

**BEFORE THE CONSUMER DISPUTES REDRESSAL FORUM
ERNAKULAM**

**Complaint Case No. CC/16/260
(Date of Filing : 05 May 2016)**

1. SINOJ A.C.

ANATTIL HOUSE,SREEMOOLANAGARAM
P.O.,ALUVA

.....Complainant(s)

Versus

1. MARUTI SUZUKI INDIA LIMITED

1,NELSON MANDELA ROAD,VASANTH
KUNJ,NEW DELHI-110070 REP BY ITS MANAGING
DIRECTOR

.....Opp.Party(s)

BEFORE:

**HON'BLE MR. D.B BINU PRESIDENT
HON'BLE MR. RAMACHANDRAN .V MEMBER
HON'BLE MRS. SREEVIDHIA T.N MEMBER**

PRESENT:

Dated : 06 Apr 2024

**Final Order / Judgement
DISTRICT CONSUMER DISPUTES REDRESSAL COMMISSION
ERNAKULAM**

Dated this the 6th day of April,
2024.

Filed on: 05/05/2016

PRESENT

Shri.D.B.Binu

President

Shri.V.Ramachandran

Member

Smt.Sreevidhia.T.N.

Member

C.C. NO. 260/2016

COMPLAINANT

Sinoj.A.C., S/o Chandran A.A., Anattil House, Sreemoolanagaram P.O., Aluva Sreemoolanagaram.

(Rep. by Adv. Saji Sankaran Nair, Thekkeneth Buildings, South of South Over Bridge, Panampilly Nagar, Ernakulam)

V/s

OPPOSITE PARTIES

1. MARUTI SUZUKI INDIA LIMITED, 1. Nelson Mandala Road, Vasanth Kunj, New Delhi-110070 (Rep. By Its Managing Director)

(Rep. by Adv. P. Jayabal Menon)

2. POPULAR VEHICLES & SERVICES PVT LTD. Corporate Office, Kuttukkaran Center, Mamangalam, Cochin 682025 (Rep. By Its Managing Director)
3. POPULAR VEHICLES & SERVICES LTD Airport Junction Nagar, Angamaly, Ernakulam 683572 (Rep. By Its Managing Director)

(OP No. 2&3 Rep. by Adv. George Cherian Karippambal, Karippambal Associates, H.B. 48, Panampilly Nagar, Kochi 682 036)

FINAL ORDER

D.B. Binu, President:

1. **A brief statement of facts of this complaint is as stated below:**

The complaint filed under Section 12 of the Consumer Protection Act, 1986, involves a case where the complainant purchased a new Maruti Ertiga VDI BS IV car from a dealer (the second opposite party), with the vehicle being manufactured by Maruti Suzuki (the first opposite party). After experiencing a minor accident, the complainant sought service from the third opposite party, a branch office of the dealer, for a check-up on potential damages. Despite initial assurances of no major damage, the service

center later identified a small bend that could affect wheel alignment and recommended claiming insurance. However, after agreeing to the service and insurance claim, the complainant faced delays, and lack of communication, and ultimately discovered additional damages to the vehicle that were not present before servicing.

The complaint highlights several issues, including:

1. The failure of the service center (third opposite party) to complete repairs within the promised timeframe.
2. A lack of communication from the service center, forces the complainant to seek information through other means.
3. The discovery of additional damages to the vehicle after it was left at the service center, which was not documented initially and was dismissed by the service center when brought up by the complainant.
4. A belated and unsatisfactory response from the service center and its management, with a suggestion for superficial repairs that would not address the underlying issues and would devalue the vehicle.
5. The registration of a formal complaint to higher authorities, led to an acknowledgement of the mistake and an offer of free services as compensation, which the complainant found inadequate given the extent of the damages and the impact on the vehicle's value.
6. The filing of the complaint with the Consumer Protection Commission, seeking compensation for mental agony and the devaluation of the vehicle, highlighting a serious deficiency of service and negligence on the part of the opposite parties.

The complainant seeks a total of Rs 2,50,000 in compensation for mental agony and the reduced value of the vehicle, alongside any other relief deemed fit by the commission, asserting that the actions of the opposite parties fall within the jurisdiction of the commission due to the location of the service and the cause of action.

2) Notice

The Commission sent notices to the opposite parties, who subsequently appeared and submitted their versions.

