



September 2024

Seatbelt is the primary restraint mechanism in a vehicle and if a seat belt is not worn, the airbag would not deploy

In a significant judgment on the law relating to product liability in India, the Hon'ble National Consumer Disputes Redressal Commission ("**National Commission**") in the matter of *Mohd. Hyder Khan vs. Mercedes-Benz India Private Limited and Anr*¹, has ruled that an allegation of manufacturing defect has to be established by cogent evidence and that compliance with Section 13(1)(c) of the Consumer Protection Act, 1986 ("**Consumer Act**") is mandatory. The National Commission's judgment puts to rest and clarifies certain key aspects regarding functioning of airbags. It also underscores the importance of seatbelts and that a vehicle's deformation pattern alone (i.e., physical damage) cannot be a deciding factor in airbag deployment.

Brief facts

1. The Appellant – Mohd. Hyder Khan ("**Appellant**" / "**Complainant**") had filed the appeal ("**Appeal**") under Section 19 of the Consumer Act against a judgement and order dated November 19, 2012, passed by the Hon'ble A.P. State Consumer Disputes Redressal Commission at Hyderabad ("**State Commission**") in Consumer Complaint No. 21 of 2010 ("**Complaint**").
2. The Appellant had filed the Complaint under Section 12 of the Consumer Act against Mercedes-Benz India Pvt. Ltd. ("**MB India**") and MB India's authorised dealer alleging (a) manufacturing defect in the Appellant's vehicle, a Mercedes-Benz E280 CDI ("**Vehicle**"); and (b) deficiency in service on the part of the respondents. It was the Appellant's case that (a) the Vehicle had met with an accident; (b) despite the impact of collision, the driver front airbag or co-occupant front airbag did not deploy; and that (c) but for the deployment of the said airbags, the Appellant and the co-occupant would not have suffered any injury.
3. Though in its Complaint, the Appellant alleged manufacturing defect in the Vehicle and deficiency in service on the part of the respondents, he did not adduce any evidence in support of these allegations. On the other hand, much prior to the filing of the Complaint, the Appellant sold the Vehicle. Consequently, the respondents, therefore, could not carry out an inspection of the Vehicle which could have revealed if the airbags had any manufacturing defect. Likewise, the State Commission also did not get an opportunity to get the Vehicle inspected.
4. In the above background, in the absence of any evidence concerning manufacturing defect, the State Commission dismissed the Complaint filed by the Appellant. The Appellant challenged the judgment passed by the State Commission before the National Commission.

¹ First Appeal No. 10 of 2013, decided on September 20, 2024

Issue before the National Commission

Whether the Vehicle (airbags) had any manufacturing defect, and whether the services rendered by the respondents were deficient?

Arguments advanced by the parties

1. The contentions of the Appellant before the National Commission were:
 - a) non-deployment of air bags was on account of a manufacturing defect. There was also a defect in the wipers and the steering wheel. It was contended that soon after the Vehicle was purchased, it was sent for repair works and replacement of the steering wheel in August 2009, which dislodged the air bags and it is for this reason that the airbags did not deploy;
 - b) the estimate of repairs, approximately INR 22,00,000 (Indian Rupees twenty-two lakh) indicated that the damage to the Vehicle was extensive. Reliance was placed on the judgment of the Hon'ble Supreme Court in *Hyundai Motor India Ltd. vs. Shailendra Bhatnagar*,² ("**Hyundai Judgment**") to contend that the principle of *res ipsa loquitur* should be applied in this case; and
 - c) the State Commission had erred in concluding that the seat belt had not been worn.
2. The contentions of MB India were as follows:
 - a) the State Commission had rightly dismissed the Complaint as there was no evidence to establish any manufacturing defect or deficiency in service;
 - b) after the repairs in August 2009, the Vehicle had been driven for nearly 3,000 (three thousand) kms without any complaints or defects being reported;
 - c) the accident and resultant injuries were due to rash and negligent driving, and not due to any defect;
 - d) appellant did not adduce any expert evidence to establish defect. Further, MB India too was not provided any opportunity to inspect the Vehicle as it was sold prior to the filing of the Complaint. Section 13 (1) (c) of the Consumer Act is mandatory and requires that if there is any allegation that goods are defective, the State Commission must get them inspected; the same, however, could not be done as there was nothing to inspect;
 - e) injuries suffered in the accident were minimised due to the intrinsic design of the Vehicle, which absorbed the impact of the accident. Even otherwise, the evidence adduced by the Appellant as regards the dental injury was dated prior to the accident, and therefore, could not be attributed to the accident;
 - f) the air bags did not deploy because the seat belt was not worn; and
 - g) the decision rendered in the Hyundai Judgment is distinguishable and not applicable to the present case. The Hyundai Judgment does not say that Section 13(1)(c) can be given a go-bye. Each decision is an authority for what it decides and not what can be logically deduced therefrom. The principle of *res ipsa loquitur* cannot be applied in the present case.

