

INFOLEX
CONSULTANTS

LEGAL INSIGHTS:
AUTOMOBILE

RECENT IMPORTANT LEGAL DEVELOPMENT

1. FAILURE TO MAINTAIN TRANSPARENCY BY REFUSING TO PROVIDE DIAGNOSTICS REPORTS TO THE VEHICLE OWNER, AND SEQUENCE OF REPEATED BREAKDOWN OF VEHICLE, CONSTITUTES CLEAR DEFICIENCY IN SERVICES.

In the case titled as **M/s Ambika Realcon Developers Pvt. Ltd. v. BMW India Private Limited & Ors.** [SC/4/CC/87/2024], the Ld. SCDC, Chandigarh, had noted and observed that the BMW X7 developed serious mechanical and electrical defects soon after purchase, including power failures, wiring issues, radiator fan faults and, most importantly, a defective DME (Digital Motor Electronics) unit. Even after replacement, the same issues returned, proving a recurring manufacturing defect.

The Commission further noted that BMW failed to maintain transparency by refusing to provide diagnostic reports to the complainant, and held that the sequence of repeated breakdowns constituted clear deficiency in service. BMW's contention that the complainant

was not a 'consumer' was rejected, as the vehicle had been purchased for the personal use of the Director, and not for any commercial activity. Consequently, BMW India Pvt. Ltd. and its Directors were held jointly and severally liable for the defects and deficiencies.

2. MANUFACTURING AND SALE OF A VEHICLE WITH AN INNATE MANUFACTURING DEFECT, IS CERTAINLY AN UNFAIR TRADE PRACTICE ON PART OF AUTOMOBILE MANUFACTURER, WHICH CONSTITUTES DEFICIENCY IN SERVICE AS WELL.

In the case titled as **Arjunan K.R. v. Ola Electric Technologies Pvt. Ltd. & Anr.** [CC/407/2024], the Ld. DCDC, Thrissur had noted and observed that:

6. [...] A comprehensive reading of Ext. C1 report would make it clear that the vehicle in question suffers manufacturing defect and also that the vehicle consequently turned unworthy of use in less than one year of its registration.

7. [...] *The manufacture and sale of a vehicle with an innate manufacturing defect, is certainly an unfair trade practice on the part of the opposite parties, which act of theirs at the same time constitutes deficiency in service on the part, as well. The first opposite party manufacturer has not cared to file their written version in time, despite their having received the Commission's notice to that effect. The first opposite party dealer also does have the bounden duty to liaison with the manufacturer and address to redress the grievances faced by the complainant consequent to their sale of a defective vehicle to him. The dealer cannot embrace the attitude that they are a mere point to collect money from the consumer, who can simply shirk of their responsibility to properly address the grievances of a consumer, at least by properly liaisoning the issue with the manufacturer, concerned.*

3. ACKNOWLEDGEMENT OF DEFECTIVE BATTERY PACK BY AUTOMOBILE MANUFACTURER, IS AN INDICATION OF A MANUFACTURING DEFECT.

In the case titled as *Samaran Media Consultants Pvt. Ltd. v. Mercedes Bens*

India Pvt. Ltd. [CC/158/2023], the Ld. SCDRC, New Delhi had noted and observed that:

37. *It is pertinent to mention that although the car was brand new and within six months of purchase, its battery pack had to be replaced. This raises concerns about the presence of a manufacturing defect.*

38. *It is noteworthy that the opposite parties not only acknowledged the existence of faults in the car as mentioned in various job cards, but also voluntarily offered a refund of five months EMI's and extended the warranty of the complainant's car as communicated via email dated 03.06.2023, 08.07.2023, 12.07.2023 & 17.07.2023, which are annexed with the complaint. The warranty extension was offered without any request from the complainant. The only plausible reason for such actions is that the opposite parties sought to pacify the complainant as they were unable to diagnose and rectify the fault which in fact constitutes a manufacturing defect.*