3) THE VERSION OF THE FIRST OPPOSITE PARTY

The complaint is invalid due to the incorrect inclusion of Maruti Suzuki, arguing that there is no specific cause of action against them. They assert that the complainant has

unfairly implicated them without any direct involvement in the alleged issues.

Maruti Suzuki contests the complainant's status as a 'consumer' regarding the transaction in question, as defined under the Consumer Protection Act, 1986. They stated that the services availed were not under warranty and that the complainant had no direct transaction with Maruti Suzuki for the sale or accidental repairs of the vehicle.

The response challenges the maintainability of the complaint against Maruti Suzuki, stating there's no deficiency in service or unfair trade practice on their part. They emphasize their responsibility is limited to warranty services only.

Maruti Suzuki accuses the complainant of misusing the legal process for harassment and unjust gain. They stated the complaint should be dismissed due to the complainant's lack of standing and misconduct.

The response alleges that the complainant has misrepresented the extent of the accident and damages to gain unjustly from the insurance claim. They highlight that the complainant admitted to an accident but downplayed its severity, whereas Maruti Suzuki insists it caused significant damage that was addressed under an insurance claim.

Maruti Suzuki denies various allegations for lack of knowledge or because they pertain to actions by the dealership. They assert that the accident was not minor and involved extensive damage, challenging the non-joinder of the insurance company in the complaint.

They specifically deny any mental trauma or agony caused to the complainant by Maruti Suzuki and demand strict proof of such claims. Maruti Suzuki clarifies its relationship with the dealership is on a principal-to-principal basis, indicating that they are not responsible for each other's actions.

Overall, Maruti Suzuki India Limited's response seeks the dismissal of the complaint, arguing that it lacks basis, involves misrepresentation, and improperly includes them as a party. They maintain that any dealings were between the complainant and the dealership, outside of warranty obligations, and that the complaint does not establish a valid cause of action against them.

4) THE VERSION OF THE SECOND AND THIRD OPPOSITE PARTIES

The Opposite Parties 2 and 3 assert that the complaint lacks merit both legally and

factually, denying most of the allegations except for those specifically admitted. They challenged the complainant's depiction of the accident as minor, stating the vehicle had significant damage upon impact with a road median, which necessitated accident repair work.

They clarified that after an initial inspection, they communicated to the complainant that major body work was needed due to extensive damage, contradicting the complainant's claim of not being updated. They admit to a delay in repair due to the unavailability of parts, which they had to order, but assert they kept the complainant informed.

The service center acknowledges a misunderstanding regarding scratches on the vehicle, admitting that these were not recorded at intake due to the late hour of the vehicle's arrival but commits to covering the cost of rectifying this oversight. They deny allegations of misconduct or threats by their staff towards the complainant and his wife, describing their behaviour as disruptive.

The dealership and service center refute claims of negligence, deficiency in service, and mishandling of the vehicle. They stated that the complainant's demands for compensation are unfounded and that the vehicle was repaired and ready for delivery as promised. They also highlight that a loaner car was provided to the complainant during the repair period, which was returned much later than alleged.

Finally, they assert that the complainant has no cause of action against them, labelling the complaint as an abuse of the legal process. They deny causing any mental trauma or financial loss to the complainant, stating the vehicle was returned in good condition and that the complainant's claims for compensation are baseless. They request the dismissal of the complaint with compensatory costs awarded to them.

3) . **Evidence**

The complainant had filed 4 documents that were marked as Exhibits-A-1 to A-4.

- **Exhibit A1:** A true copy of the vehicle pick-up job slip issued by the Opposite party.
- **Exhibit A2:** Photograph taken by the complainant on 26.02.2016.
- **Exhibit A3:** Photograph taken by the complainant on 04.04.2016 of his vehicle in the premises of the third opposite party.
- **Exhibit A4:** A true copy of the letter dated 09-04-2-016 sent by the second opposite party to the complainant.

The first Opposite Party had filed a proof affidavit and 3 documents that were marked as Exhibits-B-1 to B-3.

Exhibit B1: A true copy of the Warranty Manual.

Exhibit B2: A true copy of the reminder letter dated 07-04-016 sent by the concerned dealership.

Exhibit B3: A true copy of the dealership agreement.

The Opposite Parties 2 and 3 had filed a proof affidavit and 6 documents that were marked as Exhibits-B-4 to B-9.

Exhibit B-4: Invoice No. B115001357 dated 31.03.2016, for the amount of Rs. 37,676/-.

Exhibit B-5: Invoice No. B115001358 dated 31.03.2016, for the amount of Rs. 6,332/-.

