

SUPREME COURT OF INDIA

Maruti Suzuki India Ltd.

Vs.

Rajiv Kumar Loomba

C.A.No.1841 of 2003

(Markandey Katju and V.S. Sirpurkar JJ.)

15.07.2009

ORDER

1. This appeal by special leave has been filed against the impugned judgment of the National Consumer Disputes Redressal Commission, New Delhi dated 26.07.2002 in Revision Petition No. 523/1998 filed by the appellant herein.

2. Heard learned counsel for the appellant.

3. There is no representation on behalf of the respondents despite service of notice.

4. It appears that a complaint had been filed by the respondent No. 1 herein against the appellant herein before the District Consumer Disputes Redressal Forum, Chandigarh. The grievance of the complainant in the complaint was that although a catalytic converter was not fixed in the Maruti car which was sold to him by the appellant, yet he has been charged a sum of Rs.7,000/- for the same. The complainant claimed that he should be refunded the sum of Rs.7,000/-. The claim of the complainant-respondent No. 1 was allowed by the District Consumer Forum, Chandigarh vide order dated 3.12.1996. Against the said order of the District Forum, the appellant filed an appeal before the Consumer Disputes Redressal Commission, Union Territory, Chandigarh which was dismissed vide order dated 18th March, 1998. Thereafter the appellant preferred a revision before the National Consumer Disputes Redressal Commission which has been dismissed by the impugned order. Hence, this appeal by special leave.

5. Mr. Lalit Bhasin, learned counsel appearing for the appellant has invited our attention to a policy decision dated 22.3.1995 of the Central Government, which is annexed as Annexure/P-1 to this appeal. By the said decision the Central Government had directed that all 4 wheeler petrol vehicles sold in the cities of Delhi, Bombay, Calcutta and Madras shall be fitted with a catalytic converter. However, there was no mandatory requirement for a catalytic converter in such vehicles at the relevant time in respect of other cities in India.

6. The respondent No. 1, at the relevant time lived in Chandigarh. Hence, he alleged that he was under no legal obligation to get fitted a catalytic converter in his Maruti car nor did he actually get the same fitted in his car purchased from the appellant. Thus, he should not have been charged an extra Rs. 7,000/- for his Maruti car as a person living in the four Metropolitan Cities abovementioned alone have to have a catalytic converter in his car.

7. We are in agreement with the view taken by the Consumer Fora. Since, there was no mandatory obligation at the relevant time for a resident of Chandigarh to have a catalytic converter in his car, and the respondent No. 1 actually did not have the same fitted in his car, we are of the opinion that he should not have been charged an extra Rs.7,000/- for the catalytic converter which was charged from persons living in Delhi, Bombay, Calcutta and Madras. Of course, if he had opted for such catalytic converter he would have to pay the price for the same, but he never opted for it. Hence, in our opinion charging him Rs. 7,000/- for the same was wholly arbitrary.

8. Mr. Bhasin then submitted that even a person living in any other city apart from the 4 metropolitan cities would have been given a catalytic converter in his Maruti car free of cost had he asked for it. There is no such averment in the written submission filed by the appellant before the National Consumer Commission or the other consumer fora and hence we are not inclined to accept this oral submission.

9. Mr. Bhasin further submitted that in pricing matters the consumer forum cannot interfere and in this behalf he has relied upon the decisions of this Court in the cases of *State of Gujarat Vs. Rajesh Kumar Chimanlal Barot & Anr.*¹, *Tamil Nadu Housing Board & Ors. Vs. Sea Shore Apartments Owners' Welfare Association*² and *Pallavi Refractories & Ors. Vs. Singareni Collieries Co. Ltd. & Ors.*³.

10. As regards the decision in *State of Gujarat Vs. Rajesh Kumar Chimanlal Barot* (supra), it is a very cursory order and has no application to the present case.

11. The decision in *Pallavi Refractories* (supra) in fact supports the case of the respondent. It has been observed in paragraph 19 of the said judgment that,

“There is no such law that a particular commodity cannot have a dual fixation of price. Dual fixation of price based on reasonable classification from different types of customers has met with approval from the Courts.”

12. The above observation clearly indicates that dual fixation of price can only be sustained if it is based on a reasonable classification. In the present case, as already mentioned above, the classification is not reasonable, since a person whose vehicle does not have a catalytic converter should not be made to pay for the same.

13. As regards the decision in the case of *Tamil Nadu Housing Board* (supra), it has been observed therein (in the last sentence of para 26) as under :

“Normally, therefore, it would not be appropriate to enter into adequacy of price.”

14. In this connection, two things may be noted. Firstly, use of the word 'normally' indicates that it is not a hard and fast rule. Secondly, in the present case we are not really concerned with adequacy of price. We are concerned with charging by the appellant for a converter which he has not supplied to the respondent. In our opinion, this is unfair trade practice as defined in Section 2(1)(r) of the Consumer Protection Act.

15. Mr. Bhasin also submitted that the Central Government had directed that the same price be charged for all cars, whether fitted with a converter or not. No such government directive is on the record of this case, but even if there is such a directive, in our opinion, it will be arbitrary and violative of Article 14 of the Constitution of India.

16. In the present case, the grievance of the complainant was that he was being overcharged for a catalytic converter which he neither demanded nor was it actually fitted in his car purchased from the appellant. In our opinion, the complaint filed by respondent No. 1 is justified as the aforesaid act amounts to an unfair trade practice as defined in Section 2(1)(r) of the Consumer Protection act, 1986. It may be noted that the definition in Section 2(1)(r) is an inclusive one, and is not exhaustive of sub-clauses (i) to (x) therein.

17. For the reasons stated above, we find no force in this appeal. It is dismissed accordingly. No order as to the costs. Civil Appeal No. 1842/2003

18. For the reasons mentioned in our order in Civil Appeal No. 1841/2003, this appeal is also dismissed. No order as to the costs.

¹1996 (5) SCC 477

²2008 (3) SCC 21

³2005 (2) SCC 227