

SUPREME COURT OF INDIA
RECORD OF PROCEEDINGS

CIVIL APPEAL NO(s). 7159 OF 2003

GENERAL MOTORS INDIA PVT. LTD.

Appellant (s)

VERSUS

VINOO BHAGAT & ANR.

Respondent(s)

Date: 06/05/2009 This Appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE MARKANDEY KATJU

HON'BLE MR. JUSTICE H.L. DATTU

For Appellant(s) Mr.Rakesh Dwivedi, Sr. Adv.

Mr. Vikram Dhokalia, Adv.

Mr. Anurab Suman, Adv.for

Mr. Rahul Prasanna Dave,Adv.

For Respondent(s) Mr. Vinoo Bhagat, Respondent No.1-in-person

Mr. Pramod B. Agarwala,Adv.

Mr. Pradeep Kumar Bakshi ,Adv(Not present)

UPON hearing counsel the Court made the following
ORDER

The Appeal is allowed in terms of the signed order.

The amount shall be handed over to the welfare fund of the
Supreme Court Bar Association.

(Parveen Kr. Chawla)

(Indu Satija)

Court Master

Court Master

[Signed Order is placed on the File]

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.7159 OF 2003

General Motors India Pvt. Ltd.

..Appellant

versus

Vinoo Bhagat & Another

..Respondents

ORDER

Heard Shri Rakesh Dwivedi, learned senior counsel for the
appellant and respondent No.1 in person. No one has appeared on

behalf of respondent No.2

This Appeal has been filed against the impugned judgment of the National Consumer Disputes Redressal Commission, New Delhi (for short 'the Commission') dated 30th January, 2003 passed in First Appeal No.150 of 1998. By the impugned judgment, the Commission has held that the complainant-respondent No.1 is entitled to refund of Rs.7,34,244/- (price of the car) with 12% interest per annum from 22.01.1997 till payment was made. The Commission has also awarded compensation of rupees two lakhs to the complainant considering that the complainant has suffered because of the allegedly defective car supplied to him and also because of misrepresentation. Costs of Rs.10,000/- was

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also awarded.

The facts of the case giving rise to this appeal are given below:

The complainant-respondent No.1 purchased an Opel Astra Car from the appellant in January, 1997. He got the car replaced with another in March, 1997. In May, 1997, respondent No.1 left the car with respondent No.2 (dealer) and despite reminders, he refused to take delivery.

Respondent No.1 filed a complaint against the appellant in the State Commission, Delhi for refund of the price with interest, damages and cost, alleging that the car was defective. The State Commission rejected the complaint against which the respondent No.1 filed appeal before the National Commission. The National Commission by the impugned judgment has allowed the complaint and directed refund of the price of the car along with interest and compensation.

Before the National Commission, it was alleged by the complainant-respondent No.1 that the appellant had made a representation that the car supplied would be a German Car. This has been denied by the appellant. Shri Rakesh Dwivedi, learned senior counsel appearing for the appellant

has invited our attention to the brochure which is at page 90 of the paper book. We have carefully gone through the same. It only mentions that the technology will be German Technology and it will be german engineering but it does not mention that the car will be a german car. In fact, the National Commission had referred the matter to an expert, namely, Automative Research Association of India (ARAI) which gave a Report in favour of the appellant. In our opinion, merely, because rebuttal had been filed by the complaiaint, that does not mean that the Report should have been rejected.

Recently, it has been held by this Court in the case of Martin F.D'Souza vs. Mohd Ishfaq (2009) JT 2 486 (Para 111) that in such matters, the Report of the expert should ordinarily be given preference as Judges are not experts in such matters.

For the reasons aforesaid, this appeal is allowed, the impugned judgment of the National Commission is set aside and that of the State Commission is restored.

By this Court's order dated 12th January, 2004, the car in question was sold and the sale proceeds were deposited in a fixed deposit receipt, renewed from time to time, which is going to mature on 27th March, 2010. Ordinarily, the amount should have been refunded to the

claimant-respondent No.1 but since he has prayed that the amount should go to the lawyers' welfare fund, we direct that the amount shall be handed over to the welfare fund of the Supreme Court Bar Association.

.....J.
[MARKANDEY KATJU]

NEW DELHI;
MAY 06, 2009.

.....J.
[H.L. DATTU]