

**BEFORE THE DISTRICT CONSUMER
DISPUTES REDRESSAL COMMISSION, DHARWAD.****COMPLAINT No.77/2023**

Date of Filing : 09.02.2023

Date of Disposal : 18.10.2023

P r e s e n t :

Shri. Eshappa K.Bhute, B.A., LL.B (Spl) : President
Smt.Vishalaxi A.Bolashetti, B.A., LL.M : Lady Member
Shri.P.C.Hiremath, B.Com., LL.B : Member


Complainant :

Usha W/o Rakesh jain,
Age: 43 years, Occ: Business,
R/o: #204/3, Shindhe Complex,
Neeligin Road, Hubballi-580029.
(R/by Shri.G.A.Bhat, advocate)

V/s

Opposite Parties:

1. Prakalpa Motors,
Vidyanagar, Hubballi.
2. PRN Motors LLP,
No.5, Intermediate Ring Road,
Near KHT Jeep Showroom, Domlur,
Bangalore-560007
3. TVS Motor Company Ltd.,
No.600, Anand Surya, 2nd Floor,
15th Cross, 6th Phase, J.P.Nagar,
Opp. BMTc Bus stop, Bangalore.
(R/by Shri. V.G.Hosamani, advocate Op-1
to 3)


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JUDGMENT DELIVERED BY
SHRI. P.C. HIREMATH, HON'BLE MEMBER:

This complaint is filed U/Sec.35 of Consumer Protection Act, 2019 seeking direction against opposite parties (hereinafter referred as OPs) to refund the amount of the complainant has paid towards the vehicle and compensation for inconvenience, mental agony with litigation cost of the proceedings.

Brief facts of the case is as under:

2. In her complaint the complainant has alleged that, she has interested in purchasing a Electrical vehicle and she has came to know about TVS Iquibe Electric vehicle manufactured by op-3 and subsequently she has approached op-1 who has authorized dealer of the vehicles of op-3 and she has shown by interest in purchasing the vehicle but op-1 did not have the said vehicle. Therefore op-1 placed order to op-2 and the op-2 has sent the vehicle to op-1 and in turn op-1 has delivered the vehicle to complainant and op-1 has raised the invoice and billed it to the op-2. Therefore all these parties have made party in this case. Complainant has bought the said vehicle on 30/06/2021 for a total amount of Rs.1,20,000/- out of which Rs.5000/- was paid in cash during the booking of the vehicle and rest of the amount was paid through cheque No.141488 on 18/06/2021.


3. It is further submitted that, from the very 1st month of buying of the vehicle, the complainant has facing problem with the vehicle, which was informed to the op-1. Even though


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op-1 has tried to resolved the issues with the vehicle. But the vehicle problem was not solved. In the month of oct-2022 when the husband of the complainant was riding the vehicle, he suffered electric shocks which were being emitted through the break leaver of the vehicle. As such problem could create grave danger to life, the complainant has immediately reported the problem to the op-1 and asked them to repair it and requested them to spare vehicle. But the op-1 did not provide any spare vehicle nor he gave any updates on the vehicle for period of 15 days. Therefore complainant asked to op-1 to replace the current vehicle with a new one or to give complete refund of the amount which was paid for the vehicle. But op-1 has denied same. The husband of the complainant has tried all means put forth his grievance, but unfortunately there was no help from it.

4. It is submitted that husband of the complainant has registered a grievance to op-3 through twitter. Thereafter on 26/12/2022 op-1 was sent a letter and assured that the vehicle has been repaired and ready for the complainant to take it and the grievance is considered to be resolved. Surprised by the such letter the husband of the complainant has replied to the said letter on 27/12/2022 but op-1 has not replied to the said letter. Hence complainant filed this present complaint for aforesaid reliefs.

5. In response to the notice issued by the commission OP-1 to 3 have appeared through Shri. V.G.Hosamani learned counsel and he has filed their written version on behalf of op-1


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to 3 and wherein they have denied all the allegations made in the complaint is false and frivolous one.

