

**HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT JAMMU**

**Reserved on : 25.04.2025
Pronounced on : 20.05.2025**

Case: WP(C) No. 3088/2019 c/w
WP(C) No. 2459/2019

Chairman, Peaks Auto Jammu Pvt. Ltd.Petitioner(s)/Appellant(s)

Through :- Mr. Satinder Gupta, Advocate
Mr. K. D. S.Kotwal, Advocate vice
Ms. Aruna Thakur, Advocate

V/s

Harmeet Kour and anotherRespondent(s)

Through :- Mr. Amit K. Sharma, Advocate vice
Mr. Ayush Pangotra, Advocate

**Coram: HON'BLE MRS. JUSTICE SINDHU SHARMA, JUDGE
HON'BLE MR. JUSTICE VINOD CHATTERJI KOUL, JUDGE**

JUDGMENT

1. Order dated 16.07.2018 passed by District Consumer Disputes Redressal Forum, Jammu (for short '*Forum*'), directing petitioner to replace the Car with a new one of the same model and also to pay compensation of ₹50,000/- for causing unnecessary harassment and mental agony and litigation charges of ₹10,000/- to the complainant, namely, Harmeet Kour, respondent no.1 herein, as well as the Order dated 01.04.2019 passed by J&K State Consumer Disputes Redressal Commission, Jammu (for short

'Commission '), upholding Forum's order, are being challenged and prayed to be set-aside in the instant petitions.

2. The brief facts of the case are that respondent No.1-Harmeet Kour purchased a Car, Maruti ALTO800, bearing Engine No.5891318 and Chassis No.835586 on 20.09.2017 from petitioner, who is authorized dealer of M/s Maruti Suzuki India Ltd., for an amount of ₹3,70,000/-. The vehicle was got insured with National Insurance Co. Ltd, for premium of ₹15,957/-. After purchase, complainant-respondent No.1 approached RTO, Jammu, for registration of vehicle, which was not registered because it was told by the office of the RTO, Jammu, that a vehicle with same Chassis number had already been registered with Registering Authority Nalbarie (Assam) under Registration No. ASI4F-5666. The registration of the vehicle purchased by complainant-respondent No.1 was, thus, refused.
3. After the refusal of the registration by the RTO Jammu, respondent no.1 approached the petitioner, brought into its notice the fact that a vehicle with same chassis number stands already registered with Registering Authority Nalbarie (Assam) and thus, she asked for replacement of the said vehicle as it was not safe for her to ply the said vehicle. However, the petitioner refused to replace the vehicle and complainant-respondent approached the District Forum.
4. The petitioner filed written statement, however, he was proceeded *exparte* and the written statement was not taken on record, because the same was filed after the statutory period provided for filing such statement. The main objection in the written statement raised viz-a-viz complaint was non-joinder and mis-joinder of parties to the complaint. It was alleged that due

to inadvertent error on the part of DTO, Assam, the vehicle in question could not be registered by RTO Jammu, therefore, DTO Assam as well as RTO Jammu ought to have been made party to the complaint. The Forum allowed the complaint of complainant-respondent No.1 holding that non-registration of vehicle in question was due to deficiency in service on the part of the petitioner.

5. Record of the learned Fourm would reveal that the claim petition filed by respondent No.1 was considered and allowed simply on the basis of the evidence produced by the complainant-respondent No. 1.
6. An appeal against the said order was preferred before the learned Commission, however petitioner did not find favour and the learned Commission while dismissing the appeal observed that the complainant-respondent No.1 could not get her vehicle registered; as a result of which she could not ply the same, so, it becomes bounden duty of appellant/petitioner to handover new model car as directed by the District Forum. It has further been observed learned Commission that it is not only defect in service but also unfair trade practice.
7. It is an admitted fact that vehicle in question bearing Engine No.5891318 and Chassis No.B35586 was purchased by the complainant-respondent No.1 from petitioner for an amount ₹ 3,70,000/-. It is also admitted fact that the vehicle in question was not registered by the RTO Jammu and the reason for non-registration of the vehicle in question was that another vehicle with same Chassis number stood registered with the DTO Assam, therefore, RTO Jammu, did not register the vehicle. The chassis number of the vehicle purchased by the complainant was MA3EUA61S00B335586

