

**BEFORE THE PRESIDENT, DISTRICT CONSUMER DISPUTES
REDRESSAL FORUM :: TINSUKIA :: ASSAM**

District: Tinsukia

Present: **Sri P.J. Saikia,**
President,
District Consumer Disputes
Redressal Forum, Tinsukia

Sri K.K. Das,
Member,
District Consumer Disputes
Redressal Forum, Tinsukia

Consumer Protection Case No. 08 of 2014

Sri Dependra Chetia

S/o Sri Budheswar Chetia

R/o Bogoritolia Gaon

P.O. Mohmora, Dikam,

Dist. Dibrugarh (Assam).....Complainant

- **Versus** -

1. Easy Communication

(An authorized dealer and servicing

Centre of Piaggio vehicles Pvt. Ltd.)

Code -45/AE – 108

Makum Road, Tinsukia, Assam-786125

(Represented by its Proprietor/Managing Director)

2. Piaggio Vehicles Private Ltd.

101 B/102, Phoenix, Bund Garden Road

Opp. Residency Club, Pune-411001

(Represented by its Managing Director)

3. Bank of India

Tinsukia Town Branch, Tinsukia, Assam

(Represented by its Branch Manager)

4. National Insurance Company Ltd.

Chirwapatty, Tinsukia, Assam

(Represented by its Branch Manager).....Opposite Parties

Appearance:

Smti J. Khan,

Advocate.....For the Complainant

Sri B. Mishra,

Advocate.....For the O.P. No.1

Sri D. Mishra,

Advocate.....For the O.P. No.3

Smti M.D. Choudhury,

Advocate.....For the O.P. No.4

Date of Argument: 09.02.2017 & 09.03.2017

Date of Judgment: 30.01.2018

J U D G M E N T

CASE OF THE COMPLAINANT

1. The complainant purchased a pickup van, a PIAGGIO Ape Truck from the O.P. No.1, which is the authorized dealer and servicing centre of Piaggio vehicles private limited. The vehicle was partly financed by the Bank of India, the O.P. No.3. Accordingly, the complainant paid only Rs. 70,000/- and the remaining amount was paid by Bank of India. Thereafter, the complainant used to earn an amount of Rs. 1,000/- per day by running the vehicle for commercial purpose.

2. Since the date of purchase of the vehicle, there was a starting problem of the vehicle. On 24.06.2013, the complainant could not start the engine of the vehicle. On 25.06.2013, the complainant managed to start the engine of the vehicle by pushing the vehicle. Accordingly, the vehicle was placed in the service centre of O.P. No.1. On the next day, he was informed by O.P. No.1 that he would have to pay an amount of Rs. 25,000/- for

repairing of his vehicle. According to the complainant, since he purchased the vehicle on 24.09.2012, it was still under warranty. The complainant stated that he was informed by O.P. No.1 that there was rusting and water contamination on the material and those would not be covered by warranty. The complainant stated that he was astonished to hear that there was no such occasion, whereby the FIE could be contaminated by water and rust. According to the complainant, the vehicle was still under warranty and therefore, according to the complainant, the O.P. Nos.1 and 2 are indulging in illegal trade practice and breach of trust with their own customers by changing the genuine parts of the vehicle and charging for it. A legal notice was sent by the complainant, but the O.P. Nos.1 and 2 did not respond to that notice.

3. With the aforesaid facts, the complainant prayed for an order of this Forum directing the O.P. Nos. 1 and 2 to take back his truck and also to award compensation to him.

CASE OF THE O.P. NO.1

4. The O.P. No.1 as it is stated herein before is the dealer of Ape Piaggio vehicle. The O.P. No.1 has contested the case of the complainant by filing the written statement. Denying all the allegations of the complainant, the O.P. No.1 admitted that on 25.06.2013, the complainant placed his vehicle before it with problems of engine starting etc. According to the O.P. No.1, it repaired all the defects in the vehicle of the complainant. The O.P. No.1 has stated that the complainant was not satisfied with the service rendered by it, rather the complainant demanded the replacement of the fuel injector, fuel injection pump and starter motor. The O.P. No.1 has stated that the complainant was informed that if he needs replacement of those parts, he had to pay Rs. 25,000/-, because the spare parts were not covered under the terms and conditions of warranty.

5. The O.P. No.1 also stated that the vehicle of the complainant was not serviced as per the service schedule mentioned in the warranty booklet. It

stated that if the vehicle was not serviced at intervals of every 5000 kilometers or 45 days, the warranty will be null and void. The O.P. No.1 further stated that on 19.10.2012, the complainant got his vehicle serviced for the first time after it purchased on 24.09.2012.

CASE OF THE O.P. NO.3

6. The O.P. No.3, the Bank of India also contested the case of the complainant by filing the written statement. The Bank of India has stated that the complainant took a loan of Rs. 2,95,000/- for purchasing the Ape truck, but did not repay the loan. The Bank stated that as on 31.05.2014, a sum of Rs. 3,61,843/- became due and outstanding against loan account of the complainant.

CASE OF THE O.P. NO.4

7. The O.P. No.4, the National Insurance Company Limited also contested the case of the complainant by filing another written statement. The insurance company has stated that it is not liable to pay compensation to the complainant because the complainant has claimed that he was given defective parts by the O.P. No.1.

POINT FOR DETERMINATION

8. The only point for determination in this case is as to whether the complainant is entitled to an award as prayed by him?

DECISION AND REASONS THEREOF

9. In this case, both sides adduced evidence. I have gone through the evidence. The complainant has claimed that the O.P. No.1 is duty bound to replace the fuel injector, fuel injection pump and starter motor. The vehicle was under warranty. The O.P. No.1 has stated that it repaired the vehicle of the complainant, but the complainant wanted replacement of those parts of the vehicle. According to the O.P. No.1 for replacing those three parts of the vehicle of the complainant, it would be outside the contract of warranty. The

O.P. No.1 has also stated that the complainant did not service his vehicle as per service schedule of the warranty.

10. The witness Pralay Kr. Ghosh, appearing for the O.P. No.1 filed his evidence and exhibited the warranty booklet as Annexure A. According to Annexure A, starter motor, fuel injector and fuel injection pump along with some other articles are considered as propriety items. The propriety items means any item, that is exclusively owned by a private individual or corporation under a trademark or patent that is selected for use exclusively in Piaggio vehicles. Therefore, it is clear on the face of the record that the starter motor, fuel injector and fuel injection pump are outside the domain of contract of warranty between the parties. In such a case, the O.P. No.1 is not entitled to replace with newer one without payment of the money by the complainant. I have reasons to hold that there was no deficiency of service on the part of the O.P.No.1.

11. Under the circumstances, I do not find any merit in the case of the complainant.

ORDER

12. In the result, the case of the complainant is dismissed.

Given under my hand & seal of this Forum on this the 30th day of January, 2018.

Dictated & corrected by me.

President
District Consumer Disputes
Redressal Forum, Tinsukia

(P.J. Saikia)
President
District Consumer Disputes
Redressal Forum, Tinsukia

I agree:

Member

District Consumer Disputes
Redressal Forum, Tinsukia