

## BUYING A CAR? DON'T GET TAKEN FOR A RIDE

Purchasing a motor vehicle is a difficult job these days. It is not sufficient if you have enough purchasing power and knowledge about the latest model, but you should muster enough strength to drag the vehicle manufactures and dealers to consumer forums. In a number of cases they have taken the customers for a ride. Customers who wish to purchase a vehicle, be it a car or a scooter or a tractor for agricultural purposes, have been put to much inconvenience like delay in delivery of the vehicle, non-refund of deposit in case of cancellation, overlooking seniority of the customers.

In all these cases, the consumer forums and commissions set up under the Consumer Protection Act have come to the rescue of customers. At the same time, it has also restricted to rights of the customers against vehicle manufacturers and dealers.

Firstly, is the person who books a vehicle a consumer in the eyes of the CPA? In one of the earliest decisions, the National Commission has decided that a person who merely pays a deposit for a vehicle is not a consumer as contemplated in the CPA.

In the case of M.N. Narasimha Reddy vs Managing Director, Maruti Udyog Limited, the National Commission decided that the definition of 'consumer' contemplates the pre-existence of a completed transaction of sale and purchase and the person who merely entered into an agreement for purchase of goods will not fall within the scope of the said definition.

In a similar case, the Gujarat State Commission has also held that a person who merely booked for a vehicle is not a consumer. In this case, Mr M.S. Malik had paid a deposit of Rs 3,000 for a vehicle with M/s Bombay Garage Ahmedabad Ltd. Since there was delay in the delivery of the vehicle, a complaint was filed in the Gujarat State Commission.

The commission decided that a person who merely booked for a vehicle is not a consumer so far as the question of delivery of the vehicle is concerned. It said that the question of delivery of the car would arise only when the price is paid or offered to be paid by the complainant to the opposite party. (1996(1) CPR 535).

Secondly, unreasonable delay in refund of deposit in case of cancellation of the booking is another major problem being faced by the customers. Either due to changes in the model or poor performance of the vehicle, or for personal reasons, customers have sought cancellation of their booking to get back their deposit.

However, manufactures and dealers have shown little concern for the claims of the customers. Many companies have not even replied or acknowledged the letters of the customers. Thanks to CPA, such customers can file a complaint and get back their deposits. The National Commission in the case of Mumbai Grahak Panchayat

vs Lohia Machines ordered the company to pay back the deposit with interest from the date of receipt of cancellation.

If the customers cancel their booking, who has to refund the amount? The dealer or manufacturer? Against whom the complaint should be preferred? The National commission in the case of MS & S Engineer's vs K.V. Giri (III/ 1994 CPJ/114) has decided that the DD was drawn in favour of the manufactures and the dealer had duly forwarded it to the manufactures. In the circumstances the liability to refund the amount was only that of the manufacturer.

Thirdly, delay in delivery of the vehicle and as a consequence of enhancement in the price of the vehicle is a major issue confronting customers. They are made to pay higher price for the vehicle for no fault of the customers. Is there a remedy?

In the case of Maruthi Udyog vs Dr R. Sarbarinathan Nair (1997 (1) CPR, 136) the Pondicherry State Commission has held that the price at the time of booking will hold good. In this case, the price was Rs.1,75,523 which was paid in full.

However, the manufacturer demanded Rs 1, 81,268 – the price prevailing at the time of delivery. It quoted Clause 3 of their terms and conditions which stated that the price prevailing at the time of delivery is applicable.

But the commission held that this clause will apply if no money had been paid or if he has paid only a token money for the purpose of booking. The commission also took the view that when the total amount of the car at the time of booking is paid and when there is no difference in the quality of the car at the time of delivery, the price to be applied is the price paid and not the price which may be prevailing at the time of delivery.

The Supreme Court has also held that tampering the seniority list in allotment of vehicles is an unfair trade practice.

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