

Honda Cars India Limited vs Sudesh Berry on 12 November, 2021

Bench: Uday Umesh Lalit, S. Ravindra Bhat

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.6802 OF 2021

(Arising out of SLP (C) No.11986/2020)

HONDA CARS INDIA LIMITED

VERSUS

SUDESH BERRY & ORS.

O R D E R

1. Leave granted.

2. This appeal challenges the order dated 20.01.2020 passed by the National Consumer Disputes Redressal Commission, New Delhi ("National Commission" for short) in Revision Petition No.2308 of 2017.

3. The appellant manufactures "Honda City Cars" and one such car was purchased by respondents no.1 to 3 herein in the year 1999. The car continued to be under their ownership and possession till 26.09.2010 when the car suffered damage in an accident which occurred at Dabri Bus Stand, New Delhi. The car was taken to the authorized service centre (respondent no.5 herein) for repairs. The car was insured and, as such, the surveyor of the insurance company found the estimated cost of repairs at the level of Rs.1,50,000/-.

4. Date: 2021.11.15 Alleging deficiency on part of the appellant herein as well as 15:34:47 IST Reason:

the dealer and the service centre, respondents no.1 to 3 filed complaint no.DF.VII/261/2011/25 before the Consumer Disputes Redressal Forum – VII, Government of NCT of Delhi ("District Forum" for short).

5. The matter was considered by the District Forum and insofar as the liability of the present appellant is concerned, it was observed thus:

“So far as OP-II is concerned, we find no material on record to fasten any liability for the conduct of the O.P.-I and O.P.-III with whom O.P.-II have allegedly only principal to principal relationship.” Finally, directions were issued as against the dealer and the authorized service centre to the following effect:

“As a result of our above discussion, we direct O.P.-I and O.P.-III jointly and severally to:

1. Deliver the duly repaired car of the Complainants immediately after the Complainants pay the balance of the initially agreed amount of Rs.1,50,000/- i.e. Rs.1,00,000/-.

2. Pay Rs.50,000/- as compensation for mental agony and harassment;

3. And also pay Rs.10,000/- as cost of litigation.

* Order be complied within 30 days after receipt of the order.

* Copy of order be supplied to the parties free of cost.

* File, thereafter, be consigned to Record Room.”

6. Respondents no.1 to 3 being aggrieved preferred First Appeal No.154 of 2013 before the State Consumer Disputes Redressal Commission, Delhi (“State Commission” for short). A cross appeal being First Appeal No.202 of 2013 was also preferred by the dealer and the authorized service centre.

7. The State Commission, by its judgment and order dated 16.03.2017, affirmed the view taken by the District Forum insofar as the liability of the appellant was concerned as under:

“15. So far as the case of OP No.2 is concerned, it is a manufacturing company and the complainants were not pointed out or shown any manufacturing defect to OP No.1 & 3 at the time of delivery of the damaged vehicle for repair. We are in complete agreement of the finding of the District Forum in this regard that no liability can be fixed on OP No.2.” As regards the liability of the dealer and the authorized service centre, the State Commission observed as under:

“16. The District Forum has very rightly decided that OP No.1 & 3 are guilty of indulging in unfair trade practice for enhancing the charges of repair from Rs.1,50,000/- to Rs.2,40,000/-. The District Forum has rightly directed the complainant to pay Rs.1,00,000/- to the OPs 1 & 3 who will thereafter deliver the

vehicle in good condition. As far as grant of compensation of Rs.50,000/- for mental agony and harassment is concerned, the same has been awarded by the Ld. District Forum after considering the document on record by the Ld. District Forum. The same is not on lower side as is contended by complainant. Further grant of compensation is discretion of Ld. District Forum. The same has been exercised by the Ld. District Forum after considering all the relevant material on record. We find no reason to interfere with the same. Similarly, the cost of litigation of Rs.10,000/- to the complainants also cannot be said to be on lower side. We are in complete agreement with the finding of the District Forum and there is no illegality or irregularity in the impugned order dated 02.01.2013 of the District forum.”

