-ipsa loquitur” means “thing speak for itself”. In this instance case also starting problem i.e., battery problem arose after 4 months of purchase of that said car. Opposite party No. 4 taken on 11.04.2023, replaced with refurbished battery and handed over the car to the Complainant on 23.5.2023 and fire accident took place on 01.06.2023 after seven days changing of the HV battery which is heart and soul of an electric vehicle. The Opposite Parties have failed to prove that fire accident was occurred due to the negligence and harsh driving of the Complainant.

In second citation filed by the Complainant i.e., Kandi Shailaja and anr Vs. M/s. Blending India Energy and Technology Pvt. Ltd., and anr. (CC. No.36 of 2023), DCDRC, Medak at Sangareddy. In this case it is observed that “It is the duty of the manufacturer to understand the reasons for the explosion and assist the Complainants to get recourse for the damages they suffered, however in the instance case it appears that the manufacturers are least bothered to enquire in to the incident and support the Complainants despite several communications from the Complainants. This prompts us to think over the safety of other similar Consumers using the product of Opposite Party No.1”, and also observed that “the electric vehicle battery explosion can be caused by various reasons such as physical damage, manufacturing defects, overheating and many more. Hence, it is appropriate for the manufacturer to understand the reasons for such explosion and rectify the same”.

In third citation filed by the Complainant i.e., Shivani Vs. Managing Director, Mahindra and Mahindra Ltd., and ors (2023 SCC online NCDRC 228). In this case the Hon’ble National Commission observed in para No. 13 that “For an average person/purchaser of a car without any sound technical knowledge about automobiles even if he/she is an

educated person, if a problem persisted in a newly purchased vehicle, it is reasonable to logically conclude that there may be an inherent defect/manufacturing defect in the product. Common sense dictates that if issue continue to arise despite repeated servicing and attempts at repair, there is likely an under lying problem with the vehicle. “This logical understanding aligns with the expectations of a Consumer who expects newly purchased item to function properly without recurring issues. By paying full price for a new car, every purchaser on being assured by the dealer/manufacturer of trouble-free running of such vehicle, especially during the warranty period, reasonable expects value of the price paid in terms of smooth and trouble-free service”.

7. In the instance case, the Complainant has purchased the car believing the advertisements of the Opposite Parties and he has given priority for safety, convenience, comfort and reliability features including their much-coveted Global New car Assessment programme (Global NCAP) rating of 5 stars and also believed that the vehicle is very much comfortable for him and his family. But fire accident occurred suddenly and the State Fire Service Department stated the cause of the fire is “Electric origin”. The videos and photos submitted by the Complainant proved that the motorcycle was not at all on fire while the car was burning. The photos and videos clearly establish that the fire started from the engine of the car only.
8. Basing on the above discussion, facts and circumstances of the case, we are under the considered opinion that there is manufacturing defect in the said car and the acts of Opposite Parties clearly establishes deficiency of services and unfair trade practices upon their part. Hence, the Opposite Parties are liable to refund the cost of the car, compensation and costs of the Complaint.

9. POINT NO.3:-

In the result, the complaint is allowed in part and directing the Opposite Parties jointly and severally:

1. To refund an amount of Rs.16, 95,000/- (Rupees Sixteen Lakhs Ninety Five Thousand Only) i.e. the costs of vehicle, along with interest @ 9% p.a from the date of filing of the complaint, i.e. 29-09-2023, till the date of realization.
2. To pay an amount of Rs.2,50,000/- (Rupees Two Lakhs Fifty Thousand Only) towards compensation for causing inconvenience, mental agony and physical trauma and also for expenses incurred for V. Balanarasaiah, who had injured/suffered because of burnt of vehicle, which is having manufacturing defect.
3. To pay an amount of Rs.10, 000/- (Rupees Ten Thousand Only) costs of the complaint.
4. Rest of the claims made under the complaint is disallowed.
5. Time for compliance is 45 days from the date of receipt of this order.

Dictated to Typist, typed by her, corrected and pronounced by us in the open Commission today the 15th day of July, 2024.

MEMBER

MEMBER

PRESIDENT

APPENDIX OF EVIDENCE

Witnesses examined for Complainant:-

Sri Jonathan Brainard (PW1)

Witnesses examined for Opposite parties No. 1 and 2:-

Mrs. Mahima Dhanhem (DW1)

Witnesses examined for Opposite Party.no.4:-

-Nil- Evidence Affidavit not filed

Exhibits marked on behalf of the Complainant:-

Ex.A1: is the copy of Pay slip for the month of April 2022

Ex.A2: is the copy of Complainant's son Aadhar Card

Ex.A3

To

Ex. A5 : are the copies of Car Advertisement

Ex.A6 : is the copy of Tax Invoice, dt.03.05.2022

Ex.A7: is the copy of Vehicle insurance policy, dt.03.05.2023 to
02.05.2025

Ex.A8: is the Copy of Complainant's Driving license, dt.15.12.2015

Ex.A9: is the copy of certificate of registration, dt.07.05.2022

Ex.A10: is the copy of screenshot of service app

Ex.A11: is the copy of company details

Ex.A12: is the copy of Screenshot of website

Ex.A13

To

Ex.A22: are the photographs of accident

Ex.A23: is the copy of ID card of V.Balanarasaiah

Ex.A24: is the copy of Final bill for hospital services,
Dt:01.06.2023 to 05.06.2023

Ex.A25

&

Ex.A26 : are the copy of Screenshot of Payment, dt:07.07.2023

Ex.A27: is the copy of Complaint report along with FIR,
dt.01.06.2023

Ex.A28: is the copy of Fire service attendance certificate,
dt.01.06.2023

Ex.A29: is the copy of letter, dt.05.06.2023

Ex.A30

To are the copies of email,

dt:27.06.2023,07.07.2023,28.07.2023,28.07.2023

ExA32

Ex.A33: is the copy of email, dt.28.07.2023

Ex.A34: is the copy of email, dt.20.09.2023

M.O.No.1: is the C.D (Compact Disk)

Exhibits marked on behalf of the Opposite parties no. 1 and 2:-

Ex.B1: is the copy of Letter, dt.01.01.2022

Ex.B2: is the copy of certificate of incorporation after name change,
dt.17.09.2021

Ex.B3: is the copy of Job Card consolidated Tax Invoice,
dt.23.8.2022

Ex.B4: is the copy of Job Card consolidated Tax Invoice,
dt.25.11.2022

Ex.B5: is the copy of Job Card consolidated Tax Invoice,
dt:20.03.2023

Ex.B6: is the copy of Job Card consolidated Tax Invoice,
dt.03.05.2023

Ex.B7: Copy of job card and invoice, dt.19.06.2023

Exhibits marked on behalf of the Opposite party No.4:-

--Nill--

MEMBER

MEMBER

PRESIDENT

