

Date of registration : 24.09.2021  
Date of order : 18.01.2023

**BEFORE THE DISTRICT CONSUMER DISPUTES REDRESSAL  
COMMISSION NO.I, VISAKHAPATNAM : AP**



**PRESENT:** Smt.Gudla Tanuja, B.Com., M.A.(HRSA), LL.M., (Ph.D)  
President

Sri Varri Krishna Murthy, M.A., M.B.A., A.I.I.I.,  
(Associateship in Insurance Institute of India)  
Member

Ms.Rahimunnisa Begum, M.Com., LL.M., M.HRM(Ph.D)  
Woman Member

Thursday, the 18<sup>th</sup> January, 2023

**Consumer Complaint No. 225/2021**

Between :

Dr. Vikas Pandey President and in-charge of A.P and Telangana State  
... Complainant

Yalla Kishore Kumar S/O Babu Rao D. No 7-28, Konempalem, Duppituru,  
Achutapuram, Visakhapatnam-530011  
..... De-facto complainant

and

- 1) Managing Director/Authorised Signatory-Tristar Auto Agencies Private Limited 38-13-54, Lakshmi Nagar, NH-5 Road, Marrisalem, Visakhapatnam-530018
- 2) Managing Director/Authorised Signatory - MG Motor India Private Limited. 10<sup>th</sup> Floor, 32<sup>nd</sup> Avenue, Saini Khera Village, Sector 15, Gurugram, Haryana-122022  
... Opposite Parties

*This case came up for hearing before the Commission on 29.12.22 in the presence of the Sri P.Srinivasa Apparao, Advocate for Complainant and Sri G.V.D.V.Bhaskara Reddy, Advocate for 2<sup>nd</sup> Opposite party and the 1<sup>st</sup> Opposite party did not choose to contest the matter, hence remained absent and having stood over till this date, the Commission delivered the following:*

**ORDER**

*(Per Sri. V. Krishna Murthy, Member on behalf of the bench)*

1. The case of the Complainant was that the de-facto Complainant owns an MG Hector Car with registered number AP 39 FN 4447. Nearly after a year of purchasing the vehicle on 24.04.2021, the de-facto complainant had given the said car for general servicing to Tristar Auto Agencies, Visakhapatnam and was informed that one of the alloy wheels needs replacement. Accordingly he paid an amount of Rs 8439/- which included the cost of the spare part, replacement cost, labour charges along with the taxes. As he

wanted to retain the old wheel he had asked the 1<sup>st</sup> Opposite party to provide packing. Accordingly the Opposite party 1 had packed the old alloy wheel in a box on which the price and information of the new alloy wheel were mentioned only then it was found the maximum retail price of the alloy wheel to be Rs 5405/- and the 1<sup>st</sup> Opposite Party charged Rs 6592.97/- which was 20% over the MRP and taxes were also levied on the excessive amount. When questioned, the service manager stating that final bill is computer generated and the charges levied were due to the company's services and was insisted to pay the additional amount without any proper reason and that it was mainly the responsibility of the 2<sup>nd</sup> Opposite party to check if the authorised dealer was selling gthe spares as specified on the packing and that unfair trade practices adopted by the first Opposite Party could have been avoided if the 2<sup>nd</sup> Opposite Party had keenly watched the activities of the 1<sup>st</sup> Opposite Party. Hence the complaint and therefore the complainant approached through the Complainant and the Complainant prayed the Honourable Commission

To direct the Opposite Party to pay :

1. Rs 3,034/- (Rupees three thousand thirty four only) i.e, excess amount charged on alloy wheel along with 24% per annum from 29.04.2021 till the date of till realization.
2. Compensation for mental agony Rs 2,00,000
3. Compensation for misleading unfair practice Rs 5,00,000/-
4. Compensation for pain and harassment Rs 2,00,000/-
5. Costs of the complainant Rs 25,000
6. To direct the Opposite party to inform the details about the actual price of the wheel, quality, service terms and warranty (if available) of the product.
7. Such other relief or reliefs which the Honourable Forum deemed fit, just and proper in the circumstances of the case.

Contention of the 2<sup>nd</sup> Opposite Party:

2. At the outset, it respectfully submitted that the 2<sup>nd</sup> Opposite Party denied all the averments made in the complaint entirely unless specifically admitted hereinafter and that Opposite Party No.2 is an original equipment manufacturer, and it had several dealerships, including Opposite Party No.1. As such the Opposite Parties 1 & 2 share a 'principal to principal'



relationship. The Opposite Party No.2 had no role to play in the instant Complainant. It was thus neither a necessary nor a proper party for the adjudication of the complaint and that no specific averments had been made in the complaint against the Opposite Party No.2 as such, the grievance of the Complainants was only as against Opposite Party No.1. Further in the light of latest judgments by the Honourable Supreme Court in Honda Cars India Limited Vs. Sudesh Berry and Others, Civil Appeal No.6802 of 2021 and Tata Motors Limited Vs. Anonio Paulo Vaz and Another, 2021 SCC on line SC 125, a vehicle manufacturer, like the Opposite Party No.2 herein may not be held liable for deficiency in service by dealer, where a principal-to principal relationship exists between the manufacturer and the dealer.

