

**IN THE DELHI STATE CONSUMER DISPUTES REDRESSAL
COMMISSION**

Date of Institution: 21.02.2019

Date of Hearing: 13.11.2025

Date of Decision: 15.12.2025

FIRST APPEAL NO. 143/2019

IN THE MATTER OF

**MR. MANOJ LOHARIA,
S/O MR. RAM AVTAR LOHARIA,
R/O N32 NDSE PART I,
NEW DELHI-110049.**

(Through: Mr. Nazim Uddin Ahmed, Advocate)

...Appellant

VERSUS

**1. M/S. T. R. SAWHNEY MOTORS PRIVATE LIMITED.,
THROUGH ITS DIRECTORS,
HAVING ITS OFFICE AT:
INDRAPRASTHA METRO STATION, IP ESTATE,
OPPOSITE WHO, ITO,
MAHATMA GANDHI MARG,
NEW DELHI-110002.**

**2. MR. RAJIV KUMAR SAWHNEY,
DIRECTOR,
M/S. T. R. SAWHNEY MOTORS PRIVATE LIMITED.,
THROUGH ITS DIRECTORS,
HAVING ITS OFFICE AT:
INDRAPRASTHA METRO STATION, IP ESTATE,
OPPOSITE WHO, ITO,
MAHATMA GANDHI MARG,
NEW DELHI-110002.**

3. MR. SANJIV SAWHNEY,
DIRECTOR, M/S. T.R. SAWHNEY MOTORS PRIVATE LIMITED.,
THROUGH ITS DIRECTORS,
HAVING ITS OFFICE AT:
INDRAPRASTHA METRO STATION, IP ESTATE,
OPPOSITE WHO, ITO,
MAHATMA GANDHI MARG,
NEW DELHI-110002.

4. MR. VISHAL SAWHNEY,
DIRECTOR, M/S. T.R. SAWHNEY MOTORS PRIVATE LIMITED.,
THROUGH ITS DIRECTORS,
HAVING ITS OFFICE AT:
INDRAPRASTHA METRO STATION, IP ESTATE,
OPPOSITE WHO, ITO,
MAHATMA GANDHI MARG,
NEW DELHI-110002.

5. MR. SHAILENDER SAWHNEY,
DIRECTOR, M/S. T.R. SAWHNEY MOTORS PRIVATE LIMITED.,
THROUGH ITS DIRECTORS,
HAVING ITS OFFICE AT:
INDRAPRASTHA METRO STATION, IP ESTATE,
OPPOSITE WHO, ITO,
MAHATMA GANDHI MARG,
NEW DELHI-110002.

6. MR. RAHUL SAWHNEY,
DIRECTOR, M/S. T.R. SAWHNEY MOTORS PRIVATE LIMITED.,
THROUGH ITS DIRECTORS,
HAVING ITS OFFICE AT:
INDRAPRASTHA METRO STATION, IP ESTATE,
OPPOSITE WHO, ITO,
MAHATMA GANDHI MARG,
NEW DELHI-110002.

7. MR. MANOJ NIGAM,
AGM, M/S. T.R. SAWHNEY MOTORS PRIVATE LIMITED.,
THROUGH ITS DIRECTORS,
HAVING ITS OFFICE AT:

INDRAPRASTHA METRO STATION, IP ESTATE,
OPPOSITE WHO, ITO,
MAHATMA GANDHI MARG,
NEW DELHI-110002.

8. MR. VINOD RANA,
DEALER COORDINATOR,
MARUTI SUZUKI INDIA LIMITED.,
PLOT NO. 1,
NELSON MANDELA ROAD,
VASANT KUNJ,
NEW DELHI-110070.

9. M/S. MARUTI SUZUKI INDIA LIMITED.,
MANAGER-CUSTOMER CARE,
PLOT NO. 1,
NELSON MANDELA ROAD,
VASANT KUNJ,
NEW DELHI-110070.

(Through: Mr. Pawan Kumar, Advocate)

...Respondents

CORAM:**HON'BLE JUSTICE SANGITA DHINGRA SEHGAL (PRESIDENT)****HON'BLE MS. BIMLA KUMARI, MEMBER (FEMALE)**

Present: Mr. N. U. Ahmed and Mr. Anil Kumar Yadav, counsel for the Appellant.
Mr. Siddharth Yadav, proxy counsel for the Respondent No. 1, E-mail: sidarvind2227@gmail.com
Mr. Pawan Kumar, counsel for the Respondents No. 9 & 10.