whereas the chassis number of the vehicle which was registered was MA3EUA61S00835586. It is thus, clear that the chassis number was wrongly shown to be the same by DTO Assam in the registration of the vehicle registered with it. It was because of analphabet i.e., “B”, which was wrongly shown in the registration certificate of the vehicle registered by DTO Assam in place of Digit “8” and because of this inadvertence the vehicle in question was not registered by RTO Jammu. Thus, it is clear that it is not the fault of the dealer or the manufacture because of which the vehicle in question could not be registered, but because of DTO Assam and it is because of this fault the vehicle in question could not be registered. The complainant-respondent No.1 in such a situation was required to implead both DTO Assam as well as RTO Jammu as parties to the complaint, more particularly when it was the fault of DTO Assam. Had both of them been impleaded as party respondents when the complaint was filed, then the matter could have been resolved and also if there was any cause for the complainant-respondent No.2 it was against the registering authorities. It is also admitted fact and not disputed by the complainant-respondent No. 1 that the vehicle which was registered by the DTO Assam was infact not having the same chassis number; it was due to mistake that DTO Assam registered a vehicle showing the chassis number to be the same as that of the vehicle which was purchased by complainant-respondent No. 1. So, it is clear that the non-registration was not because of the petitioner nor the chassis number shown in the sale letter was same as that of the vehicle which was registered with DTO Assam. Thus, in no manner it can be said that there was any deficiency of service on the part of

the petitioner herein. Had DTO Assam or RTO Jammu been made parties to the complaint, this fault could have been rectified by the concerned registration authorities immediately after information to that extent would have been brought to their notice.

8. The fault in registration of vehicle by DTO Assam has been rectified by correcting the chassis number in the vehicle registered by it, and thereafter the vehicle in question has also been registered.
9. The Assam Registering Motor Vehicle Authority admitted that error was on their part and after having rectified the error in the registration certificate, the vehicle purchased by the complainant-respondent No.1 was registered by the RTO Jammu on 14.03.2020 on the application of the complainant-respondent No.1. So, if at all the complainant-respondent No.1 had a cause to claim compensation, the same was against the Assam Registering Motor Vehicle Authority, because it had admitted that the error was on their part as they had wrongly mentioned chassis number of the vehicle with the same chassis number in the registration certificate.
10. The petitioner in no way can be found liable because there is no deficiency in providing services to the complainant-respondent No.1. The petitioner-dealer, therefore, cannot be held liable as there was no deficiency in providing services viz-a-viz the vehicle in question.

11. Section 14, Consumer Protection Act, 1986, reads as under:-

4. Finding of the District Forum.—

(1) If, after the proceeding conducted under section 13, the District Forum is satisfied that the goods complained against suffer from any of the defects specified in the complaint or that any of the allegations contained in the complaint about the services are proved, it shall issue an order to the opposite party directing him to do one or more of the following things, namely:—

(a) to remove the defect pointed out by the appropriate laboratory from the goods in question;

(b) to replace the goods with new goods of similar description which shall be free from any defect;

(c) to return to the complainant the price, or, as the case may be, the charges paid by the complainant;

(d) to pay such amount as may be awarded by it as compensation to the consumer for any loss or injury suffered by the consumer due to the negligence of the opposite party:

Provided that the District Forum shall have the power to grant punitive damages in such circumstances as it deems fit;

(e) to remove the defects in goods or deficiencies in the services in question;

(f) to discontinue the unfair trade practice or the restrictive trade practice or not to repeat them;

