

M. P. STATE CONSUMER DISPUTES REDRESSAL COMMISSION,

PLOT NO.76, ARERA HILLS, BHOPAL

FIRST APPEAL NO.1216 OF 2017

(Arising out of order dated 25.01.2017 passed in Case.No.28/2016 by District Commission, Panna)

SHUBH MOTORS PRIVATE LIMITED,
THROUGH BRANCH MANAGER,
AUTHORISED MARUTI SUZUKI DEALER,
MADHAV NAGAR GATE, JABALPUR ROAD,
DISTT. KATNI.

... APPELLANT.

Versus

NEERAJ GUPTA,
R/O GRAM MOHINDRA,
TEHSIL PAWAI,
DISTT. PANNA

.... RESPONDENT.

BEFORE :

**HON'BLE JUSTICE SMT.SUNITA YADAV, PRESIDENT
HON'BLE DR. (MRS) MONIKA MALIK, MEMBER**

COUNSEL FOR PARTIES :

Ms.Kanchan Singh, learned counsel for the appellant.

Shri Akash Sahu, learned counsel for respondent.

ORDER

(Passed on .07.2026)

The following order of the Commission was delivered
by Dr.(Mrs) Monika Malik, Member :

This is an appeal by the opposite party / appellant directed against the order dated 25.01.2017 passed by the District Consumer Disputes Redressal Commission, Panna (for short 'District Commission') in complaint case no. 28/2016, whereby the District Commission has allowed the complaint and has directed the opposite party to deliver completely repaired vehicle to the complainant without any further delay, subject to the condition that the opposite party shall recover 50% of the engine repair cost from the complainant alongwith total expenses incurred towards repair of the vehicle. It is also directed that any insurance claim amount already received by the opposite party from the Insurance Company towards repairs shall be duly adjusted against final repair expenses. The opposite party is directed to provide to Maruti Company copy of the repair bill alongwith an affidavit confirming its submission to the Company and also to deposit a copy of the bill in the District Commission. The opposite party is further directed to pay compensation of Rs.98,000/- to the complainant within a month from the date of the order failing which interest @ 9% p.a. shall be payable on the aforesaid amount. It is directed that the opposite party can adjust this amount against the repair charges (as mentioned above) and

if the adjusted amount exceeds the requirement, the surplus shall be returned to the complainant and if it is less, then the deficit shall be collected from the complainant. Costs of Rs.3,000/- is also awarded to the complainant.

2. Facts of the case in brief are that the complainant / respondent's Ertiga car bearing registration number MP35 T0518 met with an accident on 01.04.2016, resulting in extensive damage to the subject vehicle. The subject vehicle was taken to the opposite party's workshop, following day for repairs with an assurance of delivery within 20 to 25 days. However it is alleged that despite multiple follow-up visits by the complainant / respondent on 27.04.2016, 12.05.2016, 18.05.2016 and repeated extended timelines provided by the workshop management, the opposite party failed to carry out the repair work of the subject vehicle. Thus, the complainant / respondent approached the District Commission, seeking relief.

3. The opposite party / appellant resisted the complaint and stated that the subject vehicle was severely damaged and proper repairs were initiated with the complainant's consent following survey report and an estimated cost briefing of Rs.72,500/-. It was also conveyed to the complainant that the

entire repair work would take about a month. It is alleged that though the vehicle was fully repaired and ready for delivery three months prior, the complainant failed to collect the same or to settle the outstanding bills. The opposite party thus denied any deficiency in service and prayed that the complaint be dismissed.

4. Heard.

5. Learned counsel for the opposite party / appellant argued that District Commission has erred in passing the impugned order by relying on unauthenticated audio recording, in violation of the mandatory electronic evidence provisions under Section 65 B of the Indian Evidence Act. She further argued that the delay in repair of the subject vehicle was not a deficiency in service since the repair work started only after the survey was done on 27.04.2016. She stated that no such provision exists to open and repair the engine of the vehicle in front of the customer. She argued that compensation of Rs.98,000/- imposed on the opposite party / appellant by the District Commission towards missed ceremonies of Simhastha

and order for marriage ceremony lack tickets or any documentary evidence. She therefore prayed that the impugned order be set aside and the appeal be allowed.

6. Learned counsel for the respondent supported the impugned order and argued that the job cards issued by the opposite party / appellant clearly show that repair work was to be carried out and despite assurance the opposite party / appellant did not carry out the repair work on time. There were specific instructions from the complainant / respondent that engine of the subject vehicle be opened in his presence. The opposite party / appellant violated the said condition also and opened the engine when the complainant was not present. The District Commission has rightly observed that the opposite party / appellant has not produced final repair bills as on date and the subject vehicle has not been repaired. The opposite party / appellant has thus wrongfully submitted that the vehicle was repaired and was ready for use. The complainant had purchased the subject vehicle as taxi for earning his livelihood but the same is kept at the showroom of the opposite party / appellant since last 11 years. At this stage even the process for registration of the vehicle cannot

be carried out. He thus submitted that the District Commission has rightly passed the impugned order and the appeal which is without any merit deserves to be dismissed.

7. There are two job cards available in the record of the District Commission. It also appears that estimated cost for engine repairs as mentioned by the opposite party / appellant is Rs.72,500/-. The complainant while referring to telephonic conversation has stated that the engine was to be opened in his presence and despite assurance, the engine was opened when complainant was not present. There is no specific rebuttal from the opposite party / appellant that such assurance was not given to the complainant. There is no evidence, either in the record of the District Commission or this appeal which could prove that the subject vehicle was repaired by the opposite party / appellant despite there being submission at their end that the vehicle has been repaired. The opposite party /appellant has not even placed on record any intimation, if ever given to the complainant regarding the fact that the subject vehicle is repaired and is ready for delivery which could thus substantiate this contention of the opposite party / appellant. As has rightly been observed by the District

Commission, no final repair bill has been produced by the opposite party / appellant and an only bill showing repair cost of Rs.70,228/- is there but there is no bifurcation as such of how much amount was obtained from the Insurance Company, since admittedly survey has been conducted in the matter. The subject vehicle had met with an accident on 01.04.2016 and till date, there is no clarity regarding its repair and repair cost to be borne by the complainant.

8. Considering the facts and circumstances of the matter, the District Commission has rightly passed the impugned award awarding certain compensation and costs to the complainant since the complainant deserves to be compensated on account of deficiency in service committed by the opposite party / appellant.

9. To conclude, the District Commission has not committed any error or illegality while passing the impugned order which is hereby affirmed.

10. As a result, the appeal fails and is dismissed with no order as to costs.

(Justice Smt.Sunita Yadav)
President

[Dr.(Mrs)Monika Malik]
Member

APPEAL NO.1216/ 2017

SHUBH MOTORS PRIVATE LIMITED
VERSUS

NEERAJ GUPTA.

FOR CONSIDERATION

DR.(MRS) MONIKA MALIK
MEMBER

HON'BLE PRESIDENT

(JUSTICE SMT.SUNITA YADAV)

POST FOR2026

(JUSTICE SMT.SUNITA YADAV)
PRESIDENT