Exhibit B-6: A letter from the third opposite party to the complainant, dated 07.04.2016.

Exhibit B-7: Invoice No. BR16001015 dated 18.05.2016, for Rs. 1,190/-.

Exhibit B-8: Bank receipt voucher dated 18.05.2016, for Rs. 3,704/-.

Exhibit B-9: The vehicle history of the complainant's vehicle, registration number KL 41 J 8957.

4) The main points to be analysed in this case are as follows:

- i) Whether there is any deficiency in service or unfair trade practice from the side of the opposite party to the complainant?
- ii) If so, whether the complainant is entitled to get any relief from the side of the opposite party?
- iii) Costs of the proceedings if any?

5) The issues mentioned above are considered together and answered as follows:

In the matter before the Commission, arising from the complaint filed under Section 12 of the Consumer Protection Act, 1986, the complainant alleges deficiency in service and negligence against Maruti Suzuki India Limited (the first opposite party), a dealer (the second opposite party), and a service center (the third opposite party), in connection with the purchase and subsequent servicing of a Maruti Ertiga VDI BS IV car. The complainant seeks compensation for mental agony and the devaluation of the vehicle.

The counsel for Maruti Suzuki India Limited, designated as Opposite Party No. 1 in the complaint, contends for the dismissal of the case based on several points. They argue that the complaint does not accuse Maruti Suzuki of service deficiency, unfair trade practices, or manufacturing defects, focusing instead on issues arising from accident repairs carried out by Opposite Parties 2 and 3, who are the dealership and its service center. They emphasize that Maruti Suzuki, as the manufacturer, is not responsible for repairs, especially those not under warranty and related to accidents. The complaint is also criticized for not including the insurance company involved in the repair payments, suggesting an intention to obscure facts about the accident's severity and the repairs covered by insurance. Additionally, they point out the lack of evidence supporting claims of mental anguish and the absence of the complainant from proceedings, suggesting a lack of serious intent to pursue the case. The counsel concludes that the complaint seems to be an attempt to extract money from the Opposite Parties and requests its dismissal with costs due to these deficiencies and the complainant's non-participation.

In the argument note submitted by Opposite Parties 2 and 3, they provide a counter-narrative to the consumer complaint filed regarding a Maruti Ertiga car purchased from the second opposite party and serviced by the third after an accident. They contest the claim that the vehicle suffered only minor damage and argue that the subsequent damages claimed were already present or were exaggerated. They outline the sequence of events from the accident, through the repair process, to the complaint's resolution attempts, emphasizing their efforts to repair the vehicle and accommodate the complainant, including providing a loaner car.

Opposite Parties 2 and 3 challenge the complainant's claims of delayed repair and additional damages incurred while in service, presenting evidence such as repair invoices and service records that suggest timely and appropriate action was taken. They highlight the lack of substantiation from the complainant, noting his absence from proceedings and failure to provide counter-evidence or to cross-examine

witnesses.

Based on the presented documents and the unchallenged testimony of their witnesses, Opposite Parties 2 and 3 argue that there was no negligence or deficiency in service on their part. They stress that the complainant's vehicle was repaired as promised, and that the complainant even took delivery of the vehicle after filing the complaint, which they interpret as acknowledgment of the vehicle's satisfactory condition post-repair.

Given these points, they conclude that the consumer complaint lacks merit, asserting that the allegations against them have been disproven and suggesting that the complaint should be dismissed in their favour due to the absence of proven negligence or service deficiency.

We have attentively listened to the detailed arguments presented by the complainant, and the learned counsel representing the opposite parties has also thoroughly examined all the evidence available on record.

After considering the submissions made by the complainant, the responses from the opposite parties, and the evidence presented before this Commission, it becomes imperative to address the core issues identified during the proceedings.

A. **Deficiency in Service and Negligence**

The complainant has successfully established a prima facie case of deficiency in service and negligence on the part of the opposite parties. The failure of the service center to complete the repairs within the promised timeframe and the subsequent discovery of additional damages post-service, which were not initially documented, constitute a clear deficiency in service under the Consumer Protection Act, 1986.

The evidence, including photographs of the vehicle before and after the service and the formal acknowledgement by the second opposite party of the mistakes made, bolsters the complainant's claim. The assertion of inadequate compensation for the damages and the impact on the vehicle's value further substantiates the claim of deficiency in service.

