**BEFORE THE HON’BLE DISTRICT CONSUMER DISPUTE REDRESSAL COMMISSION, (MAIN) VADODARA**

**CC.No.885/2016**

IN THE MATTER OF:

1. Jagrut Nagrik

Through their Managing Director P. V. Moorjani

Opp. LBS Vidhyalay, Nr. Prerna School,

Sangam, Karelibaug Road, Vadodara

1. Ajay Vinodbhai Patel,

Res. H-25, Kashidham Society,

Nr. Punamnagar, B/h Akhand Savita Park,

Sama Savli Road, Vadodara-08.

................ COMPLAINANT

Vs.

1. Katariya Motors Pvt. Ltd.

Ranoli S. O., Vadodara.

1. Katariya Motors Pvt. Ltd.

103 / B, Zydus Cadula Plant, Chachawadi,

Sarkhej Bawla Highway, Ahmedabad

1. DAIMLER FINANCIAL SERVICES PVT. LTD.

Unit 202 – 2nd Floor, Compus 3B,

RMZ Milennia Business Park, No 143,

Dr. MGR Road, Perungudi, Chennai – 600 096.

............. OPPOSITE PARTY

COMPLAINT UNDER SECTION 35 OF THE CONSUMER PROTECTION ACT

RESPECTFULLY SHOWETH:

