

**IN THE CONSUMER DISPUTES REDRESSAL COMMISSION,
THRISSUR**

Present : Sri. C.T. Sabu, President
Smt. Sreeja. S., Member
Sri. Ram Mohan R., Member

25th day of November 2025
CC 229/18 filed on 07/05/2018

- Complainant : Dels Davis, S/o. A.C Davis, Anchery Maliyekkal House, Thalore, Thrissur.
(By Adv. Preejo Pauly, Thrissur)
- Opposite Parties : 1. Hyson Fiat, Opp. Gold Souk, NH 47 Bypass, Vyttila, Ernakulam, Kerala, Pin – 682 019.
(By Adv. M.R Mounish, Thrissur)
2. Hyson Auto Sales (P) Ltd., TC 9/275-9, NH 47, Mannuthy Bypass, Kuttanellur, Thrissur, Pin – 680 014.
(By Adv. M.R Mounish, Thrissur)
3. FCA India Automobiles Pvt. Ltd., 1601 (III), 16th Floor, B Wing, The Capital, Plot #C-70, G Block, Bandra Kurla Complex, Bandra (East), Mumbai, Pin – 400 051.
(By Adv. T.P Saju, Thrissur)

FINAL ORDER

By Sri.Ram Mohan R, Member :

1) Complaint in brief, as averred :

The complaint is filed under Section 12 (1) of the Consumer Protection Act, 1986. The complainant claims to have, on 30/09/2013, purchased from the first opposite party dealer a “FIAT Linea T-Jet” car, that was manufactured by the 3rd opposite party. The second opposite party is statedly the service provider and branch at Thrissur of the first opposite party dealer. The vehicle was statedly purchased by the complainant, placing reliance on the brand value of the 3rd opposite party manufacturer as well as the assurance of quality given by

the first opposite party dealer while he visited them on 22/08/2013. The reason affirmed by the first opposite party for providing a special discount was statedly the launch of a new model by the 3rd opposite party manufacturer. Registration Number of the vehicle is KL 08 BB 4387. The complainant alleges that on the day of delivery of the vehicle ie., on 30/09/2013 itself, the vehicle was found with an improper fixture of its interior roof, which was given rectified the same day by the first opposite party, when it was brought to their notice. The complainant claims to have battled with a string of defects exhibited by the vehicle thereafter, as described hereunder.

1). In about 3 months of its purchase, at 2918 km, the vehicle indicator and the air-conditioner turned defective and the defects were rectified.

2). After 6 months of purchase, at 4679km, the re-welding of the vehicle body was carried out, for correcting the issue of unusual sound emanating from the body of the vehicle.

3) At 12857 km, rear suspension shim setting was done to cure the defect of its suspension.

4) At 14178 km, the rear side actuator was replaced.

5) At 17457 km, the flux hose of the air-conditioner again turned defective and was replaced, 50% of its cost having been borne by the complainant.

6) The vehicle also exhibited abnormal wear-out of its front tyres, which could not yet be corrected by the opposite parties, despite repeated efforts by way of wheel balancing and alignment.

7) At 18830 km, the clutch plate of the vehicle was replaced at the complainant's cost, so as to rectify the defect of abnormal sound emanating from its engine.

8) The complainant also alleges that the engine oil appears brown, even soon after its refill.

Though the 3rd opposite party arranged a physical meeting of all the parties, concerned, to resolve the issue of recurrent faults exhibited by the

vehicle, it did not turn out well owing to want of participation from the part of the 3rd opposite party's executive. Resultantly, the complainant got his vehicle inspected by an Expert in the field and the latter affirmed manufacturing defect of the vehicle. The Expert also detected that the years of manufacture of some of the glasses of the vehicle are different from that in respect of the others. Having been suffocated with the recurring complaints of the vehicle, the complainant caused a lawyer notice, which statedly evoked no result. The complainant alleges that the opposite parties had sold to him a damaged/defective vehicle and also alleges intentional deceit by the opposite parties. The complainant prays for an order directing the opposite parties to replace the vehicle with a new one, apart from other reliefs of compensation and costs.

2) NOTICE :

The Commission having issued notice, the opposite parties filed written version and contested the complaint.

