

Date of filing: 19.08.2022

Date of Disposal:29.08.2023

**BEFORE THE III ADDITIONAL BANGALORE URBAN  
DISTRICT CONSUMER DISPUTES REDRESSAL COMMISSION,  
BENGALURU – 560 027.**

**DATED THIS THE 29<sup>th</sup> DAY OF AUGUST, 2023**

**CONSUMER COMPLAINT NO.166/2022**

**PRESENT:**

**SRI. SHIVARAMA K**

**PRESIDENT**

**SRI. CHANDRASHEKAR S NOOLA**

**MEMBER**

Sri.R.G Rammohan,  
Age 37 years,  
S-11, 1<sup>st</sup> Main,  
Nanda Residency,  
Prashanthinagar Extn.  
Bikasipura,  
Bengaluru – 560078.

**.....COMPLAINANT**

(Advocate – Sri.V Pratap Kumar)

V/s

1) HERO LECTRO  
(A Division of Hero Cycles Ltd),  
2A-1001, 10<sup>th</sup> Floor,  
Two Horizon Centre,  
Sector 43, DLF Phase-5,  
Gurugram,  
Haryana – 122002.



2) CYCLE WORLD – JP Nagar,  
No.21, Kothnur Main Road,  
Puttenahalli, Phase 7,  
J.P Nagar,  
Bengaluru,  
Karnataka – 560076.

..... **OPPOSITE PARTY/S**

(Advocate – Sri.Megha  
Ravindranath)

**// JUDGEMENT //**

**BY SRI.SHIVARAMA K, PRESIDENT**

The complainant has filed this complaint U/s.35 of the Consumer Protection Act, 2019 for a direction to OP to refund the purchase amount for the Hero Lectro E-Cycle of Rs.49,143/-.


2. It is not in dispute that on 25.08.2021 complainant had purchased the Hero Lectro E-Cycle from OP-2 and had paid Rs.50,000/- as per Ex.P-2 invoice issued by OP-2. Further it is not in dispute that in the month of November 2021 the complainant had raised complaint with OP-1 about the issues with the brakes in the said cycle. Further it is not in dispute that initially the complainant had filed a complaint in CC No.32/2022 before this Commission and the said petition came to be closed on 18.04.2022 on the submission of the complainant that OP had repaired the electrical bicycle and as



on the said date there was no problem in the bicycle. In the light of the submissions the complaint was disposed of as OP-1 had complied the grievance of the complainant.

3. It is the further case of the complainant that after purchase of one month itself the brakes stopped working and the complainant contacted the OP and the technician had repaired it twice but the same problem persisted. Further OP denied to provide further assistance. Hence the complaint came to be filed.

4. It is the further case of the OP that despite there being no defect or deficiency in the said cycle, OP-1 purely as a goodwill gesture, agreed to replace the complete unit of the front and rear brake set. Thereafter the complainant had signed a satisfaction letter dated 04.03.2022. Further after lapse of nearly 7 months from the date of resolution of the complainant's grievance regarding the brakes, the complainant again raised the very same issue. Further after the second complaint been raised OP-1 again offered to replace the relevant parts, purely as a goodwill gesture. Further as per the warranty policy applicable to the sale of the said cycle there is no warranty on the brakes of the said cycle. Further the complainant is rigid on unreasonable demands. Hence it is sought to dismiss the complaint.



5. To prove the case the complainant(PW-1) has filed affidavit in the form of his evidence in chief and got marked Ex.P-1 to P-2 documents. The Authorised representative of OP (RW-1) has filed affidavit in the form of his evidence in chief and got marked Ex.R-1 to R-6 documents. Counsel for the complainant has filed the written arguments.

6. Heard the counsel for the complainant.

7. The points that would arise for consideration are as under:

- i) Whether the complainant has proved the deficiency of service on the part of the opposite parties?
- ii) Whether the complainant is entitled for the relief as sought?
- iii) What order?

8. Our findings on the aforesaid points are as follows:

**Point No.1:** In affirmative

**Point No.2:** Partly in affirmative

**Point No.3:** As per the final order for the following



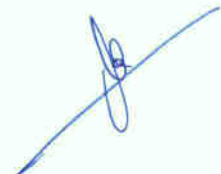
**REASONS**

9. POINT NO.1:- PW-1 and RW-1 have reiterated the fact stated in their respective pleadings in the affidavits filed in the form of their evidence in chief. It is the contention of the learned counsel for the complainant that within 3 months from the date of purchase, the complainant had raised complaint even then the problem has not been resolved by the opponent and even after the repair also the problem persisted. Hence the object of purchasing the bicycle has not been achieved. Hence, OP is liable to refund the price paid since there is manufacturing defect in the vehicle. We feel the complaint filed earlier with regard to the problem in the brake would not come in the way of the present complaint, since the cause of action was a recurring one. OP had admitted in the version filed that in the month of November 2021 itself the complainant had raised complaint with OP-1 with regard to the issues in the brakes. The bicycle was purchased on 25.08.2021. Further the OP-1 has admitted in the version that after 7 months from the date of resolution of the complainant's grievance the complainant again raised the very same alleged issue and OP-1 provided home service to the complainant for these very purported issues and had clearly informed him that the said issues arisen due to external facts and were a result of wear and tear and improper usage and maintenance by the complainant.



