



CONSUMER

Non-Refund of Car Booking Advance Amounts to Deficiency in Service

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Introduction

Consumer litigation often turns on modest sums but raises disproportionately important questions of principle. The decision of the District Consumer Disputes Redressal Commission, Ernakulam in *Noble Mathew v. M/s Pothan Autos*¹ is one such instance. At its surface, the dispute concerns a ₹21,000 vehicle booking advance. At a doctrinal level, however, the case interrogates three recurring issues in consumer law: the legal character of booking advances, the evidentiary consequences of a dealer's procedural default, and the role of restitution in consumer remedies. The Commission does not treat the matter as a mere refund dispute. Instead, it situates the dealer's conduct within the statutory framework of "deficiency in service" and "unfair trade practice" under the Consumer Protection Act, 2019, and justifies relief through the classical principle of *restitutio in integrum*.

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Factual Matrix

The complainant, Mr. Noble Mathew booked a Mahindra Thar SUV on 18 July 2022 with the opposite party, M/s Pothan Autos by paying ₹21,000 as a booking advance. Subsequently, he was informed that delivery would be indefinitely delayed due to internal issues of the dealer. Faced with uncertainty, the complainant cancelled the booking and formally sought a refund. He later purchased the same model vehicle from another dealer M/s PPS Mahindra, Kalamassery.

Despite repeated requests and a written communication seeking cancellation and refund, the dealer did not return the amount. The complainant also pointed out that the dealer had closed its Ernakulam office, aggravating the difficulty in securing redressal. The complaint was therefore instituted under Section 35 of the Consumer Protection Act, 2019 seeking refund with interest, compensation, and costs.

Issues

- Whether there is any deficiency in service or unfair trade practice by the opposite parties?
- If so, whether the complainant is entitled to any relief?
- Costs of the proceedings, if any?

Parties' Submissions

The complainant supported his case through a proof affidavit and two documents:

- Ext. A1: Bank transaction evidencing payment of ₹21,000.
- Ext. A2: Letter issued to the dealer requesting cancellation and refund.

His submission was straightforward: once the booking was cancelled and refund sought, the dealer had no lawful basis to retain the amount, particularly when no vehicle had been delivered and no contractual clause justifying forfeiture was produced. Notice was duly served on the opposite party. However, the dealer failed to file its written version within the statutory period of 30 days extendable by 15 days under Section 38(2)(a) of the Consumer Protection Act, 2019. It was therefore set *ex parte*.

Tribunal's Analysis

The Commission's reasoning proceeds through three analytical stages: maintainability, deficiency/unfair trade practice, and relief.

On maintainability, the Commission had little difficulty holding that a person who books a car for personal use for consideration is a “consumer” under Section 2(7), and that an authorised vehicle dealer renders “service” under Section 2(42). This classification is doctrinally important because it confirms that pre-delivery stages of commercial transactions fall within the consumer-service relationship. A booking advance is not a casual deposit, it is part of a service arrangement tied to the obligation to deliver within reasonable time.

On deficiency in service, the Commission relied on Section 2(11), which defines deficiency as any shortcoming in the manner of performance required under law or contract. Relying upon the evidences supplied by the complainant of the payment receipt (Ext. A1), cancellation and refund request (Ext. A2), and the non-refund of the amount to the complainant. There was no evidence of delivery, and no contractual term was produced to justify retention.

The dealer’s failure to file a written version despite service of notice warranted an adverse inference, citing the precedent set by the National Commission, it held that conscious non-filing operates as an admission of the complainant’s allegations. In consumer adjudication, silence in the face of documented claims becomes legally meaningful characterizing the conduct as an “unfair trade practice” under Section 2(47) of the Consumer Protection Act, 2019. The dealer’s act was not treated as mere negligence but as commercially unfair conduct retaining consumer money without performance or justification. The commission relied on the case of *M/s Ekvira Enterprises v. M/s Bavaria Motors* which reinforced this approach that non-refund of booking amounts after cancellation is not a contractual dispute and amounts to a consumer wrong attracting statutory consequence.

The Commission’s reasoning implicitly recognizes an important commercial reality that booking advances cannot become interest free capital for dealers at the consumer’s expense. On relief, the Commission invoked the principle of *restitutio in integrum*, which has the to place the complainant in the position he would have occupied had the dealer acted lawfully. Interest, compensation, and costs therefore become logically necessary, not discretionary add-ons.

Decision and Holding

The Commission allowed the complaint with the following directions:

- Refund of ₹21,000 with 12% interest from 18.07.2022 till realisation.
- ₹10,000 as compensation for deficiency in service, unfair trade practice, and mental agony.
- ₹5,000 as costs of proceedings.

A 45-day compliance period was granted, failing which additional interest consequences were prescribed. With the liability placed solely on the opposite party.

Conclusion

This decision is analytically important for what it clarifies about consumer law practice. It affirms that vehicle bookings are legally enforceable service relationships from the moment consideration is paid. It demonstrates that procedural defaults by service providers are treated substantively, with adverse inference filling evidentiary gaps. Most importantly, it treats unjust retention of booking advances as both deficiency in service and unfair trade practice, warranting restitutionary and compensatory remedies.

For dealers, the ruling is a caution that booking amounts are not commercially flexible funds. For consumers, it illustrates how the Consumer Protection Act, 2019 operationalizes fairness through statutory definitions, evidentiary presumptions, and restitutionary logic. A small monetary dispute thus becomes a clear statement of principle: once service fails and cancellation follows, retention of consumer money is legally indefensible.

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1. *Noble Mathew v. M/s Pothen Autos*[1] (CC No. 943 of 2023, decided on 24 November 2025) ??

Related Practice Areas

Consumer Dispute