

**DALAM TRIBUNAL TUNTUTAN PENGGUNA MALAYSIA
DI PULAU PINANG**

TUNTUTAN NO. TTPM-P-(B)-358-2014

TEOH JOON YONG - PIHAK YANG MENUNTUT

KAJ MOTOR TRADING - PIHAK PENENTANG

ALASAN PENGHAKIMAN

Summary of Facts

- (1) The Claimant bought a used vehicle model BMW 320i bearing the registration No. WPL 3773 (said vehicle) and took delivery of the said vehicle on 6th December 2013.
- (2) At the time of purchase it was agreed between the parties that said vehicle is covered by one week's warranty from the date of delivery. The warranty specifically covers the engine and gear box of the said vehicle (the Respondent has agreed of existence such a warranty in his statement of defence).
- (3) On 13th December 2015 (7th day), when the Claimant was driving the said vehicle, he noticed that there was white smoke emitted from the

- exhaust pipe. On further visual inspection he found that the engine oil and coolant level has dropped considerably.
- (4) On the same day, the Claimant notified the Respondent's agent of the problems encountered by the Claimant, who assured the Claimant that the matter would be conveyed to the Respondent's mechanic and he would get back to the Claimant.
 - (5) Despite of further calls from the Claimant, the agent did not get back to the him.
 - (6) The Claimant then sent the said vehicle to one Jacky Tyre Services Centre located at No.2, Jalan Megan Setapak 1, Kuala Lumpur for inspection.
 - (7) Upon inspection and testing of the said vehicle (without dismantling any parts) the mechanic was of the view that said vehicle needs an overhaul of the engine. The workshop gave a quotation of RM5,470.00 to carry out the over haul of the engine.
 - (8) The Respondent was informed of the need for an over haul of the engine and the estimated cost for the said repairs.
 - (9) The Respondent finally offered RM2,000.00 as amicable settlement of the matter which was refused by the Claimant.

- (10) Subsequently the Claimant, for avoidance of doubt sent the said vehicle to Auto Bavaria, an authorized BMW workshop for inspection and opinion.
- (11) Auto Bavaria identified the problem and recommended for an overhaul of the said vehicle and gave an estimate of parts costing RM17,253.85 and labour cost amounting to RM5,000.00.

Grounds of Decision

- (1) Based on the oral evidence of the Claimant , Lim Kwok Siong (NRIC No.;8112109-14-5953) and having perused the documents presented, I am of the opinion that the mechanical problem of the said vehicle is well within the terms of the agreed warranty.
- (2) The Respondent is liable to pay the cost of the vehicle parts (RM17,253.85) together with the labour cost (RM5,000.00) .
- (3) There was no evidence to the contrary by the Claimant to support his case.
- (4) For the foregoing reason, I allowed the Claimant's claim of RM 22,253.85 and an Award dated 19th November 2014 was given.

- (5) Subsequently on 24th November 2014, the Respondent filed a Form 12 to set aside the Award dated 19th November 2014 and rehear the matter which came up for hearing on 15th December 2014.
- (6) The Respondent was informed by the Consumer Claims Tribunal office of Georgetown via a letter dated 27th November 2014 of the hearing date.
- (7) The Respondent failed to appear on 15 December 2014 before the Tribunal and therefore the original Award dated 19th November 2014 was reinstated.

Award Borang 10

- 1. Permohonan Borang 12 ditolak.**
- 2. Award Borang 8 bertarikh 19.11.2014 dikekalkan.**
- 3. Pihak Penentang harus membayar RM22,253.85 kepada Pihak Yang Menuntut dalam tempoh 14 hari dari tarikh Award diserahkan.**

t.t.
NADARAJAN A/L RAMASAMY
PRESIDEN
TRIBUNAL TUNTUTAN PENGGUNA
MALAYSIA

Tarikh: 15 Disember 2014