3) Version:

a) Version of the opposite parties 1 & 2 :

The opposite parties admit the purchase of the impugned vehicle. It is alleged that the compliant is launched after 5 years of its purchase. It is their stance that they are not the manufacturer and hence are not answerable for the faults alleged by the complaint. They admit manufacturing defect, in respect of the Air conditioner, the breakage of welding of the body of the vehicle, fault of clutch pad etc. But they contend that the 3rd opposite party had given good care and service to the complainant. They also aver that the complainant is a Bank officer who is well educated and had taken delivery of

the vehicle after detailed examination, test drive and after getting himself satisfied with the particulars of the vehicle.

b) Version of the opposite party 3:

The 3rd opposite party avers that the complaint is not maintainable against them, as they sell cars through their authorized dealers with whom they bear a principal to principal relationship. After so selling the vehicles, their contractual obligations are limited to the warranty terms which are fulfilled through their authorized dealers. They also contend that the impugned vehicle was covered under warranty only for 3 years ie., till 08/11/2016 only. They admit the repairs effectuated to the vehicle, but aver that the defects and faults raised by the complainant were given rectified during the period of warranty. They allege that the complainant had approached them only on 01/12/2017 after the period of warranty. Yet they claim to have offered the complainant to replace the tires free of cost, and also to refund the amounts they had already collected from him for replacing the clutch assembly, which the complainant allegedly did not pay heed to. They aver that the complaint is time barred and also that there is no manufacturing defect in the vehicle.

4) Evidence :

The complainant adduced documental evidence that had been marked Ext. A1 to A5, apart from affidavit and notes of argument. The report submitted by the Expert Commissioner appointed by the Commission (IA 439/18) at the instance of the complainant, is marked as Ext. C1. The opposite parties adduced no evidence, but version and notes of argument.

5) Deliberation of facts and evidence of the case :

The Commission has delved deep in to the facts and evidence of the case. Ext. A1 is copy of Invoice No. HA/EKM/1314/SA/084 dated 30/09/2013 issued in favour of the complainant, for a sum of Rs. 7,80,330/- (Rupees seven lakh

eighty thousand three hundred and thirty only) towards the sale of a “LINEA 1.4 T JET ACTIVE PETROL car”. Ext. A2 is copy of the Certificate of Registration in respect of vehicle bearing registration No. KL-08-BB-4387. Ext. A3 is copy of Lawyer Notice. Ext. A4 is print-out of vehicle service history in respect of the impugned vehicle. Ext. A5 is print-out of technical inspection-report dated 23/09/2017 issued by M/s. Apollo Tyres Limited. (Ext. A4 & A5 are seen filed by the 3rd opposite party). Ext. C1 is the report submitted by the Expert Commissioner appointed by the Commission (IA 439/18) at the instance of the complainant. The opposite parties adduced no evidence on their part.

6) Points to be deliberated:

- (i) Maintainability against the 3rd opposite party?
- (ii) Whether the alleged sale of a damaged/defective vehicle stands proved? Also whether there is any deficiency in service or adoption of unfair trade practice on the part of any or all of the opposite parties? Also whether the complainant is entitled to receive replacement of the vehicle/refund of its purchase price? If yes;
- (iii) Whether the complainant is entitled to receive any compensation from any or all of the opposite parties? If so its quantum?
- (iv) Costs?

7) Point No.(i)

The 3rd opposite party manufacturer disputes the maintainability of the complaint against them, as they bear a principal to principal relationship with their dealers, through whom the cars manufactured by them are sold to the consumers. In the case at hand, the complainant alleges the opposite parties’ sale of a damaged/defective vehicle to him. Whatever be the relation between the 3rd opposite party and its dealers including the first and the second opposite

parties, they are one and the same in so far as any claim made in respect of the quality and features of the product manufactured by one of them and sold by the other, is concerned. The defect/damage of a vehicle which is allegedly intrinsic to it, shall necessarily be answered by its manufacturer. Hence, the question of maintainability raised by the 3rd opposite party does not hold any water.

Point No. (i) is thus proved in the affirmative.

8) Point No.(ii)

The first and the second opposite parties aver that the complainant is an educated Bank Officer, who had taken delivery of the vehicle after conducting its test-drive, general examination etc. This contention of theirs apparently holds no water, as the educational qualification and professional competence of an individual have no direct nexus with his ability to identify the defects, especially the manufacturing defects of a vehicle, on doing its test drive or through its general examination for a couple of minutes. For instance, a highly qualified specialist Doctor, who is erudite in his field, may not necessarily have the expertise to easily identify the manufacturing defects of a vehicle. Even an automobile expert may not be able to identify the manufacturing defects of a vehicle, on doing its test drive or general examination for a couple of minutes or hours. It is common knowledge that the manufacturing defect of a vehicle manifests only after its prolonged use for a considerable length of time.

