

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

**Dated this the 11<sup>th</sup> day of July, 2024**

**Present : Sri. George Baby (President)**

**Sri.NishadThankappan (Member)**

**CC 73/2019 (Filed On 31-05-2019)**



**Between:**

Robi Philip,  
Melemannil Veedu,  
Kumbazha,  
Pathanamthitta.

(By Adv. Shilu Muraleedharan)

... Complainant

**And:**

The Managing Director,  
Indus Motors (Maruthi),  
Kumbazha PO,  
Pathanamthitta

(By Adv. C.R Sureshkumar)

...Opposite party

**ORDER**

सत्यमेव जयते

**Sri. George Baby (President)**

The crux of the complainant's case is as follows:

2. The complainant had booked a Maruthi Swift Dezire VDI.M car on 19/6/2014, bearing registration no.KL-03-Y-3033 (prime pacific blue) with engine no.D13A5022949, Chasis No.MA3FJEBIS00475715 from the opposite party as brand new vehicle at a price of Rs.6,44,033/-. In the year 2015 December, the complainant noticed that the paint coated on the bonnet of the car started to wither here and there. Complainant immediately approached the opposite party and they said it is due to the humid weather. But the weathering of paint on the bonnet increased tremendously and the complainant approached the opposite party to rectify the issue. But they turned down the plea of the complainant stating to do the work at an outside service station. So the complainant approached AVG Motors Kumbazha, who in turn revealed to the complainant that the present painting on the bonnet is not an original one done by the company. They also suggested to take a detailed record of the graph of the maintenance done on the car. The complainant went through the mobile app to get the graph of maintenance done to the car, he was surprised to note that the said car prior to its delivery to the complainant had undergone body repair works for Rs.66, 408/- at Indus Motors Kothamangalam two times. The complainant alleged that he was cheated by the opposite party by supplying a vehicle which had already undergone heavy body repair

before the delivery to the complainant and the opposite party was made to believe the delivered car was a brand new car. The complainant suffered great humiliation in front of the public including friends and relatives which accelerated his mental agony. Thus the opposite party committed fraud cheating deficiency in service and unfair trade practice to the complainant.

3. The commission entertained the complaint and sent notice to the opposite party. The opposite party entered appearance and filed version with the following contentions. The dealers receive vehicles from the manufactures but sometimes damage occurs to the vehicles due to man and machine handling during transportation. If any damage occurs, those parts are replaced with genuine parts but the model or make of the vehicle will not vary from the status of new vehicle. Even if the vehicle is repaired the allegations raised by the complainant is not sustainable. Unfair trade practice or deficiency in service cannot be made out from the averments in the complaint. This complaint is a mere attempt to extract some funds from the opposite party and therefore is an experimental one. The vehicle is not involved in any accident. No cause of action occurred within the limits of this forum. The complaint is only a tactics to bargain with the opposite party and is only worthy to be dismissed with compensatory cost.

4. We perused the complaint, version and framed the following issues for determination.

1. Whether the opposite parties had committed any deficiency in service and unfair trade practice?
2. Whether the complainant is entitled to get any reliefs? If so, at what quantum?

5. Proof affidavit is filed by the complainant in lieu of chief examination and examined him as PW1. Exhibits A1 to A5 were marked through PW1. Ext A1 is the original RC book. Ext.A2 is the legal notice dated 7/2/2018. Ext.A3 is the postal registration slip. Ext.A4 is the reply notice to the abovementioned legal notice. Ext.A5 is the AD card. Complainant filed additional proof affidavit. Exhibit A6 marked through PW1. Ext. A6 is the service history. Witness from the side of the complainant Mr. Abhijith filed proof affidavit in lieu of chief examination and examined him as PW2. From the side of the opposite party sales manager examined as DW1. B1 is marked through DW1. Ext.B1 is the Authorization Letter. The expert commissioner Arjun Kumar was examined as CW1. Ext. C1 marked through CW1.

**6. Point No.1:-** The complainant averred that he had booked a Maruthi Swift Dezire VDI.M car on 19/6/2014, bearing registration no.KL-