(g) not to offer the hazardous goods for sale; (h) to withdraw the hazardous goods from being offered for sale;

(ha) to cease manufacture of hazardous goods and to desist from offering services which are hazardous in nature;

(hb) to pay such sum as may be determined by it, if it is of the opinion that loss or injury has been suffered by a large number of consumers who are not identifiable conveniently:

Provided that the minimum amount of sum so payable shall not be less than five per cent. of the value of such defective goods sold or services provided, as the case may be, to such consumers:

Provided further that the amount so obtained shall be credited in favour of such person and utilized in such manner as may be prescribed;

(hc) to issue corrective advertisement to neutralize the effect of misleading advertisement at the cost of the opposite party responsible for issuing such misleading advertisement;

(i) to provide for adequate costs to parties.

(2) Every proceeding referred to in sub-section (1) shall be conducted by the President of the District Forum and at least one member thereof sitting together:

Provided that where a member, for any reason, is unable to conduct a proceeding till it is completed, the President and the other member shall continue the proceeding from the stage at which it was last heard by the previous member.

(2A) Every order made by the District Forum under sub-section (1) shall be signed by its President and the member or members who conducted the proceeding:

Provided that where the proceeding is conducted by the President and one member and they differ on any point or points, they shall state the point or points on which they differ and refer the same to the other member for hearing on such point or points and the opinion of the majority shall be the order of the District Forum.

(3) Subject to the foregoing provisions, the procedure relating to the conduct of the meetings of the District Forum, its sittings and other matters shall be such as may be prescribed by the State Government.”

12. Section 14 empowers District Forum to award compensation for any injury or loss suffered by a consumer on account of negligence of the other-side and the claim must be substantiated by sufficient evidence.

13. Insofar as the case in hand is concerned, if there was a claim as to negligence having been committed by petitioner-opposite party, as a result whereof vehicle could not be registered, that claim was to be established by claimant. It is only if petitioner-opposite party was found negligent and if it was proved beyond any doubt that because of such negligence vehicle could not be registered, petitioner-opposite party was liable to pay compensation or to replace the vehicle in question, an order to that extent could have been passed by the Forum. However, there is no evidence to substantiate negligence on the part of petitioner-opposite party and that because of such negligence vehicle could not be registered. The case of complainant-respondent No.1 was in fact that Chassis Number provided by petitioner-dealer was a fake one, because a vehicle with same chassis number was already registered by DTO Assam, but this allegation was not correct and it is finding of the learned Forum that chassis number of vehicle in question mentioned in the registration certificate was a fake one, thus, there is no fakeness so far as the chassis number of vehicle in question is concerned. Two vehicles one registered by Assam Registering Motor Vehicle Authority and other one purchased by the petitioner have different and distinct chassis numbers. The Assam Registering Motor Vehicle Authority has registered a vehicle and in the registration certificate

they have mentioned wrong chassis number. So, for the wrong committed by DTO Assam, petitioner-opposite party cannot be made liable. For such wrong or error in the record of the RTO Assam, petitioner-opposite party now cannot be said to have any role to play, therefore, instant case does not in any way fall under the category of holding that petitioner-opposite party has been deficient in providing services to the complainant-respondent No.1. In such circumstances, interference does warrant.

14. For the reasons stated hereinabove, the instant petitions succeed and are accordingly, allowed and it is held that there is no evidence to attribute deficiency of services to the petitioner-dealer, order passed by the learned District Forum, directing to replace the Car with a new one, of the same mode and also to pay compensation of ₹50,000/- for causing unnecessary harassment and mental agony and litigation charges of ₹10,000/- to the complainant–Harmeet Kour as well as order dated 01.04.2019 passed by the learned State Commission, are, therefore, wrong and are, as such, set aside.

(Vinod Chatterji Koul)
Judge

(Sindhu Sharma)
Judge

Jammu:
20.05.2025
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Whether approved for reporting? Yes/No.