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

**CC.No.53/2013**

IN THE MATTER OF:

Dr. Mahesh Thakar

Res. 46, Hastinapur Society,

Karelibaug, Vadodara – 390 018.

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

Vs.

1. Torque Automotive Pvt. Ltd.

Opp. Fertilizer Gate, NH 8,

Chhani, Vadodara - 391750

1. Shri Kurenbhai Amin

Chief Executive Officer/Managing Director Torque Automotive Pvt. Ltd.

Opp. Fertilizer Gate, NH 8, Chhani, Vadodara - 391750

1. Shri Kurenbhai Amin

Chief Executive Officer/Managing Director Tanjan Motors Pvt. Ltd.

Opp. Fertilizer Gate, NH 8, Chhani, Vadodara - 391750

1. Skoda Auto India Pvt. Ltd.

A-1/1, M.I.D.C. Five Star Industrial Area,

Shendra, Aurangabad - 431201

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

COMPLAINT UNDER SECTION 35 OF THE CONSUMER PROTECTION ACT

RESPECTFULLY SHOWETH:

1. That the Complainant is a citizen of India residing in Hastinapur Society, Karelibaug, Vadodara, and the Opposite Parties No.1-4 above named, are situated in Vadodara. Opponent Part No. 5 is situated in Aurangabad.
2. This complaint relates to the unfair trade practice of the opposite party faced by the complainant.
3. The complainant had purchased a Skoda Octavia Ambience petrol version Model car manufactured by Opponent No. 4 from Opponent No. 1 & 3 on 11/09/2002 for Rs. 10,50,000/-.
4. At the time of purchase, the Opponents provided manuals/booklets claiming the vehicle is sturdy, road worthy and has an average trouble-free life of not less than 15 years with periodic servicing at authorized workshops.
5. The complainant duly serviced the vehicle bearing no. GJ 06 AH 2864 at Opponents' authorized service station as per requirements. However, on 19/05/2012, the vehicle did not start and had to be towed to Opponent No. 1's workshop.
6. After repeated delays and huge repair costs of Rs. 27,000/-, the Opponents ultimately informed on 19/07/2012 that the Engine Control Module (ECM) needed replacement at an estimated cost of Rs. 1,70,000/-.
7. Despite protests from the complainant citing manufacturing defects and obligations regarding a 15 year/2.25 lakh km trouble-free engine life, the Opponents failed to replace the ECM under warranty and the vehicle has been lying unrepaired at their workshop since then.
8. The complainant sent several letters/emails to the Opponents protesting the defective ECM and urging return of the vehicle, however the same were not replied to. Legal notice was ultimately served on 12/11/2012.
9. The vehicle has been lying unrepaired at Opponent No. 1's workshop since 19/07/2012 despite repeated requests to return it. The Opponents have failed in their duties as caretakers of the complainant's vehicle.
10. Due to deficiencies in service, unfair trade practices of suggesting costly repairs instead of warranty replacement, and failure to ensure a manufacturing defect-free vehicle by the Opponents, the complainant has suffered mental harassment and monetary losses of the vehicle's full cost of Rs. 10,50,000/-.
11. The Complainant relies on the following evidences:
    1. Publicity leaflet by Skoda Car manufacturer
    2. Present leaflet by Skoda Indian.
    3. Copy of demand draft of Rs. 10,79,074/- paid towards sale price of vehicle
    4. Letter by Tanjan Motors dt. 04/09/2002 about sale of vehicle
    5. Copy of Sales invoice given by Tanjan Motors P. Ltd.
    6. Copy of roadworthiness certificate issued by Skoda Auto India P. Ltd.
    7. Certificate of Registration.
    8. Owner Manual provided by the Opponent.
    9. Skoda Octavia Service Schedule showing service record of complainant's vehicle.
    10. Statement of payment made in last 6 years to opponents.
    11. Performa invoice dated : 21/07/2010.
    12. Performa invoice dated : 23/07/2010.
    13. Receipt of payment Dt. 23/07/2010
    14. Invoice dated : 23/07/2010, 25/09/2010, and 18/08/2011
    15. Receipt dated : 25/09/2010 and 18/08/2011
    16. Estimate of repairs dated : 30/11/2011.
    17. Invoice dated 01/12/2011 and 06/06/2012
    18. Receipt dated : 06/06/2012
    19. Estimate of repairs dated : 19/07/2012
    20. Complainant's letter dated : 20/07/2012
    21. Email dated : 03/08/2012
    22. Complainant's Registered Letter dated : 25/07/2012, 01/08/2012, 5/08/2012 and 31/08/2022.
    23. Complainant's notice dated : 12/11/2012
    24. Status of Torque Automotive P. Ltd. showing Kuren Manishkumar Amin as the local director.
    25. Advertisement published in Sandesh dated 13/08/2012 by Torque Auto inducing customers
12. The complainant has not filed any complaint having the same cause of action in any other forum or court.
13. The complainant resides within the jurisdiction of this Hon'ble Commission. Hence this Hon'ble Commission has jurisdiction to try and entertain this complaint
14. 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.
15. The cause of action arose on 19/07/2012 which is within the limitation period prescribed under the Act. Hence, the claim in the complaint is not barred by the law of limitation.
16. The Complainant is complying with the Court Fees Mandated under Rule 7 of the Consumer Protection (Consumer Dispute Redressal Commission) Rules, 2020.
17. It is therefore most respectfully prayed that this Hon'ble Commission be pleased to:
    1. Direct the Opposite Party to refund the full cost of the Skoda Octavia car purchased in 2002, which amounts to Rs. 10,50,000/-, along with appropriate interest from the date of payment;
    2. Award compensation of Rs. 2,00,000/- to the complainant for the unnecessary cost of expensive repairs undertaken;
    3. Award compensation of Rs. 2,97,000/- for mental agony and harassment and other legal costs incurred;
    4. Grant any other relief which this Hon'ble Commission deems fit in the facts and circumstances of the case.

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

**COMPLAINANT**

**VERIFICATION**

I, Dr. Mahesh Thakar, resident of Hastinapur Society, Karelibaug, 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