03-Y-3033 (prime pacific blue)with engine no.D13A5022949, Chasis No.MA3FJEBIS00475715 from the opposite party as brand new vehicle at a price of Rs.6,44,033/-. The complainant alleged that in the year 2018, the complainant noticed the paint coated on the bonnet of the car withered here and there and the complainant immediately approached the opposite party and they said it is due to the humid weather. The complainant further alleged that the weathering of paint on the bonnet increased tremendously and the complainant approached the opposite party to rectify the issue but they turned down the plea of the complainant stating to do the work at an outside service station and therefore the complainant approached AVG Motors Kumbazha, who in turn revealed to the complainant that the present painting on the bonnet is not the original one done by the company and they also suggested to take a detailed record of the graph of the maintenance done on the car and on verifying the graph he was surprised to note that the said car prior to its delivery to the complainant had undergone body repair works twice for a total amount of Rs.66,408/- at Indus Motors Kothamangalam. The complainant again alleged that he was cheated by the opposite party by supplying a vehicle which had already undergone heavy body repair before the delivery to the complainant and the opposite party has made the complainant believe that the delivered car was a brand new car. Ext.A1 is the legal notice sent by the complainant to the opposite party. In the reply notice, Ext.A4, the opposite party admits that damage was caused to the bonnet of the vehicle before delivery and hence they replaced it with genuine parts and repaired it which was authorized by them and that they are competent to do that. The Ext. A4 further says that the vehicle issued to the complainant was not having any functioning or structural damage but it sustained injury due to fall of log from a tree, while shifting from the yard, a bend occurred on the bonnet. According to the opposite party they have done a great thing by not suppressing the above said fact and recorded it in the electronic format which is accessible to everyone. The opposite party again says that they have no intention to deceive the complainant. A consumer spends huge amounts of money on brand new vehicles and equipments so as to have peaceful and defect free use of those vehicles and equipments for a long time. More over the expert commissioner appointed by the commission reported in the Ext.C1 commission report that the alleged car bearing chasis number MA3FJEBIS0047571 underwent body repair twice on 30/04/2014 and on 19/05/2014 for a total amount of Rs.66,408.44/-. If a person is willing to go through the difficulties that may arise while using second hand or third hand things, then definitely they won't spend huge amount of their hard earned money in buying brand new things. In this



instant case, the complainant spent lakhs of rupees for the purchase of brand new Maruthi Swift Dezire car, but all his expectations were shattered when the paint on the bonnet started withering. The knowledge that his car underwent repairing twice worth Rs.66,408.44/- prior to delivering it to him for the first time, might have definitely caused severe mental agony and tension to the complainant. The opposite party is liable to compensate all those mental agony, tension, time loss and financial loss suffered by the complainant. The conduct of the opposite party in cheating the complainant by not delivering a brand new car as promised at the time of booking the car, is a clear case of deficiency in service and unfair trade practice. Thus point no.1 is found in favor of the complainant.

**7. Point No.2:-** The act of opposite party in not delivering a brand new car to the complainant, who booked a brand new Maruthi Swift Dezire Car spending Rs,6,44,033/- from his hard earned money, might have definitely caused huge financial loss, mental tension, mental agony and loss of time to the complainant for which the opposite party is liable to compensate. Our considered view is that the complainant is eligible to get refund of Rs.6,44,033/- which is the price of the Maruthi Swift Dezire car. Thus point no.2 is also found in favor of the complaint.

8. In the result the complaint is allowed.

- 1)The opposite party is directed to refund the purchase price of the car Rs. 6,44,033/- (Rupees Six Laks Forty Four Thousand and Thirty Three Only) with interest @9% per annum from the date of complaint before the commission till realisation.
- 2)The opposite party is directed to pay an amount of Rs.50,000/- (Rupees Fifty Thousand Only) as compensation and Rs.10,000/- (Rupees Ten Thousand Only) as cost to the complainant within 30 days from the date of receipt of this order failing which both the amount will carry interest @10 p.a from the date order till realization.

Dictated to the Confidential Assistant, transcribed and typed by her, corrected by me and pronounced in the Open Forum on this the 11<sup>th</sup> day of July, 2024.

(Sd/-)  
George Baby,  
(President)

Nishad Thankappan (Member) : (Sd/-)



**Appendix:****Witness examined on the side of the complainant:**

PW1: Robi Philip

PW2: Abhijith Stephen

**Exhibits marked on the side of the complainant:**

A1 :The original RC book.

A2 :The legal notice dated 7/2/2018.

A3 :The postal registration slip.

A4 :The reply notice to the abovementioned legal notice.

A5 :The AD card.

A6 :The service history.

**Witness examined on the side of the opposite parties:**

DW1:- Muhammed Ilyas

**Exhibits marked on the side of the opposite parties:**

B1: The Authorization Letter

**Court Witness:**

CW1: Arjun S kumar

**Court Exhibit:**

C1: Commission Report

Free Certified Copy

Serial No of the Application.....

Date of Receipt of Application.....

Name of the Applicant.....

Date of Disposal 11.07.24Date of Preparation of Copy 17.10.24

Date of Dispatch of Order.....

By Hand .....

By Post 19.10.24
  
 Senior Superintendent


District Consumer Disputes Redressal Commission, Pathanamthitta



Copy to:-

1. State Consumer Disputes Redressal Commission, Thiruvananthapuram.
2. Robi Philip,  
Melemannil Veedu, Kumbazha,  
Pathanamthitta.
3. The Managing Director,  
Indus Motors (Maruthi), Kumbazha PO,  
Pathanamthitta
4. The Stock File.