

**HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT SRINAGAR**

MA No. 114/2015

Reserved on : 19.11.2025

Pronounced on : 27 .11.2025

Uploaded on 27.11.2025

**Whether the operative part or full
judgment is pronounced: Full**

MARUTI SUZUKI INDIA LIMITED

...Appellant(s)/Petitioner(s)

Through: Mr. R. A. Jan, Sr. Advocate with
Mr. Wahid Lone, Advocate and
Ms. Safa Aziz, Advocate.

Vs.

**MOHAMMAD ASHRAF KHAN AND
OTHERS.**

...Respondent(s)

Through: Mr. M. A. Dar, Advocate with
Mr. Javaid Ahmad, Advocate.

CORAM:

**HON'BLE MR. JUSTICE SANJEEV KUMAR, JUDGE
HON'BLE MR. JUSTICE SANJAY PARIHAR, JUDGE**

JUDGEMENT

Sanjay Parihar (J):

1. By this miscellaneous appeal, the appellants assail the judgment/order dated 05.01.2015 passed by the Jammu & Kashmir Consumer Disputes Redressal Commission, Srinagar (hereinafter "the Commission") in Complaint No. 57/2009. By the impugned order, the Commission directed the respondents therein to refund a sum of ₹7,00,000/- to the complainant along with ₹5,000/- as litigation costs, while retaining the vehicle in question; or, in the alternative, to replace the said vehicle with a new one within six weeks.
2. The impugned judgment is challenged on the ground that it has been passed in complete disregard of the settled legal principles governing the adjudication of complaints alleging manufacturing defects. It is submitted that no expert opinion from any accredited or competent technical laboratory was obtained to substantiate the alleged defect. The Commission, it is urged,

also failed to appreciate the terms and conditions of the warranty and the period during which it was operative. Furthermore, the Commission had no legal basis to discard the report of the Deputy Director or the certificate issued by the Area Service Manager of the appellant company, both of which categorically affirmed that the vehicle was in proper working condition. Once the vehicle had been inspected and found defect-free, the Commission committed a manifest error in ignoring such material evidence.

3. It is further submitted that the Commission overlooked the legal framework governing such disputes and proceeded to order the replacement of the vehicle without any factual foundation or legal justification. The award, it is argued, was passed although the manufacturer had not originally been arrayed as a party to the complaint. The Commission, though not a civil court, impleaded the manufacturer *suo motu* at a later stage, which, according to the appellants, was without jurisdiction under the Consumer Protection Act. On this ground alone, the findings recorded against the appellant are said to be vitiated.
4. Briefly stated, respondent No. 1 (the complainant) purchased an SX-4 motor car manufactured by the appellant from its authorised dealer on 14.05.2007 for a consideration of ₹7,00,736/-. After delivery, the complainant allegedly noticed persistent vibration in the first and reverse gears, which the dealer is said to have failed to rectify despite repeated inspections and mechanical checks.
5. In the original complaint, only the authorised dealer was arrayed as a respondent. However, by order dated 06.01.2014, the Commission observed that the report furnished by the State Motor Garages regarding the condition of the vehicle appeared ambiguous. Although the report at one stage suggested a manufacturing defect, it subsequently appeared to dilute or

retract that observation, rendering the opinion cryptic and unreliable. The Commission further recorded that the vehicle had continued to remain with the dealer after the complainant reported the alleged defect. In view of the ambiguity, the Commission directed that Maruti Udyog Limited (the appellant herein) be impleaded as a respondent, on the premise that if the vehicle were ultimately found to suffer from a manufacturing defect, the manufacturer must be afforded an opportunity of hearing. The Commission also directed the dealer to inform the manufacturer so that an engineer could be deputed for inspection.

6. It is significant that the complaint was instituted while the vehicle was still within the warranty period. The vehicle, purchased in 2007, is alleged to have exhibited persistent vibration until 2009, after which it remained in the custody of the dealer. Although the appellant was allowed to contest the complaint and examine the vehicle, it chose instead to submit a report dated 04.06.2014 from its engineer, stating that the vehicle was roadworthy and that any manufacturing defect had been rectified. In contrast, the report of the Principal, Government Polytechnic College, who conducted a physical inspection, confirmed that the vehicle vibrated in the first and reverse gears, thereby indicating a manufacturing defect.
7. The Commission also noted that both the dealer and the manufacturer were represented through the same counsel. Upon weighing the evidence, the Commission held that although the dealer and manufacturer relied on the reports of the Director, State Motor Garages and the Area Sales Manager to demonstrate roadworthiness, this material was contradicted by the evidence adduced by the complainant. The record established that the vehicle had been repeatedly taken to the workshop for repairs from the very outset, yet the vibration persisted, demonstrating a clear manufacturing defect. Since 2009,

the vehicle had remained with the dealer without any effective effort to repair or replace it.

