



In the Consumer Claims Tribunal

Denitza Dimitrova

vs

RTS Ltd.

CCT 72/16 MS

Today, 6th March 2017

The Tribunal

Having seen the application of plaintiff filed on 6th April 2016 whereby the sum of €1531.72 was requested, consisting in the damages sustained to her vehicle when a representative from defendant company was called upon to change a flat tyre.

Having seen the reply filed on the 1st July 2016 wherein defendant company refused to acknowledge any responsibility for the damage sustained to plaintiff's vehicle.

Having heard the evidence tendered by plaintiff.

Having noted the relevant court minutes that notwithstanding the defendant's failure to attend, the case was expressly put off for cross examination, if any, of plaintiff and for any remaining evidence.

Having seen that defendant company did not turn up for any of the sittings that were held.

Having seen all the acts of this case.

Considers

That on the 31st October 2015, plaintiff suffered a flat tyre in her Audi A4 and called upon the services of defendant company RTS to replace the tyre. Defendant company sent its representative seemingly fully equipped to replace said tyre. On arrival, however, the representative decided to use plaintiff's jack to lift the car and replace the wheel. On doing so the jack rested against the lower sill of the vehicle with such force that it caused a dent as seen in the photographs exhibited by plaintiff. Plaintiff submitted a cost of repairs (Doc. B) whereby the total cost of the replacement panel and workmanship amounted to €1531.72



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The Tribunal observes that the employee of defendant company did not observe the instructions given by the manufacturer as to how to properly use the jack provided. From the pictures exhibited one can immediately see that the jack is still in pristine condition and the instructions can clearly be seen stamped on the side of this jack. These instructions indicate the jacking position and the angle that should be applied to the jack at the initial stages of lifting. This angle is positioned in such a way that as the car lifts the jack will gradually straighten itself and be in a vertical position at its highest point where it will be at its strongest and able to withstand the weight of the vehicle. Also the top part of the jack would be away from the sill so as not to incur any damage.

This procedure evidently was not observed and the employee did not provide an initial sufficient angle to keep the jack away from the bodywork as it was lifted so that even before reaching its maximum height it was already pressing against the bodywork. The employee should have anticipated that this would happen and should have stopped the operation, lowered the vehicle and began the process again at a sharper angle as required by the manufacturer. Even though it would have been obvious that the jack was about to hit the bodywork the employee continued with the operation and caused the damage complained of by plaintiff. The responsibility therefore lies squarely with representative of defendant company, who either ignored the instructions or else did not have the expertise to work with a jack he was not familiar with. The employee had his own hydraulic jack available and he could easily have used that jack if he was not familiar with how the other jack worked as recommended by the manufacturer.

The Tribunal considers therefore that there was an element of negligence on the part of employee of defendant company when he came to use a jack he was not familiar with and did not make sure that he understood the manufacturer's recommendations before operating the jack.

Plaintiff filed a vehicle repair estimate which at first glance may seem exaggerated considering the damage sustained. On closer examination, the Tribunal notes that by far the most expensive item was the replacement sill panel, which on its own costs €1022.37. Given that the vehicle is an Audi, parts don't come cheap. There was nothing wrong with the sill before the employee from defendant company caused the damage complained of. Therefore plaintiff has every right to be awarded another panel rather than have the original panel repaired.

The tribunal therefore feels that the estimate filed by plaintiff should be accepted.

For these reasons the Tribunal decides to uphold plaintiff's request and condemns defendant company to pay plaintiff the sum of €1531.72 for the reasons above-mentioned. Costs are to be borne by defendant company.

A handwritten signature in blue ink, appearing to read 'M. Spiteri'.

Dr Michela Spiteri LL.D
Arbiter