4. REPEATED VISITS TO WORKSHOP FOR REPAIRING, WITH ABSENCE OF EXPERT EVIDENCE, DOES NOT

**ESTABLISH ANY
MANUFACTURING DEFECT.**

In the case titled as *Classic Automobiles v. Leela Nand Mishra & Anr.* [2010 CPJ 235 NC], the Ld. NCDRC, New Delhi had noted and observed that:

16. The District Forum could have appointed an expert of its own, based upon whose findings; a finding could be recorded with regard to the manufacturing defect. Whenever the car was brought to the service station, it was attended to by the Petitioner. In the absence of any expert evidence, merely on the fact that the car was repeatedly brought to the service station for repairs / rectifications, it cannot be held that there was a manufacturing defect in the car. The petitioner is the service provider of the car and Counsel for complainant/respondent No. 1 was unable to show any deficiency on the part of the petitioner in attending to the car whenever it was brought to the petitioner's service station.

**5. MERE ALLEGATION OF A
MANUFACTURING DEFECT,
WITHOUT ANY EXPERT
OPINION / EVIDENCE, CANNOT**

**BE A BASIS TO DECLARE A
DEFECT.**

In the case titled as *Mr. Ravindra Annappa Bindre v. M/s Royal Enfield Ors.* [RP / 1976 / 2019], the Ld. NCDRC, New Delhi had noted and observed that:

14. B. If the Complainant is not satisfied about the roadworthy condition of the motorcycle in question being handed over, he is at liberty to approach the District Forum by filing appropriate Application seeking appointment of an expert. On receipt of such Application, the District Forum shall forthwith appoint an expert to examine the said vehicle with direction to file a report on its condition and roadworthiness within one month from the date of the appointment. The costs towards obtaining the expert opinion and report shall be borne equally by both the parties.

14. C. On receipt of the expert opinion, if there are any observations with respect to condition/ serviceability of the said motorcycle, OP-1 and 2 shall jointly and severally take action necessary and bring the vehicle to roadworthy condition, within one month from the date of the said report.

6. MANUFACTURER NOT LIABLE FOR DEALERS' FAULT UNLESS MANUFACTURER'S KNOWLEDGE IS PROVEN.

In the case titled as *TATA Motors Limited v. Antonio Paulo Vaz & Anr.* [Civil Appeal No. 574 / 2021], the Hon'ble Supreme Court of India had noted and observed that:

28. Clearly, the dealer, in the facts of that case, acknowledged the defects in the car. In the present case, the dealer did not acknowledge any such deficiency; furthermore, the car had been made over to the dealer on 28.02.2009 (as is evident from an invoice issued to the dealer, a copy of which is on the record). Therefore, it is difficult to expect the appellant, a manufacturer, to be aware of the physical condition of the car, two years after its delivery to the dealer. During that period, a number of eventualities could have occurred; the dealer may have allowed people to use the car for the distance it is alleged to have covered. Also, the use of the car and prolonged idleness without proper upkeep could have resulted in the undercarriage being corrugated. All these are real possibilities. Unless the manufacturer's knowledge is proved, a decision fastening

liability upon the manufacturer would be untenable, given that its relationship with the dealer, in the facts of this case, were on principal-to-principal basis.

7. BURDEN OF PROVE TO SHOW MANUFACTURING DEFECT IN A VEHICLE IS ON COMPLAINANT.

In the case titled as *Randhir Singh v. M/s Maharaja Auto Wheels Pvt. Ltd. & Anr.* [RP No. 3149 & 3150 / 2017], the Ld. NCDRC, New Delhi had noted and observed that:

17. Upon careful examination of the material on record and the orders of both the fora, it's apparent that no expert opinion from an authorized laboratory or recognized Govt authority was procured or presented by the Complainant to substantiate manufacturing defect claim. Entitlement to get refund of purchase price of car is feasible only if defects are established to be manufacturing defects with significant impact on the functioning of the vehicle. In this respect, the burden is on Complainant to prove that the defects present in the car are manufacturing defects, through an expert opinion.

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