10. We feel since from the beginning the issue in the brake has been repeatedly occurred, it is a manufacturing defect in the vehicle, since the opponent was not able to resolve the said problem. It is also asserted by the OP-1 in the version filed that the complainant refused to offer the replacement made by OP-1 and instead demanded that the warranty was one year regarding the brakes/spare parts. We feel since the problem in the bicycle has not been resolved, the complainant was not able to use the bicycle since from the date of purchase. Hence there is deficiency of service on the part of OP in not providing the potential vehicle. Hence, we answer this point in affirmative.

11. Point No. 2:- The complainant claimed to refund of the purchase amount. In Ex.R-5 warranty policy it appears that warranty was for the period of different months for different parts of the vehicle. We feel since OP-1 did not resolve the issue, it appears that there was a manufacturing defect in the vehicle. Hence the complainant is entitle for refund of the amount. No doubt in Ex.R-5 it is stated that if any manufacturing defect is found the opponent will repair or replace the defective parts. In the case on hand since the company was not able to replace the vehicle or repair the vehicle, we feel it has to refund the amount paid. According to the complainant, he has paid a sum of Rs.49,143/- at the time of purchase on 25.08.2121. This complaint was filed on 19.08.2022. Hence since from the date of purchase and even



today the bicycle is with the complainant. Hence, we feel the complainant is entitle for a sum of Rs.40,000/- from OP. Further the act of OP made the complainant to suffer mental agony and approach this Commission. Hence the complainant is entitle for a sum of Rs.5,000/- towards mental agony and Rs.5,000/- towards litigation cost. Accordingly, we answer this point partly in affirmative.

12. POINT No.3:- In view of the discussions made above and findings given on point No.1 & 2 we proceed to pass the following:

### **ORDER**

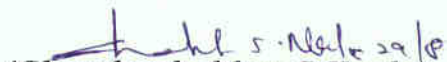
1. Complaint is allowed in part. OP-1 and 2 are jointly and severally liable to pay a sum of Rs.40,000/- to the complainant and a sum of Rs.5,000/- towards mental agony and a sum of Rs.5,000/- towards litigation cost.The comply of the said order is subject to return of the subject bicycle to the OP.
2. OP-1 & 2and the complainant shall comply the order within 45 days from the date of order. In case OP-1 & 2 fail to comply the same within the above said period, the above said amount of Rs.50,000/-



carries interest @ 9% p.a from the date of order till realization.

3. Applications pending, if any, stand disposed of in terms of the aforesaid judgment.
4. Supply free copy of this order to both the parties and return extra copies of the pleading and evidence to the parties.

(Dictated to the stenographer and transcribed by him and typed by him and corrected and then pronounced in the open Commission on **29<sup>th</sup> day of August, 2023**)

  
(Chandrashekhar S Noola)  
MEMBER

  
(SHIVARAMA, K)  
PRESIDENT



## //ANNEXURE//

**Witness examined from the side of complainant/s:**

Sri.R.G Ram Mohan, who being complainant (PW-1).

<b><u>Documents marked from the side complainant:</u></b>	
1)	Xerox certified copy of the order sheet in CC No.32/2022 on the file of this Commission is marked as Ex.P-1.
2)	Xerox copy of the invoice dated 25.08.2021 is marked as Ex.P-2.

**Witness examined from the side of opposite party/s**

Sri.Saif Patil, who being Authorised Representative OP (RW-1)

<b><u>Documents marked from the side of Opposite Party/s</u></b>	
1)	Letter of authorisation is marked as Ex.R-1.
2)	Xerox copy of the complaint in CC No.32/2022 is marked as Ex.R-2.
3)	Xerox copy of the satisfaction letter is marked as Ex.R-3.
4)	Certified copy of the order sheet in CC No.32/2022 is marked as Ex.R-4.
5)	Computer downloaded company warranty policy is marked as Ex.R-5.
6)	Certificate U/s.65 B Of Indian Evidence Act is marked as Ex.R-6.

  
(Chandrashekhar S Noola)  
MEMBER

  
(SHIVARAMA, K)  
PRESIDENT

