**BEFORE THE ARBITRATOR, «ARBITRATOR\_NAME», CHENNAI**

**(CONSTITUTED BY JUPITICE ODR CENTRE)**

**PLOT NO-14, JUPITICE AEREN BUILDING, RAJIV GANDHI CHANDIGARH**

**TECHNOLOGY PARK, CHANDIGARH, 160101**

**Date: 07.08.2025**

**Arbitration Case No. «Case\_ID»**

In the matter of the Arbitration & Conciliation Act, 1996

And

In the matter of Hypothecation-cum-Loan Agreement No. «Agreement\_No»

BETWEEN:

M/s. TVS Credits Services Limited,

Rep. by its Authorised Signatory,

Mrs. Pakhi Awasthy,

Corporate Office: No. 29, Jayalakshmi Estates,

Third Floor, Haddows Road, Nungambakkam,

Chennai – 600 006

Reg Office: Chaitanya, No.12, Khader Nawaz Khan Road,

Nungampakkam, Chennai- 600 006 … Claimant

AND

|  |
| --- |
| «Borrower\_Name» S/o «RESPONDENT\_FATHERS\_NAME» «BORROWER\_FULL\_\_ADDRESS» Mobile No. «Mobile\_No1» «Mobile\_No2»  «COBORROWER\_NAME» «COBORROWER\_ADDRESS\_FULL» «COBORROWER\_MOBILE1»  «GUARANTOR\_NAME» «GUARANTOR\_ADDRESS\_FULL» «GUARANTOR\_CONTACT» |

... Respondent

This claim petition is coming on 03.02.2025 for final hearing before me in the presence of Mrs. Pakhi Awasthy, the Authorised Signatory of the claimant. The Respondent is called absent and set ex parte. Upon hearing the Claimant, after perusing the case records and having stood over for consideration till this day, this Tribunal delivered the following:

**AWARD**

1. **The Claimant had filed its claim statement praying for an award;**
2. directing the Respondent to pay a sum of Rs. «Claim\_Amount\_FC»/- to the Claimant;
3. directing the Respondent to pay the Claimant a simple interest at the rate of 36% per annum for the above amount from 23.04.2025 until the date of full realisation;
4. in the event of the Respondent failing to make the above payment, direct the Respondent to surrender the vehicle bearing Registration no. «REGISTRATION», Engine No. «ENGINE\_NUMBER» and Chassis No. «CHASSIS», covered under the Agreement bearing No. «Agreement\_No» including original documents;
5. in the event of the Respondent failing to surrender the vehicle, permit the Claimant herein to seize the vehicle, sell the same and appropriate the sale proceeds to satisfy the award amount, and in the event of the sale proceeds falling short of satisfying the award amount, to recover the shortfall sum from the Respondent; and
6. directing the Respondent to pay the costs of the arbitration proceeding

