

# The lender is entitled to compensation if the vehicle is seized without notice | Your rights in Rasrang: The lender is entitled to compensation if the vehicle is seized without notice

[bhaskar.com/magazine/rasrang/news/the-lender-is-entitled-to-compensation-if-the-vehicle-is-seized-without-notice-134357666.html](https://bhaskar.com/magazine/rasrang/news/the-lender-is-entitled-to-compensation-if-the-vehicle-is-seized-without-notice-134357666.html)

January 26, 2025

## Your rights in Rasrang: Lender entitled to compensation if vehicle is seized without notice

Gaurav Pathak 2 days ago



The growing disputes over repossession of financed vehicles have forced consumer courts to formulate clear guidelines to strike a balance between the rights of finance companies and lenders. Amid rising cases of default and complaints of forcible possession, some recent judgments have provided clarity on key issues related to loan recovery and repossession of vehicles.

**Consumer Status and Protection** Under the Consumer Protection Act, 2019, a person availing vehicle finance is generally considered a consumer. However, a decision of the Punjab State Commission in *Cholamandalam Investments v. Baljit Singh (2024)* established an important exception: if the vehicles are used solely for commercial purposes such as taxi business, the lender cannot be considered a 'consumer' unless it is proved that he is using the vehicle only for earning livelihood through self-employment. The Commission also noted that ownership of more than one commercial vehicle usually indicates business operations and not self-employment.

**Burden of proof** The entire burden of proving forcible or illegal vehicle seizure rests on the lender. In *Mahindra & Mahindra Financial Services Ltd. v. Gurmeet Singh (2024)*, a case came before the National Commission where the complainant had alleged forcible seizure of the vehicle with the help of the police. The Commission found that even the police report submitted by the complainant did not conclusively support the claims of forcible seizure. This decision established that mere allegations without sufficient corroborating evidence are insufficient to prove illegal seizure. Even a police complaint cannot be considered sufficient to establish such claims if it is not accompanied by other evidence.

**Notice requirement and procedure** Some recent decisions have elaborated on the procedural aspects of repossession. In *Seema Jitendra Longani v. Citicorp Finance (2024)*, the Commission upheld the action of the finance company which had issued systematic notices prior to repossession. Finance companies must issue default notices clearly stating the amount due and providing a reasonable time to pay it. All communications with the lender must also be documented. The decision emphasised that following the procedure protects the interests and rights of both the financier and the lender.

**Following procedures and compensation** Based on the Supreme Court's decision in *Magma Fincorp Ltd. v. Rajesh Kumar Tiwari (2021)*, the National Commission established important principles in *HDFC Bank Ltd. v. Syed Mushir Abbas (2024)*. Finance companies have the right to seize vehicles in case of default in loan repayment, but the process must be legal and well documented. The Commission ordered compensation to the lender if proper notice was not given despite the borrower being in default. It established that financial companies can be penalized due to procedural lapses even in cases of default.

### **What is required for lenders?**

Lenders must maintain a record of loan payments and respond promptly to default notices. If faced with illegal seizure, file an immediate police complaint. Proper documentation of the entire incident becomes important to make your case strong in consumer courts. Recent judgments make it clear that courts seek concrete evidence to prove seizure claims, not mere allegations.

**(The author is also the Secretary, CASC.)**