PER: HON'BLE JUSTICE SANGITA DHINGRA SEHGAL, PRESIDENT**JUDGMENT**

1. The facts of the case as per the District Commission record are as under:

"Sh. Manoj Loharia (in short the complainant) filed instant complaint under Section 12 of the Consumer Protection Act, 1986 as amended making therein the following submissions. On 18.04.2011, OP7 through his sales manager, namely Mr. Saroj, offered a lucrative deal to the complainant to buy an SX4 ZXi model with Automatic transmission for an amount of Rs. 8,10,525/- whose market price on road was Rs. 9,33,705/-. The said representative told the complainant that the car was manufactured in 2010 but assured that there would be no problem regarding after-sales service. Complainant accepted the offer and paid Rs. 25,000/- vide receipt no. 837 dated 08.04.2011. The said sales representative accepted the advance money and stated that the car would be delivered on 10.04.2011. On 09.04.2011, complainant called Mr. Saroj, the sales representative to check the status of loan and delivery of the car. Mr. Saroj informed the complainant that loan of Rs. 6,98,000/- had been sanctioned and he advised the complainant to come with margin money. Complainant was asked to deposit Rs. 99,540/- as down payment and was assured that balance amount Rs. 12,015/- would be refunded.

Complainant paid Rs. 7,000/- and Rs. 99,540/- in cash vide two receipt numbers 846 and 845 respectively. On 03.05.2011 he visited Rohan Motors for availing first free service after the car had run 899 Kms. Complainant learnt from the officials of Rohan Motors that as per record, the car was sold on 31.05.2010 and first free service was to be availed within a period of one month or 1,000 K.M. whichever is earlier. It was only when OP7 talked to Rohan Motors that vehicle was serviced. On 10.10.2011, complainant went for second free service done when vehicle in question had completed 3952 K.M. On 07.04.2012 complainant got third free service done when the vehicle in question had completed 7468 K.M.

OPs are stated to be guilty of deficiency in service as they have sold second hand, less driven car or a demo car to the complainant fraudulently which might have been sold by them on 31.05.2010 to someone else. As per last service report by the service dealer there was a problem in steering wheel which needed replacement. Instant complaint is filed seeking direction to the OPs to refund a sum of Rs. 12,015/- along with 18% per annum till its realization, replacement of the said vehicle with brand new similar or higher model vehicle of same worth, compensation of Rs. 16,00,000/- along with 18% per annum for causing mental agony and litigation expenses.

2. OPs contested the claim vide their reply. Parties have filed evidence by way of affidavits. We have heard complainant in person.”

2. The District Commission after taking into consideration the material available on record passed the order dated **28.12.2018** whereby it held as under:

3. Complainant has alleged that he was offered a lucrative deal by Mr. Saroj who was a sales representative of OP7. It is submitted that he was offered to buy SX4 ZXi for an amount of Rs. 8,10,525/- whose market price was Rs.

9,33,705/-. OP1 has denied that any such lucrative deal was offered to the complainant. It is also stated that loan amount of only Rs. 6,93,550/- and not Rs. 6,98,000/- was sanctioned by the banker of the complainant.

4. Complainant has relied on annexure-1. Annexure-1 does not bear name of the complainant. It cannot be said that it was Performa invoice for the complainant. In their reply OP has pleaded that Annexure-1 was not given by the OP to the complainant. It is also stated that it does not bear the seal and signature of the authorized signatory of the OP.

5. Complainant has sought refund of Rs. 12,015/- on the ground that sales representative of OP7 namely Mr. Saroj assured him to return the said amount. On the statement of learned counsel for the complainant OP7 was deleted from the array of OPs. Complainant has not shown any document which may indicate that OPI or its authorized representative gave an assurance of return of Rs. 12,015/- on settlement of accounts.

6. Complainant has alleged deficiency in service on part of OPs by alleging that they fraudulently sold him the vehicle of 2010 which was allegedly a second hand, less driven or demo car. OPs have denied the said allegations. Complainant himself in Para 2 of the complaint admitted that OP's representative clearly told him that the car in question was manufactured in 2010. OPs in Para 17 of the written statement have submitted that every vehicle has its documents for sale and registration and in this case also the complainant is having registration certificate which contains his name at serial number 1 which means that he is the first owner to purchase this vehicle. It is further stated that at the time of sale the odometer reading indicated that it was brand new vehicle. In corresponding Para 17 of his rejoinder, complainant has admitted that he is having registration certificate of the said vehicle as first owner/purchaser of the vehicle in question. He has denied

that at the time of sale odometer reading indicated that it was a brand new vehicle.