**II.** **Brief statement of facts:**

1. The case of the Claimant is that the Respondent herein approached the Claimant seeking loan for purchase of «MODEL» vehicle with Registration no. «REGISTRATION», Engine No. «ENGINE\_NUMBER» and Chassis No. «CHASSIS». The proposal of the Respondent was acceptable to the Claimant, and hence, a Hypothecation-cum-Loan Agreement No. «Agreement\_No» was entered into by the Respondent under which the Claimant sanctioned a sum of Rs. «Loan\_Amount\_»/- to the Respondent, against hypothecation of the aforesaid Vehicle. Accordingly, the sum was disbursed against hypothecation of the said vehicle. The loan was sanctioned and disbursed based on the strength of documents produced before them by the Respondent and in consideration of the execution of the Hypothecation-cum-Loan Agreement and other relevant documents.
2. It is the further case of the Claimant that the Respondent is liable to pay the amount financed, i.e., Rs. «Loan\_Amount\_»/- at an equated monthly instalment of Rs. «EMI\_AMOUNT»/- within a period of «TENURE» months and that the said Hypothecation-cum-Loan Agreement stipulates that the Respondent is liable to pay additional finance charges of 36% interest per annum, in the event of default apart from other charges payable under the aforesaid Agreement. The Instalments commence from «M\_1st\_EMI\_DATE» and the last instalment falls due on «LAST\_EMI\_DATE\_».
3. It is the further case of the Claimant that in consideration of the loan facility availed, the Respondent had hypothecated the subject vehicle and created a charge over the same in favour of the Claimant. As per the terms and conditions of the Agreement, the Respondent is liable to pay the said loan amount whether it was demanded or not. However, the Respondent paid only a few instalments, which too quite irregular. As the Respondent failed to comply with the terms and conditions of the Loan Agreement, the Claimant made several personal visits and telephonic calls demanding the instalment amounts payable as scheduled in the Hypothecation-cum-Loan Agreement. However, the Respondent did not bother to pay the outstanding amount due, thus committing a breach of the terms and conditions of the Agreement.
4. The Claimant had also pleaded that the Respondent had secured prompt payment of the loan monies and due fulfilment of the obligations envisaged in the terms and conditions of the Hypothecation-cum-Loan Agreement. The Claimant has further stated that solely based on the said Loan Agreement entered into by the Respondent, the Claimant Company extended the financial facility to the Respondent, subject to the fulfilment of all terms and conditions set out in the Hypothecation-cum-Loan Agreement. That in the event of the Borrower defaulting in paying the loan monies or suffered by any of the acts prohibited in violation of the terms and conditions of the Agreement, the Claimant has the right to take possession of the afore mentioned vehicle and sue the Respondent for all the instalments due, for damages and for breach of the Agreement with all costs and expenses.
5. The Claimant has further submitted that the Respondent did not pay the loan instalments on the due dates and has wilfully committed default, thereby attracting additional interest at the rate of 36% interest per annum as per the terms and conditions of the said loan agreement for the defaulted instalments/delayed payments. In spite of several requests, follow ups and reminders by the officials of the Claimant Company, the Respondent has been evading payment of the instalments and additional interest due to the Claimant, and hence the Claimant has totally lost its confidence in the Respondent.
6. According to the Claimant, as per the terms and conditions of the Hypothecation-cum-Loan agreement, if the Respondent fails to pay any of the loan instalments within the stipulated time (whether demanded or not), the Respondent suffers an act of breach. In the event of such breach, the rights under the Hypothecation-cum-Loan Agreement stand determined, as the Respondent had been committing several defaults.
7. It is also the case of the Claimant that despite the facts that the Respondent committed continuous default in payment of monthly instalments, the Respondent had been in continuous possession of the vehicle and deriving benefits out of it illegally and the Respondent is liable to pay the Claimant a sum of Rs. \_\_\_\_\_\_/- as on 23.04.2025.
8. The Claimant has further stated that the Respondent was called upon to repay the outstanding amount through a Loan Recall notice. However, as the Respondent had failed to comply with the said notice, a dispute had arisen. Clause 23 in the Hypothecation-cum-Loan Agreement envisages that in case of any dispute or claim that may arise shall be referred to arbitration and settled/resolved by an Arbitrator nominated by the arbitral institution, viz., Jupitice ODR Centre, in consonance with the decisions of the Honourable Supreme Court and such arbitral proceedings shall be conducted at Chennai. As such, the Claimant was constrained to send a communication to the Respondent on 30.04.2025, intimating that the dispute regarding non-payment of dues would be referred to arbitration of an Arbitrator appointed by the Arbitral Institution, viz., Jupitice ODR Centre. The Reference notice also did not evoke any response from the Respondent. Hence, the aforesaid Arbitral Institution vide Notification dated 09.05.2025, proceeded to appoint the Undersigned as Arbitrator to adjudicate upon the dispute between the parties.

**III**. This Tribunal, on accepting the reference, issued notice to the Respondent informing that

the above Claim petition stood posted on 20.05.2025 at Jupitice ODR Centre, Platform[**arbitration.jupitice.com**](http://arbitration.jupitice.com) for the appearance of the Respondent either in person or through an authorised representative or a duly appointed Advocate, failing which the proceedings will be commenced, continued and disposed off in the absence in accordance with law. The notice issued to the Respondent is delivered to the last known address of the Respondent. As such, the service. The Respondent is held to be sufficient. The Respondent, despite such service, failed to appear or file objections, and hence the Respondent was set ex parte.

**IV.** **Points for determination are:**

a) Whether the Claimant is entitled to an award directing the Respondent to pay a sum of Rs. \_\_\_\_\_/-.

b) Whether the Claimant is entitled to future interest and cost of Arbitration?

c) To what relief the parties are entitled?

**V**. **On Point (a), (b) & (c):**

1. To prove their case, the Claimant had filed their Claim Statement and examined Mrs. Pakhi Awasthy, the Authorised Signatory of the Claimant, as Pw-1 and marked as Exhibits A-1 to A-7 through her.
2. The case of the Claimant is that by virtue of a Hypothecation-cum-Loan Agreement No. \_\_\_\_\_\_\_\_\_ dated \_\_\_\_\_\_\_ the Respondent had taken a loan of Rs. \_\_\_\_\_\_/- from the Claimant for purchase of the MODEL vehicle with Registration no. \_\_\_\_\_\_\_\_, Engine No.\_\_\_\_\_\_ and Chassis No. \_\_\_\_\_\_.
3. The Respondent is liable to pay the amount financed, i.e., Rs. \_\_\_\_\_/- at an equated monthly installment of Rs. \_\_\_\_\_/- within a period of \_\_\_ months. The said Hypothecation-cum-Loan Agreement also stipulates that the Respondent is liable to pay additional finance charges of 36% interest per annum in the event of default, apart from other charges payable under the aforesaid Agreement. The Instalments commence from \_\_\_\_\_\_\_ and the last instalment falls due on \_\_\_\_\_.
4. However, the Respondent paid only a few instalments, which too quite irregular, and the Respondent failed to comply with the terms and conditions of the Loan Agreement.
5. Further as per the Arbitration clause \_\_\_ of the Agreement, the Claimant was constrained to send a communication to the Respondent on 30.05.2025 intimating that the dispute regarding non-payment of dues would be referred to arbitration of an Arbitrator appointed by the Arbitral Institution, viz., Jupitice ODR Centre. The Reference notice also did not evoke any response from the Respondent. Hence, the aforesaid Arbitral Institution vide Notification dated 09.05.2025, proceeded to appoint the Undersigned as Arbitrator to adjudicate upon the dispute between the parties.
6. For proving their above case, the Authorised officer of the Claimant was examined as Pw-1 and marked Exhibits A-1 to A-7. This Tribunal has verified the documents marked by the Claimant and ascertained that;