6. Further it is submitted that TVS Motor company ltd give this warranty in respect to the TVS IQube manufactured by the company. While the company has taken every care to maintain quality in the manufacture of the IQube, the above said warranty is subject to other terms of warranty. During the years from the date of purchase or during the first 50,000 km of run of the vehicle, Battery, Motor, controller and charges in the hands of original retail purchaser, whichever is earlier the parts of the vehicle covered under warranty which prove to the satisfaction of the company to have a manufacturing defect will be repaired or replaced free of cost.

7. Further it is submitted that on 08/04/2022, general checkup was conducted polishing of the vehicle was done. It was paid service. On 17/06/2022 servicing of the vehicle was done by ops. Mandatory checkup was conducted. Lockset was changed under warranty, there was no specific problem. Further on 06/09/2022 the vehicle was brought to the showroom with noise issue. It was solved by ops. No specific problem was there in the vehicle. On 03/11/2022 the vehicle was brought to the showroom with the complaint vehicle Shocking, Brake Liner, Break Cable, Spring, Switch assembly were changed by ops and on 04/01/2023 the above said electric vehicle brought to the showroom of ops with Rear Wheel Sound issue. It was corrected free of cost. Traction motor assembly was changed. No changed was made for that part.

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Hence there is no deficiency of service on the part of ops. Therefore para-8 of their written version op-1 has denied to replace the said vehicle or refund the amount paid by the complainant. Hence ops have prayed to pass an order for dismissal of the complaint.

8. During the course of enquiry to prove his case, the complainant has filed his affidavit evidence as CW-1 and got marked documents as per Ex.C-1 to Ex.C-10. On the other hand Op-1 has filed his affidavit evidence and his got marked documents Ex.R-1 to R-8.


9. We have heard arguments of both sides and perused the materials on record.

10. The points that arise for our consideration are as under;

1. Whether the complainant proves that in respect of her purchase of Electric Vehicle OPs have committed deficiency of service ?
2. Is he entitled for the reliefs as sought ?
3. What Order ?

11. **Our Answer to the above points are:-**

- Point No.1 – Affirmative.
Point No.2 – Partly in the affirmative.
Point No.3 – As per the final order.


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REASONS

12. POINT No.1 and 2 :- These two points are inter connected with each other and the same requires common discussion to arrive a conclusion, therefore for sake of convenience we have decided to discuss Point No. 1 and 2 under common discussion.


13. To prove her case complainant has filed his affidavit evidence and produced documents as stated below: Ex.C-1 is the cash receipt, Ex.C-2 is the vehicle invoice, Ex.C-3 is the copy of vehicle insurance, Ex.C-4 is the RC, Ex.C-5 to C-7 & C-10, are the copies of E-mail complaints of the complainant's Husband to Grahak Suraksha, Ex.C-8 is the grievance details of complainant. Ex.C-9 is the letter of complainant to op-1. On the other hand op-1 has filed his affidavit evidence as RW-1 and got marked documents Ex.R-1 to R-8.

14. On reading the oral and documentary evidence of both sides it is seen that as per Ex.C-1 complainant has purchased the TVS Iqube Electric Vehicle from op-1. Ex.C-5 to C-7 are the mail copies which shows that trouble started in the vehicle within 6 months from the date of purchase. In page-6 of the evidence of RW-1 by way of true facts of the case, on point No.1 to 5 Ops have admitted that within one year of purchase of the vehicle, many parts were changed. Further on reading the Ex.R-1 to R-5 documents it is clear to the commission that after 6 months from the time of purchase there were repeated complaints with the vehicle of the complainant. According to the complainants till today she

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being the rider experiencing repeated shocks to her both the hands while starts the vehicle. In the Job cards marked as Ex.R-1 to R-5 vehicle shocking, repair and replacement of parts is noted. From such materials it is seen that inspite of such repair and replacement of the parts complaint of break lever shock is still persisting in the vehicle. It would goes to show that there is a manufacturing defects in the vehicle.

