

**DISTRICT CONSUMER DISPUTES REDRESSAL COMMISSION
GURGAON-122001.**

Consumer Complaint No.359 of 2020
Date of Institution: 06.10.2020
Date of Decision: 27.01.2025

Ravi Shankar Dwivedi son of Sh. Devi Shankar Dwivedi, resident of House No.3, Vatika Kunj, Street no.7, Near DPS Maruti Kunj, District Gurugram-122102.

.....Complainant

Versus

1. M/s GSP Motors, Authorized Sub Dealer for Mahindra & Mahindra Ltd. Unit 16 & 16A, Ground Floor, Bestech Business Towers, Sector-48, Sohna Road, Gurugram-122002.
2. Mahindra & Mahindra Ltd. Gateway Building, Appolo Bunder, Mumbai-400001 through its authorized person.

.....Opposite parties

Complaint under Section 35 of Consumer Protection Act, 2019.

**BEFORE: SHRI SANJEEV JINDAL, PRESIDENT.
MS.JYOTI SIWACH, MEMBER.
MS.KHUSHWINDER KAUR, MEMBER.**

Present: Complainant in person.
OP No.1 proceeded against ex-parte VOD 11.01.2023.
Shri Amit Yadav, Advocate for the OP No.2.

ORDER SANJEEV JINDAL, PRESIDENT.

Heard on the complaint in question. The record placed on the complaint file stands, perused.

2. Shorn off unnecessary details, briefly stated, it is the case of the complainant that he had purchased a Car bearing registration No. HR-72-DM-8233 from the respondent through invoice no. INB18A01101 dated 17.03.2018 i.e. the

dealer, on 20.03.2018 as he was told that the subject car was new one and was without any damage or accident. On 05.04.2019, during the course of the use of the said car, its plastic Bumper got broken, and, thus, was got replaced vide repair order no. RO20B000173. However, when the complainant opened the front plastic bumper for some decorative work/fitting of accessories thereon, he noticed that the chassis of the said vehicle was heavily damaged. Upon it, the complainant immediately contacted the respondent No.1 but was told that a considerable time had lapsed since the purchase of the said vehicle, that the dealer had been changed who had sold the car to the complainant and further that when the respondent no.2 checked the front portion of the vehicle, he informed the complainant that there was historical damage in the subject car. Since the respondent No.1-dealer had played a fraud upon the complainant by handing over a second hand accidental car in place of the new car, so, the complainant requested the OPs either to replace the subject car or to refund the purchase price thereof but to no avail. Hence, this complaint.

In the end, the complainant prayed that the OPs be directed to replace the car in question with new one as the OPs had fraudulently handed over to him, the second hand/accidental car in place of the new car, coupled with compensation of Rs.2,00,000/- for causing mental & physical harassment. Any other relief which deemed fit by this Court, has also been prayed for.

3. At the very outset of the discussion, this Commission has the least hesitation to observe that the aforesaid submissions/assertions/averments made by the complainant stand proved, completely and conclusively, in crystal clear terms, from the accurate, brief and concise documentary evidence placed on the record of this file by him in the form of several documents including the document **Ex.C-1** i.e. copy of colour photographs of the subject vehicle.

4. Every credence has to be accorded to the aforesaid documents as the contents thereof, admittedly, go unrebutted for the simple reason that the OPs have failed to place on the record of this file even an iota of evidence which may rebut the credibility of the contents of the aforesaid documents, or which may prove anything contrary.

5. That is why, the pleas taken by the OP No.2 in its written statement to the effect that the present complaint filed by the complainant was false, malicious, incorrect and with malafide intention and was nothing but an abuse of the process of law or that the present complaint was not maintainable or that the complainant had suppressed the true and material facts from this Court etc. etc., cannot be held worthy of according any credence at all, the same being irrelevant, unnecessary, baseless, frivolous and misconceived, and, therefore, this Commission does not intend to go into the details of the aforesaid pleas taken by the answering OP No.2 in its lengthy written statement consisting of as many as 15 pages.

6. Thus, keeping in view all the facts and circumstances of the present case, in the light of the aforesaid discussion, we are of the considered view that there did occur severe deficiency in service on the part of the OPs on account of not providing the proper services to the complainant. That being so, the complaint of the complainant is hereby accepted. Accordingly, the OPs are directed to replace the subject car with the new one. The OPs are further directed to pay the amount of Rs.50,000/- to the complainant as compensation on account of causing mental harassment, pain and agony coupled with the amount of Rs.22,000/- as litigation expenses. The OPs are directed to pay the aforesaid amount within 45 days from the date of uploading of this order after the expiry of 24 hours (one day) therefrom,

failing which the amount will attract interest @ 12% per annum, for the same period, till actual realization.

7. If the order of this Commission is not complied with, then the complainant shall also be entitled to file the execution petition under Section 71(1) of the Consumer Protection Act, 2019 and in that eventuality, the OPs may also be held liable for prosecution under Section 72 of the said act which envisages punishment with imprisonment for a term which shall not be less than one month, but which may extend to three years, or with fine, which shall not be less than Rs.25,000/-, but which may extend to Rs.1,00,000/-, or with both. The copy of the order be supplied to the parties free of cost as per the rules. The Order be promptly uploaded on the website of this Commission. File be consigned to the record room, after due compliance.

Announced.
27.01.2025

(Jyoti Siwach)
Member

(Khushwinder Kaur)
Member

(Sanjeev Jindal)
President,
District Consumer Disputes
Redressal Commission, Gurgaon