|  |  |
| --- | --- |
| **Exhibit Number** | **Description** |
| Exhibit A-1 | Copy of Power of Attorney |
| Exhibit A-2 | Copy of Loan Application |
| Exhibit A-3 | Copy of Hypothecation-cum-Loan Agreement dated \_\_\_ |
| Exhibit A-4 | Copy of Statement of Accounts |
| Exhibit A-5 | Copy of Loan Recall Notice |
| Exhibit A-6 | Copy of Letter of Reference to Arbitration dated \_\_\_\_ |
| Exhibit A-7 | Copy of Notification of Appointment of Arbitrator dated \_\_ |

1. The claim of the Claimant has been established and proved by the aforesaid documents. The Respondent, despite being sufficiently served, has not entered any appearance or chosen to file objections to rebut the claim of the Claimant.
2. There is no contrary evidence available before this Tribunal to discard the pleadings and evidence of the Claimant. In the absence of any specific pleading and evidence, the claim of the Claimant, supported by oral and documentary evidence of the Claimant, cannot be rejected. The admitted and contractual interest agreed upon is 36% but this Tribunal feels that future interest at the rate of 24% would be reasonable and just. Moreover, since the claim has not been refuted despite service of notices at every stage, this Tribunal holds that the claimant is entitled to 24% simple interest from the date of the award till full realisation in exercise of powers under section 31(7)(b) of the Arbitration and Conciliation Act,1996. Therefore, this Tribunal is of the considered opinion that the Claimant is entitled to the petition claim as prayed for. Accordingly, the above points are determined.

**VI. Case Law Reference:  
 *Shriram Transport Finance Co. Ltd. v. Yasin Khan (Rajasthan High Court, 2010)***

The Court upheld a financier’s right under a hypothecation agreement to seize and sell a vehicle upon borrower default, provided the action follows contractual terms. The facts of this case are in pari materia with the present dispute, where the Respondent’s default entitles the Claimant to repossession and sale of the hypothecated vehicle.

**In The Result,** the Claim Petition is allowed directing;

1. The Respondent to pay a sum of Rs. \_\_\_\_\_\_/- to the Claimant;
2. The Respondent to pay the Claimant simple interest at the rate of 24% per annum for the above amount from 23.04.2025 until the date of full realization;
3. In the event of the Respondent failing to make the aforesaid payment, the Respondent is directed to surrender the vehicle bearing Registration no.\_\_\_\_\_\_, Engine No. \_\_\_\_\_ and Chassis No. \_\_\_\_\_ covered under the Agreement bearing No. \_\_\_\_\_\_ including original documents;
4. In the event of the Respondent failing to surrender the vehicle, the Claimant herein is permitted to seize the vehicle, sell the same and appropriate the sale proceeds to satisfy the award amount and in the event of the sale proceeds falling short of satisfying the award amount, to recover the shortfall sum from the Respondent.
5. The Respondent to pay a sum of Rs. \_\_\_\_/- towards Arbitrator’s fee; and
6. The Respondent to pay a sum of Rs. \_\_\_\_\_/- towards the costs of the arbitration proceeding.

Dated at Chennai on this 7th day of August, 2025.

**MR. MAHIPAL SINGH GILL**

**ARBITRATOR**

**Claimant Witnesses:**

Pw-1 Mrs. Pakhi Awasthy

**Claimant Exhibits:**

|  |  |
| --- | --- |
| **Exhibit Number** | **Description** |
| Exhibit A-1 | Copy of Power of Attorney |
| Exhibit A-2 | Copy of Loan Application |
| Exhibit A-3 | Copy of Hypothecation-cum-Loan Agreement dated \_\_\_\_ |
| Exhibit A-4 | Copy of Statement of Accounts |
| Exhibit A-5 | Copy of Loan Recall Notice |
| Exhibit A-6 | Copy of Letter of Reference to Arbitration dated \_\_\_\_ |
| Exhibit A-7 | Copy of Notification of Appointment of Arbitrator dated \_\_\_\_\_\_ |

**Respondent Witnesses:** Nil

**Respondent Exhibits:** Nil

**MR.MAHIPAL SINGH GILL   
ARBITRATOR**

**Copy To:**

1. The Claimant - By Hand Delivery.

2. The Respondent - By RPAD