Further, submitted that the said car does not suffer from manufacturing defect, nor has the Opposite Party No.2 indulged in any kind of deficiency in service. In the absence of deficiency of service on behalf of Opposite Party No.2 was not liable to refund Rs.3,034/- to the complainant nor was the Opposite party No.2 liable to compensate the complainant for any physical or mental suffering for an amount of Rs 9,00,000/- towards the costs of the complainant. As such the complainant being devoid of merits deserved to be dismissed.

Marking of documents as per available record:

3. During the course of inquiry, Exs. A1 to A5 and Ex.B1 were marked for the Complainant and the Opposite parties respectively. Heard the Oral arguments of both the Parties and perused all the documents brought on record by the both the parties.

4. The following issues come forward before the Commission:-

- (i) Whether there is any deficiency in service and unfair trade practice found on the part of the Opposite Parties 1 and 2
- (ii) Whether any relief or reliefs are entitled by the Complainant ?
- (iii) If so, to what extent?

Point No.1 :

5. The facts of the case is that the de-facto complainant owns an MG Hector Car with Registered Number AP39FN4447. The car was given for general servicing to the 1<sup>st</sup> Opposite Party on 24.04.2021 and was advised that one of alloy wheels need to be replaced. As per their advice, the complainant changed the one of the alloy wheels. As per the documents filed on record Ex.A3 is the bill charged to the complainant by Opposite Party

No.1 for the wheel Part No/Code 23534401 for an amount of Rs.8,439/- and Ex.A5 is the packing material on which the part number is mentioned as 23534401 on which MRP mentioned is Rs.5,405/-. Hence it is observed that the Opposite Party charged the Complainant an excess amount of Rs.3034/- more than M.R.P. which is evidence vide Ex.A5. As per the de facto complainant when questioned as to why the charges are being charged more than the MRP their reply was that the bill was computer generated. Further, the 1<sup>st</sup> Opposite Party did not choose to represent themselves and remained absent.

6. Hence, we are of the considered opinion that the 1<sup>st</sup> Opposite Party falls under the purview of Section 2 (11) & (47) of CP Act, 2019 for deficiency of service and Unfair trade practice respectively for selling the product more than the M.R.P. which is visible on the face of the record causing injury/loss to the Complainant.

Section 2(11) - Deficiency of service which says "deficiency" means any fault, imperfection, shortcoming or inadequacy, shortcoming or inadequacy in the quality, nature and manner of performance which is required to be maintained by or under any law for the time being in force or has been undertaken to be performed by a person in pursuance of a contract or otherwise in relation to any service and includes:-

- (1) Any act of negligence or omission or commission by such person which causes loss or injury to the consumer and
- (2) Deliberate withholding of relevant information by such person to the consumer"

and

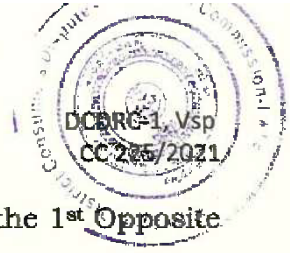
*Section 2(47) - "unfair trade practice" means a trade practice which, for the purpose of promoting the sale, use or supply of any goods or for the provision of any service, adopts any unfair method or unfair or deceptive practice.*

Accordingly point No.1 is answered.

Point Nos.2 and 3:

The de facto complainant is entitled for the following :-

1. Rs.3,034/- towards excess amount collected from the Complainant'.
2. Rs.25,000 towards compensation for mental agony
3. Rs.5,000/- towards costs.



7. In the result the Complaint is allowed in part directing the 1<sup>st</sup> Opposite Party to pay to the defacto Complainant:-

1. Rs.3,034/- (Rupees three thousand and thirty four) towards excess amount collected from the Complainant;
2. Rs.25,000/- (Rupees Twenty five thousand) towards compensation for mental agony
3. Rs.5,000/- (Rupees Five thousand) towards costs.

The case against 2<sup>nd</sup> Opposite Party is dismissed.

Time for compliance is one month from the date of receipt of this Order.

Dictated to the Shorthand Writer, transcribed by him, corrected and pronounced by us in the open Forum on this the 18<sup>th</sup> day of January, 2023.

*Rahimunnisa Begum*  
Woman Member

*Gilaniya*  
President

*[Signature]*  
Member

APPENDIX OF EVIDENCE

Exhibits Marked for the Complainant:

Doc.No.	Date	Description	Remarks
Ex.A1	-	Incorporation Certificate of the organization	Photostat copy
Ex.A2	08.09.2021	Letter from the de facto Complainant to the Complainant	Original
Ex.A3	29.04.2021	Tax Invoice given by the Opposite Party	Original
Ex.A4	--	Registration card of the Car	Photostat copy
Ex.A5	--	Copy of Alloy Wheel packaging with actual MRP rate	Photostat copy

Exhibits Marked for the Opposite Parties:

Doc.No.	Date	Description	Remarks
Ex.B1	04.10.2021	Power of Attorney	Photostat copy

*Rahimunnisa Begum*  
Woman Member

*Gilaniya*  
President

*[Signature]*  
Member

//GLR //

