

Date of Registration: 21.12.2023
Date of Order : 31.05.2024

BEFORE THE DISTRICT CONSUMER DISPUTES REDRESSAL
COMMISSION-I, VISAKHAPATNAM : AP

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

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

Friday, the 31st day of May, 2024

C.C.No. 463/2023

Between:

Dr.Vikas Pandey, S/o late Mohan Pandey, Hindu, aged 43 years, D.No.2-69, Rajeev Nagar, Viskahapatnam-530040 (National President, Consumer Rights Council Society).

... Complainant

Mr.Amit Dhanwani, S/o Ashok Dhanwani, aged 41 years, residing at D.No.6-17-8/5, Flat No.5, East Point Colony, Near Saibaba Temple, Visakhapatnam, Andhra Pradesh-530017.

... De-facto-Complainant

And

1. The Managing Director/Authorised Signatory, Best 'E' Scooters (Komaki), 9-13-2/1, Opp.Swarna Bharathi Stadium, Resapuvanipalem, Visakhapatnam, Andhra Pradesh-530013.
2. The Managing Director/Authorised Signatory, Best 'E' Scooters (Komaki), 1-8-8A, Ettu Bridge Down, beside ICICI-ATM, Opp.Ashok Gajapathiraju Gari Bungalow, Vizianagaram, Andhra Pradesh-535003.
3. Managing Director/Authorised Signatory, KLB Komaki Pvt. Ltd., Chars, 37/19/20/22, Kapaschera, CNG Wall Gali, New Delhi-110037, India.
4. The Managing Director/Owner Sri Sureddy Babu Vidya Sagar, S/o Ramachandra Rao, Hindu, residing at Door No.57-6-17/5, old Post Office, Patamata, Vijayawada, Krishna District.

... Opposite Parties

This case is came for hearing on 9-5-2024 before us for hearing in the presence of N.Venkata Lakshmi, Advocate for Complainant and the Opposite Parties called absent and this Commission made the following:

: O R D E R :

(Per Smt.Gudla Tanuja, President on behalf of the Bench)

1. Complaint filed under Sec.35 of C.P.Act praying this Commission to pay Rs.1,05,000/- with interest @ 24% p.a. from 04.12.2022 till date of realisation; Rs.1200/- incurred towards repair charges; Rs.2,00,000/-

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towards compensation; Rs.25000/- towards costs of litigation and Rs.5,000/- towards legal notice charges with the following averments.

2. The Complainant Consumer Rights Counsel rep by its National President Vikas Pandey filed the present Complaint on behalf of the de-facto Complainant Amit Dhanwani against Opposite Parties contending that the defacto-Complainant purchased e-bike KOMAKI from the Opposite Parties on 4.12.2022 paying a sum of Rs.1,05,000/-. At the time of delivery of vehicle, Opposite Parties informed that the vehicle will give mileage of 70-80 kms once it is fully charged. But the de-facto Complainant is getting 30-40 kms mileage only. Immediately he raised the complaint with Opposite Parties. Opposite Parties deployed a technician by name Suresh to attend the Complaint. The said Suresh after examination replaced with charger informing that the problem is with the Charger. Even after replacement of charger, he is getting mileage of 50-55 kms but not 70-80 kms as promised. Few days thereafter, the rear wheel of the vehicle started giving troubles but Opposite Parties not responded positive despite of Complaint. On 8.4.23 the nut & bolt of the rear wheel came out then immediately the vehicle was taken to the showroom. The Manager with the help of Technician by name Karthik got the vehicle repaired and delivered to the Complainant. Again on 14.4.23 the de-facto Complainant went to the showroom and explained the problem being faced to the Manager Mr.Sobhan. He informed that the vehicle need to be checked by other repairing centre and he will depute someone to rectify the problem. On 17.4.23 the Complainant again visited the showroom to meet the Manager as nobody turnedup to attend the repairs. This time Manager was very rude and not responded positively. Four days thereafter the Technician from Opposite Party took the vehicle to the showroom and returned it after three days informing that the problem was rectified and they have collected Rs.1200/- towards repairing charges despite of protest. Nevertheless the problem faced by the de-facto Complainant was not redressed properly and after persistent requests the Manager gave a number of one Mr.Venkatesh of Vizianagaram branch to contact him. Even after repeated calls he could not reach the said individual

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as such the de-facto Complainant personally met the Branch Manager of Vizianagaram but of no use. Two days thereafter while changing the rear wheel tyre of the vehicle he was informed that small welding has to be done at rear wheel portion which the de-facto Complainant has to be carried outside the workshop. But the outsiders are not prepared to attend the welding works as it is Electrical vehicle when the same was informed to the Technician Venkatesh he demanded Rs.5,000/- to get the welding done. The de-facto Complainant waited for considerable time with hope that they will redress the grievance, but in vain. On 26.7.23 while the vehicle was in use, the rear wheel of the vehicle came out, fortunately nothing was happened to the rider and on the advice of the Technician the vehicle was kept at Showroom, where they demanded Rs.10,000/- to attend the repairs. The de-facto Complainant tried to contact the responsible persons but the problem was not redressed. As such the de-facto Complainant is forced to issue Legal Notice dt. 1.9.2023. The Opposite Parties received the same but neither complied with its terms or issued any reply. Hence the services of Opposite Parties are deficient in nature, as such the Complainant is entitled for the reliefs claimed in the complaint.