Findings by the National Commission

The National Commission dismissed the appeal filed by the Appellant and upheld the judgment of the State Commission. In arriving at this decision, the National Commission took into consideration the below factors:

1. no complaint had been lodged by the Appellant regarding defect/standard of performance even after driving the Vehicle for nearly 3000 (three thousand) kms, till the date of the accident;
2. the Appellant ought to have waited for the Vehicle to have been inspected before selling it to a third party;

² Civil Appeal No. 3001 of 2022

3. the surveyor's report, submitted by the surveyor to the insurance company, has also not been brought on record;
4. the air bags did not deploy since the seat belt was not worn;
5. as per the owner's manual, the seat belt is required to be fastened for the air bags to deploy. For this aspect, the National Commission also relied on the uncontroverted affidavit filed by the service manager of MB India's authorised dealership;
6. the Appellant had failed to establish manufacturing defect and/or that the air bags failed to deploy on account of such manufacturing defect. Section 13 (1) (c) of the Consumer Act was therefore not complied with; and
7. reliance by the Appellant on the decision of the Supreme Court in Hyundai Judgment is not correct. The principle of *res ipsa loquitor* cannot be applied in this case.

Conclusion

The judgment passed by the National Commission assumes significance and lays down the below important principles:

1. seatbelt is the primary restraint mechanism in a vehicle. If a seat belt is not worn, the airbag would not deploy, and this aspect is clearly mentioned in the owner's manual;
2. to prove that a good suffers from a defect, especially a manufacturing defect, testimony of an expert is necessary;
3. the principle of *res ipsa loquitor* cannot be applied. For this principle to apply, the facts have to speak for themselves. But if there are no such facts on record, the principle cannot be applied;
4. the damage pattern of a vehicle or the amount spent in repairing the vehicle cannot alone be determinative to apply the principle of *res ipsa loquitor*;
5. a crumple zone in a vehicle is designed to absorb, reduce and redirect the energy; and
6. the crumple zone of a vehicle is meant to crumple and this is to ensure that the integrity of the passenger compartment is maintained and protected. It is therefore a misconception that if a vehicle is badly damaged, airbags ought to have deployed.

Consumer Protection Practice

JSA has a vast experience on matters relating to consumer protection laws and related matters. We have advised clients (both domestic and global), across sectors and industries on complex queries around consumer protection laws and rules thereunder, and its interplay with other related legislations, like data privacy and exchange control laws.

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Our key areas of advice include:

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- Advising on e-commerce rules;
- Advise on single brand retail and multi-brand retail from foreign exchange laws perspective;
- Advise on product liability issues and compliances;
- Advising on standards issued by the BIS and quality control orders including advisory in relation to inspection and enquiries by authorities;
- Advising on advertisement, packaging and labelling requirements.

JSA team comprised of Sidharth Sethi and Avinash Das

The matter was argued by Sidharth Sethi on behalf of MB India.

This prism is prepared by:



Sidharth Sethi
Partner



Avinash Das
Senior Associate

Appellant was represented by Mr. D. Abhinav Rao, Advocate.

MB India's authorised dealership was represented by Mr. KS Rama Rao, Advocate.



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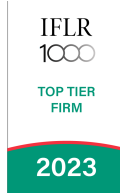
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