15. Ex.R-8 is the letter dt.27/12/2022 given by this complainant to Op No.1 wherein he has reiterated his grievance of shock in break lever of the vehicle. In the said letter complainant has shown her willingness to take back the vehicle if the Ops have given guarantee of bearing expenses of hospitalization in case of sustaining injury due to shock or to provide maintenance of the family in case of death due to such shock in the vehicle. Admittedly it is an Electrical vehicle run on battery charge. Such of the apprehension expressed by the complainant would goes to show that they have very bad experience with the break lever shock of the vehicle and they are apprehending to again use the said vehicle. Ops are not ready to give any kind of guarantee either for smooth running of the vehicle or to attend any grievance in case of reoccurrence of such shock in the vehicle. For the reasons stated supra in our view the vehicle of the complainant is suffering from manufacturing defects in the vehicle and such of the vehicle can not be used on road by the complainant who is a lady. Accordingly we hold that Ops have committed deficiency of service towards the complainant.



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16. Op No.3 is the manufacturer, Op No.1&2 are the dealers/service centers and in spite of repeated complaints by the complainant all the ops are not able to set right the issue, therefore to our mind all the ops are jointly and severally liable to answer the claim of complainant. In the order sheet dt.11/08/2023 it has been noted that from 24/11/2022 the vehicle of the complainant is in custody of Op No.1. In the light of the discussion made above we are of the opinion that if the Ops are jointly and severally directed to replace the new vehicle of the same model and value by retaining the old vehicle of the complainant the same would appear to be just, proper and it would meet the ends of justice. Deficiency of service by the Ops has caused inconvenience and mental agony to the complainant/vehicle user. In view of the same we deem it proper to direct the Ops jointly and severally to pay Rs.25,000/- as compensation and Rs.10,000/- towards litigation cost of the complainant. Thus we answer Point No.1 in the affirmative and Point No.2 Partly in the affirmative.

17. **POINT No. 3:-** In view of our answer on Point No. 1 and 2 and for the reasons stated above, we proceed to pass the following;

ORDER

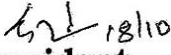
1. The complaint filed U/sec.35 of C.P. Act 2019 is hereby allowed in part in the following terms.
2. Ops are jointly and severally directed to replace the new vehicle of the same model and same value by

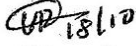

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retaining the old vehicle with them within one month from the date of this judgment. In case of failure of Ops to replace the new vehicle to the complainant within one month from the date of this judgment then Ops are jointly and severally liable to refund the value of the vehicle as per Ex.C-1& C-2 i.e Rs.1,25,000/- (One lakh twenty five thousand only) with interest there on @8% p.a from the date of filing of complaint till realization within one month from the date of this judgment.

3. Further Ops shall jointly and severally pay Rs.25,000/- (Twenty five thousand only) as compensation for inconvenience, mental agony, caused to the complainant with litigation cost of Rs.10,000/- (Ten thousand only).
4. Send free copy of order to both the parties.

(Dictated to the stenographer and got it transcribed and corrected and pronounced in the open Commission on 18th day of Oct-2023)


President
(Shri. E. K. Bhute)
MNB


Lady Member
(Smt. V.A. Bolashetti)


Member
(Shri. P.C. Hiremath)

\\ANNEXURE**Witnesses examined on behalf of the complainant :**

CW-1 — Smt. Usha R. Jain

Documents marked on behalf of the complainant :

Ex.C-1	Cash receipt
Ex.C-2	Vehicle invoice
Ex.C-3	Vehicle Insurance policy
Ex.C-4	RC
Ex.C-5 to 7 & 10	Copies of Email complaints
Ex.C-8	Copy of Grievance details
Ex.C-9	Complainants Letter to op-1

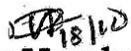
Witnesses examined on behalf of the OPs:

RW-1 — Jestin J. Thomas

Documents marked on behalf of the OPs:

Ex.R-1 to R-5	Job cards
Ex.R-6	Warranty card
Ex.R-7	Letter of op-1 to complainant
Ex.R-8	Letter of complainant to op-1


President
(Shri. E. K. Bhute)
MNB


Lady Member
(Smt.V.A.Bolashetti)


Member
(Shri.P.C.Hiremath)