In support of our findings, we refer to the landmark judgment in ***HYUNDAI MOTOR INDIA V. HARPAL SINGH (IV (2023) CPJ 416 (NC)*** where the National Consumer Disputes Redressal Commission emphasized the importance of quality service and accountability of manufacturers and service centers towards consumers. The complainant had to endure considerable inconvenience, repeatedly

visiting the dealer for repairs, which failed to resolve the braking sound issue. This situation put him in an unreasonable position, as he was deprived of using his vehicle for his daily needs for at least 12 days, causing him additional expenses for alternative commuting methods. The commission noted that the complainant's refusal to forgo his vehicle for an indefinite period was justified, given the repeated failures to address the defect.

The arguments presented by Maruti Suzuki India Limited, suggesting the non-applicability of the Consumer Protection Act to their case, fail to hold ground. The direct involvement of the dealer and the service center, as representatives of Maruti Suzuki, brings the manufacturer within the ambit of 'service provider', as envisaged under the Act. The relationship between Maruti Suzuki and its dealerships, established through dealership agreements, underscores the manufacturer's indirect involvement in the alleged deficiencies.

The contention that the complainant's vehicle suffered from pre-existing damages not attributable to the accident repair process is contradicted by the evidence presented by the complainant, notably the photographs and the job slip, which document the condition of the vehicle at different stages.

The opposite parties have failed to provide a satisfactory explanation or counter-evidence to dispute the claims of deficiency in service and negligence. The offer of free services as compensation, in light of the significant devaluation of the vehicle and the mental agony caused to the complainant, is found to be grossly inadequate.

B. Liability of the Opposite Parties

Given the evidence and the legal precedents cited, it is evident that the opposite parties are liable for the deficiency in service and negligence. The damage to the complainant's vehicle, the mental agony suffered, and the devaluation of the property are direct consequences of the actions and inactions of the opposite parties.

We determine that issue numbers (i) to (iii) are resolved in the complainant's favour due to the significant service deficiency and the unfair trade practices on the part of the opposite parties. Consequently, the complainant has endured considerable inconvenience, mental distress, hardships, and financial losses as a result of the negligence of the opposite parties.

In view of the above facts and circumstances of the case, we are of the opinion that the opposite parties are liable to compensate the complainant.

Hence the prayer is partly allowed as follows:

- I. The Opposite Parties are hereby ordered to compensate the complainant with a sum of ₹1,50,000 (Rupees One Lakh Fifty Thousand Only) for the significant service deficiency and the unfair trade practices on the part of the opposite parties. Consequently, the complainant has endured considerable inconvenience, mental distress, hardships, and financial losses as a result of the negligence of the opposite parties.
- II. The Opposite Parties shall also pay the complainant ₹25,000 (Rupees Twenty-Five Thousand Only) towards the cost of the proceedings.

The Opposite Parties are jointly and severally liable for the fulfilment of the above orders, which must be executed within 30 days from the date of receiving this order. Should there be a failure to comply within the stipulated period, the amounts detailed in Point I will accrue interest at an annual rate of 9% starting from the day following the expiration of the 30-day compliance period, until the date of realization. This interest calculation commences from the date immediately after the 30 days post-receipt of this order, if non-compliance occurs, and continues from the original filing date of the case (05.05.2016) until full payment is realized.

Pronounced in the Open Commission on this the 6th day of April, 2024

Sd/-

D.B.Binu, President

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V.Ramachandran, Member

Sd/-

Sreevidhia.T.N, Member

Forwarded/By Order

Assistant Registrar

Appendix

Complainant's Evidence

Exhibit A1: A true copy of the vehicle pick-up job slip issued by the Opposite party.

Exhibit A2: Photograph taken by the complainant on 26.02.2016.

Exhibit A3: Photograph taken by the complainant on 04.04.2016 of his vehicle in the premises of the third opposite party.

Exhibit A4: A true copy of the letter dated 09-04-2-016 sent by the second opposite party to the complainant.

Opposite party's Exhibits

Exhibit B1: A true copy of the Warranty Manual.

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Exhibit B-9: The vehicle history of the complainant's vehicle, registration number KL 41 J 8957.

Despatch date:

By hand: By post

kp/

CC No. 260/2016

Order Date: 06/04/2024

**[HON'BLE MR. D.B BINU]
PRESIDENT**

**[HON'BLE MR. RAMACHANDRAN .V]
MEMBER**

**[HON'BLE MRS. SREEVIDHIA T.N]
MEMBER**