

IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION  
CIVIL APPEAL NO(S). 6730/2010

M/S MAHAVEER STONE CRUSHING CO.

APPELLANT(S)

VERSUS

TATA MOTORS LTD.

RESPONDENT(S)

O R D E R

This appeal is carried against the order dated 19.05.2009 passed by the National Consumer Disputes Redressal Commission, New Delhi, dismissing the revision petition filed by the appellant and confirming the order passed by the State Consumer Disputes Redressal Commission, Haryana, Panchkula (for short 'the State Commission')

The appellant filed a complaint under the Consumer Protection Act, 1986 before the District Consumer Disputes Redressal Forum, Gurgaon (for short 'the District Forum'). His complaint was that he purchased a vehicle manufactured by the respondent herein and when he took the vehicle for servicing he was informed that the vehicle which he has purchased as a new vehicle was, in fact, involved in an accident. He claimed the relief of replacement of the vehicle and also claimed compensation. In the complaint the respondent and also the dealer were made respondents. The District Forum found

merit in the complaint of the appellant. In arriving at such a conclusion, reliance was placed on a report submitted by an expert. The District Forum directed replacement of the vehicle and ordered Rs.2000/- as costs.

In the appeal carried by the respondent, the State Commission has found that there was no manufacturing defect as such and took the following view:

“After hearing the learned counsel for the parties we are of the view that the defects pointed out in the report of the surveyor are not sufficient to believe that the vehicle in question requires replacement with new vehicle. However, at the same time it is a case where the vehicle was delivered to the complainant by repainting and matching the same with the original colour. It is not the report that prior to repainting the vehicle in question had met with an accident or it was an old vehicle, rather, it is a case of the appellant the normal scratches are bound to develop while transporting the vehicle in trailer from the factory to the agency. We, therefore, are of the view that the ends of justice would met suitably if a sum of Rs.50,000/- is granted to the complainant for harassment and agony which he has to undergo on account of the aforesaid lapse pointed out by the surveyor in his report.

Accordingly, this appeal is accepted and the impugned order is set aside. It is ordered that the appellant (opposite party) shall pay Rs.50,000/- to the respondent (complainant) within a period of two months from today, failing which the awarded amount shall carry interest @ 10% per annum from the date of filing of this

appeal till realization.”

It is this order which has been affirmed by dismissal of the revision carried by the appellant.

We have heard Mr. Parthiv K. Goswami, learned Amicus Curie whom we appointed after noticing that after the death of the counsel who was originally appearing, a notice for alternative arrangement was issued and there was no appearance.

The learned Amicus contended that the report of the expert would reveal that 80% of the vehicle was repainted. The reason pointed out by the respondent-manufacturer was that when the vehicles are transported to the dealers, it would suffer normal scratches. It is his case that the fact that as 80% has to be repainted as is noticed in the report, the said explanation given by the respondent manufacturer may not hold good. Learned Amicus no doubt has pointed out that the report of the expert was made only after three years from the date of the purchase of the vehicle. He would submit that the report of the expert having been relied upon by the State Commission, the case of the respondent - manufacturer will not hold good.

Per Contra, Mr. Siddharth Bhatnagar, learned senior counsel for the respondent would firstly invite our attention to the fact that the vehicle in question was brought for servicing and the service report which is produced along with the counter affidavit filed before this Court does not bear out the complaint of the

appellant. The said report is dated 27.1.2000, a few months after the purchase of the vehicle. Secondly, he would point out that actually the expert came to be appointed by order dated 05.06.2002. He would point out that, however, the report which has been relied upon by the District Forum and also by the State Commission is made by a person other than the one appointed by the Forum. This is apart from pointing out that no notice was issued to the respondent by the Commissioner before inspection of the vehicle was carried out. He would point out that the expert Commissioner has made a report essentially on the lines of the case set up by the appellant in his complaint. He also submits that the amount in question as ordered by the State Commission has not been deposited.

The appellant purchased the vehicle in question on 10.12.1999. The complaint before the District Forum was filed on 24.05.2000. There is a report, undoubtedly, which has been made dated 25.06.2003, which has been addressed to the Court. It is pointed out by the learned Amicus that the first sentence of the said report would tend to indicate that the argument of the respondent that he was not the person who was to make the report may not hold good. We further notice the submission of the learned Amicus that the summons was issued to Shri Raj Kumar Khetarpal and he is shown as a mechanical engineer and a Government approved surveyor and loss assessors for Motor, Marine, Fire, Engg. & Misc. The observations made by him are as follows:

"01. Said vehicle was found repaired from Right side, Left side as well as Back.

02. Said vehicle was found repainted 80%, rest 20% had original paint.

03. The Paint work done was discoloured / had turned yellow instead of White (Colour of the vehicle.)

04. Left front door lock was not working/the key supplied were not matching the Slots of the Lock, hence it was not getting opened with those keys."

It is true that the inspection was made only on 15.06.2003 which is after nearly 3½ years of the purchase of the vehicle. It is also, however, noteworthy that the complaint was filed almost within nearly five months of the purchase of the vehicle. Going by the contents of the report it is clearly indicated that the vehicle was found repainted 80%. Further the paint had discoloured and had turned yellow instead of white which was the colour of the vehicle. This is apart from finding that the vehicle was repaired from right side, left side and back side. While it may not be possible for this Court to conclude that there is any manufacturing defect as such, taking into consideration the totality of the facts, we would think that the interest of justice would be served if we direct that the respondent shall pay a lump sum amount of Rs.1,60,000/- by way of compensation to the appellant in place of what has been ordered by the State Commission. The amount shall be deposited in the District Forum in the account of the case in question within a period of four weeks from today. If the amount is not paid within

four weeks, the amount of Rs.1,60,000/- shall bear an interest at the rate of ten percent till the date of payment.

The appeal is allowed in the above stated terms.

Pending application(s), if any, shall stand disposed of.

.....J.  
(K. M. JOSEPH)

.....J.  
(HRISHIKESH ROY)

NEW DELHI;  
MARCH 24, 2022.

ITEM NO.102

COURT NO.10

SECTION XVII-A

S U P R E M E C O U R T O F I N D I A  
R E C O R D O F P R O C E E D I N G S

CIVIL APPEAL NO(S). 6730/2010

M/S MAHAVEER STONE CRUSHING CO.

APPELLANT(S)

VERSUS

TATA MOTORS LTD.

RESPONDENT(S)

(MR. PARTHIV K. GOSWAMI, ADVOCATE(AMICUS CURIAE VIDE HON'BLE COURT'S ORDER DATED 15.02.2022) )

Date : 24-03-2022 This appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE K.M. JOSEPH  
HON'BLE MR. JUSTICE HRISHIKESH ROY

For Appellant(s) Mr. Parthiv K. Goswami, AC  
Ms. Ragini Pandey, Adv.

For Respondent(s) Mr. Siddharth Bhatnagar, Sr. Adv.  
Ms. Nandini Gore, Adv.  
Ms. Sonia Nigam, Adv.  
Mr. Karanveer Singh Anand, Adv.  
Ms. Pracheta Kar, Adv.  
Mr. Aditya Sidhra, Adv.  
Mr. Nadeem Afroz, Adv.  
M/S. Karanjawala & Co., AOR

UPON hearing the counsel the Court made the following  
O R D E R

Appeal is allowed in terms of the signed order.

Pending application(s), if any, shall stand disposed of.

(POOJA SHARMA)  
COURT MASTER (SH)

(RENU KAPOOR)  
BRANCH OFFICER

(Signed order is placed on the file.)