3. After registration of the Complaint notices were sent to the Opposite Parties by the Commission directing to appear before this Commission to answer the charges. Opposite Parties received the same as per the postal endorsement made available on the docket, but Opposite Parties failed to evince any interest to defend their rights. Hence proceeded to dispose off the matter exparte as provided under Sec.38(2) of C.P. Act.

4. During course of the enquiry the affidavit of the de-facto Complainant and the authorized representative of the de-facto Complainant were filed and got marked Exs.A1 to A7. Written Arguments filed reiterating the version putforth by the de-facto Complainant. Heard.

5. Points for determination:

- 1) Whether there is any deficiency in service on the part of the Opposite parties?

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- 2) Whether the Complainant is entitled for any reliefs as prayed for?
- 3) To what relief?

Point Nos.1 to 3:

6. Perused the record. It is evident from Ex.A1 Complainant is a registered Society registered under Sec.3 of Societies Registration Act, 2001 by the Government of Andhra Pradesh. Ex.A2 is the letter of authorization given by the defacto-Complainant authorizing the Complainant society to represent on his behalf to the entire proceedings. Ex.A3 evidences that the payment made to the Opposite parties towards purchase of e-scooter from Opposite Parties. Ex.A4 is the correspondence exchanged between the parties prior to the issuance of Legal Notice (Ex.A5). The track report coupled with returned envelope establishes, the Legal Notice (Ex.A5) addressed to Opposite Parties were returned as refused by the addressees: The payment receipts under Ex.A3 shows purchase of Electric vehicle by the defacto-Complainant from the Opposite parties on 4.12.2022 paying total consideration of Rs.1,05,000/-. As per the certificate issued by Opposite parties the vehicle is exempted from registration.

7. It is borne on record that few days after purchase, the vehicle started giving troubles. The Opposite Parties attempted to carryout the repairs but in vain and they advised the defacto-Complainant to visit their Branch office located at Vizianagaram. The defacto-Complainant visited the OP-2 showroom on 6.6.2023 as well as on 23.6.2023 but nothing was done to rectify the defects and made the defacto-Complainant to roam around the showroom for couple of months. Despite of that the Opposite Parties did not extend any service support and made the defacto-Complainant to shuttle in between Visakhapatnam and Vizianagaram showrooms for substantial period. On 26.7.23 when the rear wheel of the vehicle was separated while in motion the defacto-Complainant approached OP-1 to attend the repairs. The Incharge of the showroom by name Mr.Sreenu after initial assessment demanded Rs.10,000/- to attend the repairs which the defacto-complainant denied as the defects surfaced is a manufacturing defect which has to be

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carried out by the Opposite Parties as per the express terms and conditions of warranty. The defacto-Complainant having waited for substantial period got issued Legal Notice under Ex.A5 requiring Opposite Parties to refund the amount paid by the defacto-Complainant towards purchase of the vehicle with interest etc. The Legal notice was returned unserved as 'refused'. The Opposite Parties did not evince any interest in assisting the Commission to decide the controversy at rest which pre-supposes the admission of the grievance raised by the defacto-Complainant before this Commission. The Opposite Parties are bound to attend the defects if any surfaced during the period of warranty at free of cost but they failed to render service to the defacto-Complainant even after receiving the amount of Rs.1,200/- towards repair charges which acts tantamount to deficiency of service. With the above observations, we consistently hold that the failure on part of Opposite Parties in rectifying the manufacturing defects crept in the vehicle sold to the defacto-Complainant having received consideration tantamounts to deficiency in service.

8. Needless to say the Complainant was subjected to untold mental agony making to shuttle between Visakhapatnam to Vizianagaram and vice-versa to attend the repairs incurring substantial amounts. Even the Opposite Parties have demanded the defacto-Complainant to attend the welding work when the rear wheel was separated while in use for which the defacto-Complainant is entitled for suitable amount as compensation besides legal expenses incurred for filing the present complaint.

We answered the points accordingly.

9. In the result the Complaint is allowed in part directing the Opposite Parties to pay Rs.1,05,000/- with interest @ 6% p.a. from 4.12.2022 to till the date of realization. In case the vehicle is with the defacto-Complainant he was directed to handover the same to the Opposite parties under due acknowledgement along with copy of the Order; to pay Rs.50,000/- (Rupees Fifty thousand only) for sufferance of mental agony including incidental expenses, insurance premium etc. incurred by the defacto Complainant; to

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pay Rs.10,000/- (Rupees Ten thousand only) towards litigation expenses to the defacto-Complainant. Rest of the claim is dismissed.

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

Dictated to the Shorthand Writer, transcribed by him, corrected and pronounced by us in the open Commission on this the 31st May, 2024.


Member


President

APPENDIX OF EVIDENCE

Exhibits Marked for the Complainant:

Doc.No.	Date	Description	Remarks
Ex.A1	28.08.2023	Certificate of Registration (No.603 of 2023) registered under the Andhra Pradesh Societies Registration Act, 2001	Photostat copy
Ex.A2	29.08.2023	Authorisation letter from the de-facto Complainant to the Complainant	Original
Ex.A3	04.12.2022 17.04.2023 22.04.2023	Payment receipts issued by the Opposite Party	Original
Ex.A4	12.10.2023	Correspondence in between the de-facto Complainant and the Opposite Party	Photostat copies
Ex.A5	01.09.2023	Legal Notice issued by the de-facto Complainant	Office copy
Ex.A6	29.09.2023	Postal Track Records/Delivery status of Legal Notice	Photostat copy
Ex.A7	--	Returned covers of Legal notices which were refused to take by the Opposite Parties	Original

Exhibits Marked for the Opposite Parties: -NIL-


Member


President