If the odometer reading was not zero at the time complainant purchased the Lane vehicle in question he should not, have, purchased the vehicle.

7. OP10 in Para 6 of written statement has stated that it had carried out final check OK for the vehicle in question and sold a new vehicle to OP1 against C-Form payment. It is also stated in Para 10 that complainant is entitled to full benefits of warranty service and that complainant availed full warranty service and collected the vehicle without any protest or demur. It is also stated in Para 6 that complainant's vehicle was never refused any warranty service. It is stated that the complainant has availed 3 free services without any protest and is now raising a false claim.

8. Complainant has admitted that on 03.05.2011 he availed first free service from Rohan Motors as the car had run 899K.M. Even as per complainant's case there was no problem with the car even after it had covered 899K.M. As per his case he got second free service done on 10.10.2011 when the car had covered 3,952K.M. Even at that stage the car did not have any functional problem. Complainant got third free service done on 07.04.2012 when the vehicle had completed 7,468K.M.

It rather substantiates the case of the OP that the vehicle was OK. It did not have any problem and the complainant got 3 services done to his satisfaction. His plea that he had been sold a second hand, less driven car or demo car is baseless and is not substantiated by any documents.

9. Before parting with the order it may be mentioned that an objection was raised by the OPs regarding limitation. In Para 24 of the complaint it is simply mentioned that the complaint is within limitation. However it is not clarified as to how it is within limitation. It is submitted by OP that the

car was sold on 08.04.2011 and instant complaint was filed on 15.05.2013. It is submitted by learned counsel for complainant that the complainant came to know about the car being second hand, less driven or demo car when he visited Rohan Motors on 03.05.2011. The fact remains that the complainant has woken up after a long slumber after having enjoyed 3 free services of the vehicle in question and when the vehicle had covered 7,468K.M.

In the prayer clause, complainant has mentioned that he has not been able to take the vehicle out of station as no warranty is being entertained by any service dealer. OP has denied the same. Complainant himself has placed on record copy of letter of OP1 dated 18.10.2011 which was written to him wherein he was informed that vehicle was sold to him on 10.04.2011 vide invoice no. 680 and he was assured that warranty is valid till 10.04.2013 and free service can be availed at any dealer across India.

The complaint is accordingly dismissed.”

3. Aggrieved by the aforesaid order of the District Commission the Appellant/Complainant has preferred the present Appeal contending that the District Commission has erred in not taking into account that the vehicle sold to the Appellant by the Respondent is a resale of a used vehicle manufactured in the year 2010, which was driven less. Further, it is submitted that the District Commission erred in holding that the Complaint filed by the Appellant was barred by limitation. Lastly, the counsel has submitted that there is no delay in filing the Complaint as the cause of action was a continuing one. Pressing the aforesaid submissions, the Appellant has prayed for setting aside the impugned order of the District Commission.
4. The counsel for the Respondent No. 1 has submitted vide order dated 28.02.2024 that the Respondent No. 1 does not wish to file Reply to Appeal.

5. The Respondent No. 10 has filed the Reply to Appeal, denying all the allegations of the Appellant and submitted that there is no error in the impugned judgment as the entire material available on record was properly scrutinized before passing the said impugned judgment. Additionally, the Respondent No. 10 has submitted that the Appellant sold the vehicle in question to another person, namely Mrs. Manjit Kaur. Further, it is submitted that the Appellant ceased to be a consumer once the vehicle was sold to another person during the pendency of the present Appeal. It is also submitted that there is no manufacturing defect in the vehicle in question. Pressing the aforesaid contentions and submissions, the Respondent No. 10 has prayed for setting aside the present Appeal.
6. Written Arguments on behalf of the Appellant are on record, wherein, the contents of the Appeal have been reiterated and the same have been considered.
7. Written Arguments on behalf of the Respondent No. 1 are on record, wherein, it is submitted that the Complaint filed by the Appellant before the District Commission is barred by limitation. Further, it is submitted that the Appellant has already sold out the vehicle to a third person. Pressing the aforesaid contentions and submissions, the Respondent No. 1 has prayed for setting aside the present Appeal.
8. Written Arguments on behalf of Respondent No. 10 are on record, wherein the contents of the Reply to Appeal have been reiterated and the same have been considered. Further, the Respondent No. 10 has relied on the following judgments in support of their case:
- (i) ***Revision Petition No. 2636 of 2006*** titled ***Maruti Udyog Limited vs. Arjun Singh & Anr.*** decided on ***21.04.2009***.
 - (ii) ***Revision Petition No. 3677 of 2006*** titled ***V. K. Gupta and Sons (HUF) vs. Maruti Udyog & Ors.*** decided on ***01.09.2011***.