1. That the Complainant No. 1 is a public trust working as a voluntary consumer association for the welfare and benefit of consumers. The Complainant No. 2, a citizen of India residing in Kashidham Society, Sama Savli Road, Vadodara, has filed the present complaint through the first complainant.
2. The Opponent Parties above named are situated in Vadodara, Ahmedabad, and Chennai respectively.
3. This complaint relates to the deficiency in services of the opposite parties faced by the complainant.
4. The Complainant no. 2, being desirous of purchasing a full body transport vehicle, contacted the Opponent no. 1, which is engaged in the business of manufacturing and selling Bharat Benz vehicles.
5. The representatives of the Opponent no. 1 induced the Complainant no. 2 to purchase a Bharat Benz vehicle by making false representations and assurances that the said vehicles are good transport vehicles with low maintenance costs, long life, and better mileage.
6. The Opponent no. 1 further represented and assured the Complainant no. 2 that the vehicle in question would have a laden weight of 16,200 kg and an unladen weight of 6,200 kg, thereby enabling it to carry goods up to a capacity of 10,000 kg (10 tons). Since the Complainant's old vehicle had a goods carrying capacity of 10 tons, he was particularly interested in purchasing a vehicle with the same or similar capacity.
7. Relying upon the false representations and assurances given by the Opponent no. 1, the Complainant no. 2 booked a Bharat Benz vehicle with the said Opponent on 22/10/2015.
8. The Opponents then offered to deliver the chassis of the said vehicle first, as the full body vehicle would take at least two months to be ready. In order to avoid delay, the Complainant agreed and purchased the chassis on 25/11/2015 for a total consideration of Rs. 18,28,327/- against Invoice No. 325/2015-16, along with an insurance policy and RTO documents provided by the Opponent no. 1.
9. The Complainant then got the body of the said vehicle constructed on 25/12/2015 at Navdurga Motors. However, when the Complainant sent the vehicle for RTO passing, it was found that the unladen weight of the vehicle was about 8,610 kg, resulting in a goods carrying capacity of only 7,590 kg, as the laden weight of the vehicle was 16,200 kg.
10. Thus, the vehicle delivered by the Opponents no. 1 and 2 had a significantly lower goods carrying capacity than what was assured and represented to the Complainant no. 2 at the time of booking the said vehicle.
11. The Complainant immediately lodged his grievances with the Opponents no. 1 and 2 regarding the lower goods carrying capacity of the delivered vehicle than what was promised. However, the said Opponents failed to address the Complainant's grievances or provide any satisfactory response.
12. The Complainant no. 2 also sent a legal notice dated 17/02/2016 to the Opponent no. 2, calling upon them to either return the cost of the vehicle or replace it with a vehicle having the promised goods carrying capacity of 10,000 kg (10 tons) within 10 days. However, the Opponent no. 2 gave an irresponsible and vague reply dated 16/04/2016, failing to address the Complainant's grievances.
13. The Complainant no. 2 also wrote a letter dated 11/03/2016 to the Opponent no. 3, Daimler Financial Services Pvt. Ltd., which had provided financing for the purchase of the said vehicle, requesting them to stop the EMI for the loan taken for the said vehicle, as the Complainant had filed a consumer complaint against the dealer for cheating and deficiency in services. However, the Opponent no. 3, in its reply dated 12/04/2016, demanded payment of the outstanding loan amount of Rs. 20,62,311/35 in order to terminate the loan agreement, failing to address the Complainant's grievances.
14. The acts and omissions of the Opponents no. 1, 2, and 3, as detailed above, amount to deficiency in service, unfair trade practices, and violation of the Complainants' rights as consumers under the Consumer Protection Act, 1986.
15. The Complainant relies on the following evidences:
    1. Copy of Invoice No. 325/2015-16 dt. 25-11-2015
    2. Copy of Loan Statement of opponent no. 3
    3. Retail Invoice and receipt dt. 30-11-2015
    4. Copy of bill by Navdurga Motors
    5. Copy of RTO certificate & reports
    6. Copy of letter given by opponent no. 1 to complainant no. 2
    7. Copy of notice to opponent no. 2 dt. 17-02-2016
    8. Copy of reply by opponent no. 2 dt. 16-04-2016
    9. Copy of letter to opponent no. 3 by complainant no. 2 dt. 11-03-2016
    10. Copy of reply by opponent no. 3 dt. 12-04-2016
    11. Copy of letter of opponent no. 3 to complainant no. 3 dt. 31-05-2016
    12. Copy of letter of opponent no. 2 to RTO office dt. 20-06-2016
    13. Copy of received a letter from RTO dt. 29-06-2016
    14. Copy of letter given to opponent no : 3 from complainant no. 2 dt. 27-06-2016
    15. Copy of application from complainant no. 2 to complainant no. 1. 28-06-2016
    16. Copy of Notice sent by Complainant no. 1 to opponent no. 1 and no : 2 through Reg. A.D. 13-07-2016
    17. Acknowledgement slip for the Notice received by the opponents
    18. Copy of reply by opponent no. 3 dt. 17-08-2016
16. The complainant has not filed any complaint having the same cause of action in any other forum or court.
17. The complainant resides within the jurisdiction of this Hon'ble Commission. Hence this Hon'ble Commission has jurisdiction to try and entertain this complaint
18. The total consideration amount paid in purchasing the mobile phone is less than Rs. 50 lakhs. Hence, this Hon'ble Commission has jurisdiction to entertain this complaint.
19. The cause of action arose on 25/01/2015 which is within the limitation period prescribed under the Act. Hence, the claim in the complaint is not barred by the law of limitation.
20. The Complainant is complying with the Court Fees Mandated under Rule 7 of the Consumer Protection (Consumer Dispute Redressal Commission) Rules, 2020.
21. It is, therefore, most respectfully prayed that this Hon'ble Commission may be pleased to:
    1. Direct the Opponents no. 1 and 2 to replace the vehicle with one having the promised unladen weight of 6,200 kg and goods carrying capacity of 10,000 kg (10 tons) or refund Rs. 18,28,327/-, along with interest and compensation for mental agony and cost of the complaint.
    2. Direct the Opponent no. 3 to waive the outstanding loan amount and any penalties, and compensate the complainant for mental agony and cost of the complaint.
    3. Grant any other relief as this Hon'ble Commission may deem fit in the facts and circumstances of the case.

Dated this day of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**COMPLAINANT**

**VERIFICATION**

I, Ajay Vinodbhai Patel, resident of Kashi Dham Society, Sama Savli Road, Vadodara hereby declare that I have not misrepresented any facts nor have tried to hide any information in my above complaint. All the facts mentioned herein are true to the best of my knowledge.

Name & signature of the complainant