The alleged-imperfect fixture of the interior roof at the time of the very delivery of the impugned vehicle and its consequent rectification by the executives of the first opposite party, are not specifically and palatably denied by the opposite parties, concerned. Hence, the alleged dislocation of the interior roof is, in the result, seen admitted by the opposite parties, concerned. Similar is the case with the complainant's allegation regarding lack of uniformity in respect of the years of manufacture of the different glasses of the impugned

vehicle. This allegation is also resultantly seen admitted by the opposite parties. All the other alleged faults of the vehicle which surfaced in a comparatively shorter span of its purchase, also appear to be of serious nature. The opposite parties admit these faults exhibited by the vehicle, but they claim to have properly attended to them and given them repaired or replaced. The first and the second opposite parties admit that the vehicle was subjected to the following repairs one after the other:

- 1) The air conditioner was repaired owing to its manufacturing defect.
- 2) The welding of the vehicle body which was seen broken owing to manufacturing defect, was re-welded.
- 3) Its clutch pad was replaced owing to manufacturing defect.

The 3rd opposite party manufacturer also had, by their version, admitted these defects exhibited by the vehicle and their consequent repairs. We have thoroughly examined the Ext. C1 report filed by the Expert Commissioner appointed by the Commission. It is found to be elaborate and comprehensive. As is rightly pointed out by the Expert, the rattling sound of the vehicle was first reported by the complainant on 19/03/2014, at 4161km, and repeatedly on 09/04/2014 at 4679 km. The Expert affirms that ample welding works had been carried out in the vehicle to address this issue. The Expert also reported that the interior roof fabric lining of the car, towards its rear right and left corners, bore the marks of decoloration owing to seepage of water. The Expert had affirmed that this was due to the entry of water in to the vehicle from outside during raining/washing, through the joint seams.

The Expert also affirms that the front LH and RH tyres of the vehicle displayed highly abnormal tread-wear and he assigns excessive positive camber angle as one of the possible reasons for the abnormal tread-wear. The Expert further affirms that the vehicle was seen subjected to wheel alignment tests very frequently at intervals of a few hundred kilometers, after one year of its

purchase. The Expert, therefore, had inferred that the vehicle suffered some permanent deflection in its body frame, which the service technicians of the opposite parties could not productively correct. The Expert furthermore reports that the front LH door glass, the front LH quarter glass, the front windshield glass, the front RH door glass, the front RH quarter glass, and the rear LH door glass are of 2013 make, whereas its other glasses as the rear RH door glass, the rear RH quarter glass, the rear windshield glass and the rear LH quarter glass are of 2012 make. The vehicle, from its Vehicle Identification Number (VIN), was reportedly manufactured in June 2013. The Expert reports as a matter of common knowledge that the glasses of a newly manufactured vehicle will be of the same year of manufacture, unless any accident occurred prior to its sale. The Expert reports that the service history of the impugned vehicle does not bear any indication at all regarding any post-sale accident occurred to it. The Expert Commissioner, logically arrives at his final conclusion, after taking into account all the above findings of his, that the faults of the vehicle are attributed either to its having met with a collision accident prior to its sale or to its poor built quality including defects in manufacturing.

The third opposite party manufacturer, though baldly disputes the alleged manufacturing or intrinsic defect/damage of the impugned vehicle, they had adduced no evidence to substantiate their averments in this regard. Hence their denial remains unsubstantiated. Besides, none of the opposite parties did file any objection on Ext. C1 report, nor did they care to cross examine the Expert or to adduce any piece of evidence, to disprove the same. The Commissioner having logically arrived at his conclusions, after technically inspecting the impugned vehicle and evaluating all the available records, we find Ext. C1 report plausible in all respects. The defects of the vehicle having seen surfaced right from the very day of its delivery, and recurred continually thereafter, the opposite parties' averments regarding elapse of warranty or the complaint's being time barred, do hardly have any merit. The consistent faults that are

documented, of which many are of repetitive nature, are indicative of an inherent defect in the vehicle. The Expert Commissioner's report further unequivocally affirms this fact. Hence, we are of the contemplated view that the 3rd opposite party manufacturer through the first opposite party – their authorized dealer, had sold a damaged/defective vehicle to the complainant. The issue of dislocated interior roof of the vehicle had come to the knowledge of the 1st opposite party dealer on the very day of delivery of the vehicle, itself. It is immaterial that they had cured the defects the same day, when were pointed out to them then and there by the complainant. It is common knowledge that the interior roof of a new vehicle cannot be seen mis-positioned unless it does have an intrinsic structural defect or factory defect or damage occurred during transit or at the dealership. The 1st opposite party dealer, hence, had the knowledge of an intrinsic and inherent defect of the vehicle at the time of its delivery itself. It is, therefore, evident that the 1st opposite party dealer effectuated the sale of the vehicle, with the absolute knowledge that it is not a defect-free vehicle. The second opposite party is admittedly the branch and service provider of the first opposite party. Hence, the first and the second opposite parties are also liable for the sale of a car with intrinsic defects, as they had the knowledge of the defects, prior to or at the time of its delivery. The sale of a damaged/intrinsically defective vehicle to a consumer is certainly an unfair trade practice which at the same time constitutes deficiency in service on their part, as well. There is deficiency in service as well as adoption of unfair trade practice on the part of all the opposite parties. The Hon'ble National Commission held the same view by its judgment in “***Tata Motors Limited Vs. Jogender Sharma through Lrs***” and in “***Mahindra & Mahindra Limited Vs. Manoj Kumar Sharma and another***”. It also merits special mention that the Hon'ble Apex Court had ordered replacement of the vehicle in ***Hyundai Motor India Limited Vs Shailendra Bhatnagar***, where a car with defective airbags was sold to the consumer. Undoubtedly, in the instant case, the complainant is

