**BEFORE THE DISTRICT CONSUMER DISPUTES REDRESSAL COMMISSION NO.0I VISAKHAPATNAM: AP**

**CONSUMER COMPLAINT NO. /2019**

**IN THE MATTER OF:**

1. Yaradi Prabhat

s/o Dr. Y. Krishna Murthy, aged 24 years,

D. No. 17-71/1, Sompeta Village and Post,

Srikakulam District- 532284

Employee at XYZ Solutions

… **COMPLAINANT**

**AND**

1. M/s Bajaj Auto Ltd.,

rep. by its Authorized Signatory,

Pune- Mumbai Road, Akurdi,

Pune-411035, Maharashtra

1. M/s Varun Motors (KTM Showroom),

rep. by its Authorized Signatory,

Ramatalkies Road, Dwarakanagar,

Visakhapatnam- 530016, Andhra Pradesh

1. M/s Varun Motors,

rep. by its Authorized Signatory,

D. No. 10-5-22/1, Siripuram Junction,

Visakhapatnam- 530003, Andhra Pradesh

1. Varun Motors (Service Centre),

rep. by its Authorized Signatory,

D. No. 8-1-13/3, Karachettu Road,

Beside DIG Bungalow, Siripuram,

Visakhapatnam- 530003, Andhra Pradesh

… **OPPOSITE PARTIES**

**COMPLAINT UNDER SECTION 35 of THE CONSUMER PROTECTION ACT, 2019**

**RESPECTFULLY SHOWETH:**

1. The address of the Complainant for the purpose of service of summons, notice etc is as shown in the cause title above.
2. The address of the Opponents for the very purpose is the same as shown in the cause title above.
3. The complainant purchased a vehicle of KTM RC 390 EBONY BLK(MET) model Motor Cycle and make “KTM RC 390” bearing Engine No. 8-938\*50300\* and chassis No. MD2JYJYM3JC298161 manufactured by the 1st opposite party and purchased from the showroom of the 2nd opposite party through the 3rd opposite party authorized dealer on 26/04/2018. The complainant paid an amount of Rs.2,37,496 for the vehicle.
4. The complainant contends that, since the date of purchase, the vehicle started giving trouble like the engine becoming too hot, the vehicle failed to start and cut off the Engine frequently.
5. The complainant took the vehicle to the 4th opposite party on 25/05/2018. The authorized mechanics after inspection informed the complainant that the radiator fan assembly has to be replaced to rectify the issue.
6. The complainant further contends that on 09/06/2018 the vehicle stopped functioning, as such again the same was taken to the 4th opposite party and the radiator fan assembly was replaced again by the 4th opposite party. Likewise within a few days the incident was repeated again on 22/06/2018 and the vehicle was again taken to the 4th opposite party who replaced the radiator assembly again but still the problem was not solved.
7. Further, in the month of August, 2018 when the complainant faced the same problem, the 4th opposite party took the vehicle to resolve the issue, but in vain. In the month of September, 2018 the vehicle was stopped in the middle of journey near Sompeta, Srikakulam District and the complainant had to opt for roadside assistance.
8. The opposite parties sent the representatives from Visakhapatnam and took the same to their service center for carrying out repairs.
9. The complainant further contends that the vehicle is troubling the complainant within quick succession he requested opposite parties on 10/10/2018 to get the vehicle checked by the representatives of the company to resolve the issue once for all and if a defective vehicle is delivered to the complainant then to rectify the defect or to replace the vehicle. But the opposite parties did not heed to the request of the complainant and relied on temporary repairs and delivered the vehicle on 30/10/2018.
10. The complainant further submits that the opposite parties failed to fulfill their obligation to deliver a quality product in the first instance and failed to rectify the problem and did not choose to sort out the issue by exploring other options.
11. The complainant aggrieved by this has issued a legal notice on 12/01/2019 to the opposite parties. The opposite parties did not reply to the notice and hence the consumer approached this commission seeking redress.
12. **CAUSE OF ACTION**: Though there were multiple instances of issues and eventually resolved by the service center, in the present case the cause of action arose on the day when the complainant requested the opposite parties to look into the vehicle requesting to rectify the defect or replace it and the opposite parties have delivered it by doing temporary repairs i.e on 30/10/2018 and it subsequently arose on 12/01/2019 wherein the complainant issued a legal notice to the opposite parties to which they did not reply.
13. **JURISDICTION**: The consideration amount in the dispute is less than Rs. 50 lakhs and the opposite party resides within the territorial limits of this Hon’ble Commission. Hence this Hon’ble Commission has jurisdiction to try and entertain this complaint.
14. **LIMITATION**: That the present complaint is being filed within the period of limitation prescribed under section 69 of the Act, 2019.
15. **COURT FEE**: As per Rule 7 of Consumer Protection (Consumer Dispute Redressal Commission) Rules 2020, the requisite court fee has been paid.

**EVIDENCE:**

A1- Invoice issued by Varun Motors along with Letter and Account Payee Cheque for Rs.2,66,000

A2- Job card issued by Service Centre of Varun Bajaj

A3- Mail correspondence between the complainant and the opposite parties.

A4- Legal notice issued to the opposite parties

A5- Letter issued by Varun Bajaj to the complainant

**PRAYER**:

The complainant therefore prays to direct the opposite party :-

i) To replace the impugned vehicle with a new vehicle which is free from any defects or alternatively to refund the cost of the bike i.e., pay Rs.2,37,496/- ,

ii) To pay Rs.2,50,000/- towards compensation for mental agony

ii) To pay Rs.50,000/- towards costs of litigation

iii) Such other relief or reliefs which the Honourable Forum deemed fit, just and proper in the circumstances of the case.

**PLACE**: Signature

**DATED**:

**VERIFICATION**:

I ,Yaradi Prabhat s/o Dr. Y. Krishna Murthy, aged 24 years, is a resident of D. No. 17-71/1, Sompeta Village and Post, Srikakulam District- 532284, 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