8. The dealer and the authorized service centre did not carry the matter further. However, respondents no.1 to 3 filed Revision No.2308 of 2017 before the National Commission.

9. The National Commission found that for some reason or the other, the car was not repaired and every time whenever approach was made, the estimated cost of “repairs” was at an escalated rate.

However, considering the facts and circumstances on record, the relief was moulded by the National Commission as under:

“13. We, therefore, in the interest of justice, request the Respondents No.1 & 2 to provide a brand new Honda City car to the Petitioners on payment of a nominal sum of Rs.2,50,000/-. This would be towards the goodwill gesture. Balance amount towards the cost of the car may be recovered from Respondent No.3.”

10. Being aggrieved by the liability fastened on the appellant to provide brand new Honda car on payment of a nominal sum of Rs.2,50,000/- by respondents no.1 to 3, the appellant is in appeal before this Court.

11. We have heard Mr. Jagdev Singh, learned Advocate for the appellant and Mr. K.P. Berry, respondent-in-person for and on behalf of respondents no.1 to 3.

12. As the facts on record show that the car was used by respondents no.1 to 3 for more than 10 years, whereafter it suffered an accident. There is not an iota of material that the accident occurred as a result of any manufacturing defect. If there be any deficiency in service by the dealer or the authorized centre in rendering assistance for repairs of the vehicle, the manufacturer of the vehicle cannot be held liable. The law on the point is very clear by the decision of this Court in TATA Motors Ltd. v. Antonio Paulo Vaz & Another, 2021 SCC Online SC 125.

13. The District Forum was, therefore, justified in passing directions and making OP Nos.1 and 3 i.e. the dealer and the authorized centre, liable for the deficiency on their

part. The District Forum at the same time had relieved the appellant of any liability. These findings were rightly affirmed by the State Commission and the National Commission ought not to have passed direction putting the burden on the appellant and asking the appellant to provide a brand new vehicle as a “goodwill gesture”.

14. We, therefore, allow this appeal, set-aside the direction issued by the National Commission in paragraph 13 of its order, but restore the order passed by the District Forum as affirmed by the State Commission.

The appeal is allowed to the aforesaid extent, with no order as to costs.

.....J. (UDAY UMESH LALIT)J. (S. RAVINDRA BHAT) New Delhi, November 12, 2021 ITEM NO.22 COURT NO.2 SECTION XVII-A (HEARING THROUGH VIDEO CONFERENCING) S U P R E M E C O U R T O F I N D I A RECORD OF PROCEEDINGS Petition for Special Leave to Appeal (C) No.11986/2020 (Arising out of impugned final judgment and order dated 20-01-2020 in RP No.2308/2017 passed by the National Consumers Disputes Redressal Commission, New Delhi) HONDA CARS INDIA LIMITED Petitioner(s) VERSUS SUDESH BERRY & ORS. Respondent(s) (FOR ADMISSION and I.R.; IA No.102272/2020 – FOR EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT; and, IA No.102276/2020- EXEMPTION FROM FILING AFFIDAVIT) Date : 12-11-2021 This petition was called on for hearing today. CORAM :

HON'BLE MR. JUSTICE UDAY UMESH LALIT HON'BLE MR. JUSTICE S. RAVINDRA BHAT For Petitioner(s) Mr. Jagdev Singh, Adv.

Mr. Umesh Dubey, Adv.

Mr. Sachin Saini, Adv.

Mr. Alok Pandey, Adv.

Mr. Manoj K. Mishra, AOR For Respondent(s) Mr. K.P. Berry, Respondent-in-Person Mr. Abinash Kumar Mishra, AOR UPON hearing the counsel the Court made the following O R D E R Leave granted.

The appeal is allowed, in terms of the Signed Order placed on the file.

Pending applications, if any, also stand disposed of.

(MUKESH NASA)
COURT MASTER

(VIRENDER SINGH)
BRANCH OFFICER