(iii) *Civil Appeal No. 708 of 2007* titled *Maruti Suzuki India Limited vs. Purushottam Lal (HUF) & Anr.* as decided on **22.07.2010**.

(iv) *M N Narasimha Reddy vs. MD MUL & Ors.* as reported in **11 (1991) (CP) 346**.

9. We have perused the material available on record and heard the counsel appeared on behalf of the parties.

10. The *main question* for consideration before us is *whether the District Commission erred in not holding the deficiency of service on the part of the Respondents*.

11. To deal with this question, we deem it necessary to refer to Section 2(1)(g) of the Consumer Protection Act, 1986, which defines “deficiency” as under:

“(g) "deficiency" means any fault, imperfection, shortcoming or inadequacy in the quality, nature and manner of performance which is required to be maintained by or under any law for the time being in force or has been undertaken to be performed by a person in pursuance of a contract or otherwise in relation to any service;”

12. From the analysis of the aforesaid definition, it is clear that deficiency refers to any fault, imperfection, shortcoming or inadequacy in the quality, nature and manner of performance which is required to be maintained by any person in pursuance of a contractual obligation.

13. On perusal of record, we find that the Appellant has not prayed for any manufacturing defect. Further, we find that no expert has been appointed after the inspection of the car in question. The Appellant has submitted that the steering replacement is due to a manufacturing defect. However, without any expert report, it cannot be concluded that the car in question has any manufacturing defect. Therefore, it is clear that the Appellant has failed to prove that the said defects in the car are “manufacturing defects”.

14. At this juncture, we deem it necessary to refer to the judgment of the Hon'ble National Commission in ***Revision Petition No. 2622 of 2012*** titled ***M/s. Honda Cars India Ltd. vs Jatinder Singh Madan*** as decided on ***11.10.2013***, wherein it was held as under:

“7. Learned Counsel for the petitioner submitted that there was no manufacturing defect in the vehicle; even then, learned State Commission wrongly allowed complaint and directed to replace steering etc., though, it had already been replaced twice before filing complaint. Perusal of record reveals that steering gear box was replaced twice before filing complaint and again learned State Commission vide impugned order directed petitioner to replace the steering wheel assembly and other connected parts without any expert report or opinion. We are not inclined to decide this aspect whether by taking vehicle to workshop for 4 to 5 times it would amount to manufacturing defect or not because we have already held that complainant ceases to be a consumer under the Consumer Protection Act and in such circumstances; complaint is liable to be dismissed on this sole count.”

15. From the above dicta, it is clear that the expert report or opinion is necessary for establishing manufacturing defect, and that the failure of the Appellant to place any Surveyor Report on record is not sufficient a manufacturing defect.

16. In the present case before us, we find that due to the failure of the Appellant to prove manufacturing defect in the said vehicle in question as alleged by the Appellant, the manufacturer/Respondent No. 9 cannot be held liable for deficiency in service or to compensate the Appellant with respect to any repairs or replacements of parts in the said car.

17. In view of the forgoing, we are in agreement with the reasons given by the District Commission and fail to find any cause or reason to reverse the findings

of the District Commission. Consequently, we *uphold* the Judgment dated 13.06.2013 passed by the *District Consumer Disputes Redressal Commission (Central), ISBT, Kashmere Gate, Delhi* in *Consumer Case No. 128 of 2013*.

18. Consequently, the present Appeal stands dismissed with no order as to costs.

19. Application(s) pending, if any, stand disposed of in terms of the aforesaid judgment.

20. The Judgment be uploaded forthwith on the website of the Commission for the perusal of the parties.

21. File be consigned to record room along with a copy of this Judgment.

(JUSTICE SANGITA DHINGRA SEHGAL)
PRESIDENT

(BIMLA KUMARI)
MEMBER (FEMALE)

Pronounced On: **15.12.2025**

LR-DK