entitled to receive replacement of the vehicle or refund of its purchase price from the opposite parties. The impugned vehicle having been manufactured more than a decade ago, we are of the view that refund of its purchase price would be a more pragmatic, feasible and viable option, enabling effective advancement of justice. Resultantly, the opposite parties shall have to jointly and severally refund the purchase price of the vehicle to the complainant.

Hence point No. (ii) is also proved in the affirmative.

9) Point No.(iii) & (iv) :

As elaborated under the point No. (ii) above, there is deficiency in service as well as adoption of unfair trade practice on the part of the opposite parties. The complainant had purchased the impugned car paying a handsome sum of Rs. 7,80,330/- (Rupees seven lakh eighty thousand three hundred and thirty only) . Axiomatically, the 3rd opposite party manufacturer's sale of a defective/damaged vehicle to the complainant through the first opposite party dealer, would have inflicted emotional, financial, physical, legal and ethical disturbance on the complainant. The consequent agony and hardship the complainant had undergone, might certainly have been immeasurable. A defective vehicle will inflict financial loss, as well, on its user. The opposite parties shall necessarily have to compensate the complainant. The complainant prays for a compensation worth Rs. 50,000/- (Rupees fifty thousand only). It is also obvious that the complainant had to litigate well more than half a decade to get a legitimate right of his, established. We are of the considered view that the complainant is entitled to receive from the opposite parties, the asked sum of Rs. 50,000/- (Rupees fifty thousand only) towards compensation for the agony, hardship and financial loss inflicted on him, and a sum of Rs. 25,000/- (Rupees twenty five thousand only) towards costs.

In the result, the complaint is allowed and the opposite parties are directed to jointly and severally to pay the complainant:

- a) a sum of Rs. 7,80,330/- (Rupees seven lakh eighty thousand three hundred and thirty only) towards refund of the purchase price of the impugned vehicle,
- b) a sum of Rs. 50,000/- (Rupees fifty thousand only) towards compensation for the agony, hardship and financial loss inflicted on him, and
- c) a sum of Rs. 25,000/- (Rupees twenty five thousand only) towards cost,

all with 9% interest per annum from the date of filing of the complaint till the date of realisation. The opposite parties, shall comply with the above directions in 30 days of receipt of a copy of this order. Once all the above directions are complied with, in all respects by the opposite parties, they shall be at liberty, within 60 days thereafter, to collect the impugned vehicle back from the complainant, under proper acknowledgment.

Dictated to the Confidential Assistant, transcribed by her, corrected by me and pronounced in the open Commission this the 25th day of November 2025.

Sd/-
Sreeja S.
Member

Sd/-
Ram Mohan R
Member

Sd/-
C. T. Sabu
President

Appendix

Complainant's Exhibits :

Ext. A1 is copy of Invoice No. HA/EKM/1314/SA/084 dated 30/09/2013 issued in favour of the complainant, for a sum of Rs. 7,80,330/- (Rupees seven lakh eighty thousand three hundred and thirty only) towards the sale of a "LINEA 1.4 T JET ACTIVE PETROL car".

Ext. A2 is copy of the Certificate of Registration in respect of vehicle bearing registration No. KL-08-BB-4387.

Ext. A3 is copy of Lawyer Notice.

Ext. A4 is print-out of vehicle service history in respect of the impugned vehicle.

Ext. A5 is print-out of technical inspection-report dated 23/09/2017 issued by M/s. Apollo Tyres Limited. (Ext. A4 & A5 are seen filed by the 3rd opposite party).

Ext. C1: The report filed by the Expert Commissioner appointed by the Commission at the instance of the complainant.

Opposite party's Exhibits :

Nil

Id/-
Ram Mohan R
Member

//True Copy//

Assistant Registrar

Auk