8. The Commission accordingly held the complainant entitled to relief and directed both the dealer and the manufacturer to refund ₹7,00,000/- along with ₹5,000/- towards litigation expenses, while retaining possession of the vehicle. In the alternative, it directed replacement of the vehicle with a new one, in which event the complainant would pay only the difference, if any, between the cost of the new vehicle and the original price of ₹7.05 lakhs.
9. We have perused the record of the Commission and heard learned counsel for both sides. The appellant-manufacturer has advanced a two-fold submission: first, that there was no admissible or cogent material before the Commission to sustain a finding of manufacturing defect, especially in light of three reports certifying the vehicle as roadworthy; and second, that the Commission proceeded to pass the impugned order without formally impleading the manufacturer at the initial stage or allowing it to lead evidence, thereby causing prejudice.
10. Per contra, learned counsel for the respondent-complainant supported the impugned order, contending that the record clearly demonstrates that the manufacturer had been afforded a hearing, and that the counsel for the dealer also represented the manufacturer. It was further argued that despite adequate opportunity after being impleaded, the manufacturer elected not to contest the matter. In view of the Commission's findings that the vehicle suffered from a manufacturing defect, manifested through persistent vibration in the first and reverse gears, which neither the dealer nor the manufacturer could rectify during the warranty period, both were jointly and severally liable.
11. In *Maruti Udyog Ltd. v. Sushil Kumar Gabgotra*, AIR 2006 SC 1586, the Supreme Court held that if a defect is detected during the warranty period,

the manufacturer is obliged to repair or replace the defective component, the law recognising an implied warranty that the vehicle is reasonably fit for its intended purpose. Although the Court did not direct replacement of the entire vehicle in that case, it nevertheless ordered replacement of the defective part and awarded compensation. Again, in (2006) 3 SCC 721, the Apex Court held that once deficiencies begin to surface, it is the duty of the supplier to address them promptly; and if such deficiencies persist during the warranty period, the supplier is liable for deficiency in service. Under Article 10 of the Warranty and Free Services clause in the dealership agreement, the appellant-manufacturer is contractually obliged to reimburse the dealer for repairs or replacement of defective parts during the warranty period.

12. The Commission has recorded a categorical finding that the defect was noticed immediately after purchase and that between 2007 and 2009 the complainant repeatedly approached the dealer for rectification, but the problem persisted. The appellant has not specifically disputed these findings; its principal contention is that the defects were not of such magnitude as to warrant full replacement or attract liability.

13. The dealer acts on behalf of the manufacturer for maintenance and service. It is not the appellant's case that the defect surfaced after expiry of the warranty. Once the defect is noticed within the warranty period, both dealer and manufacturer are jointly and severally liable for the deficiency in service.

14. In AIR 2011 SC 523, the consumer had complained of persistent engine defects from the day of purchase. Although the vehicle had run 800 km, it had largely remained with the dealer for repairs. The Supreme Court upheld the award and held that if an independent expert confirmed inherent manufacturing defects, the consumer was entitled to a refund of the price and life tax along with interest. Both dealer and manufacturer were held liable.

- 15.** In the present case, the dealer contested the matter throughout. Once the Commission found prima facie evidence of a manufacturing defect, it impleaded the manufacturer. After receiving the report of the Government Polytechnic College, which confirmed vibration in the first and reverse gear, the Commission duly notified the appellant. Instead of addressing the findings of the said report, the appellant submitted a contrary report from its own officer without dealing with the earlier expert findings, resulting in the matter being referred to the State Motor Garages.
- 16.** The Commission observed that there was no explanation for the dealer's failure to return the vehicle to the complainant and no material showing that the dealer sought guidance from the manufacturer. Once impleaded and represented through the same counsel as the dealer, the appellant cannot claim lack of opportunity. Having submitted its own engineer's report, the appellant was under an obligation to substantiate it.
- 17.** The contention that the Commission ignored the report of the State Motor Garages is untenable. The Commission found that the report of the Government Polytechnic, Srinagar, remained unrebutted. The complainant had specifically challenged the report of the Deputy Director, State Motor Garages, pointing out its shortcomings, including that it was not prepared by a technical team, unlike the Polytechnic report.
- 18.** The argument that the Commission lacked authority to implead the manufacturer is also without merit. Once liability for deficiency in service is joint, the dealership relationship and warranty terms bind both. To exclude the manufacturer would render the warranty clause meaningless. As the producer of the vehicle, the manufacturer is best placed to diagnose and rectify defects.
- 19.** In this background, the Commission cannot be said to have exceeded its

jurisdiction. Having been notified and having inspected the vehicle through its engineer, the appellant ought to have taken steps to repair the vehicle or lead rebuttal evidence. Having chosen not to do so, it cannot allege denial of opportunity. The prolonged retention of the vehicle by the dealer after 2009, without justification, further prejudiced the complainant. Given the warranty policy, the manufacturer cannot evade liability by pleading ignorance or lack of opportunity.

20. We accordingly find no reason to differ with the view taken by the Commission in the impugned order and find no infirmity or illegality in the order passed by it. The findings are based on a sound appreciation of evidence and settled principles of consumer law. The manufacturer and the dealer failed to rectify the defect during the warranty period and are, therefore, liable.

21. Consequently, we find no merit in the appeal, which is hereby dismissed. The appellant and the respondent-dealer are jointly and severally liable to satisfy the award of the commission. Disposed of as such, a copy of the order shall be notified to the commission and in case there is any statutory deposit of award or otherwise same shall be remitted back to the commission accordingly.

(Sanjay Parihar)
Judge

(Sanjeev Kumar)
Judge

Srinagar
27.11.2025
“Shaista-PS”

❖ Whether the Judgment is Reportable?

Yes

❖ Whether the Judgment is Speaking?

Yes