

District Sialkot.

IN THE COURT OF MR. TARIQ MEHMOOD IQBAL KHAN DISTRICT
& SESSIONS JUDGE /PRESIDING OFFICER, DISTRICT CONSUMER
COURT,
SIALKOT / NAROWAL.

Case No. 49 /2008

Date of Institution: 31-05-2008.

Date of Decision: 27-10-2008.

*Lal Khan S/o Murad Ali Khan by caste R/O Chakrlala
Tehsil & Distt. Sialkot.*

(Consumer-Complainant)

Versus.

1. *Naeem Autos Corporation, Dealer King Hero, Super
Star Marala Road Addha Shair Pur, Sialkot.*
2. *Sohail Akbar Agent Naeem Autos R/O Newan
Chodan P/O Dhang P.S HeadMarala Tehsil &
District Sialkot.*

(Respondents)

O. R. D .E. R:

The briefly stated facts of the case in hand leading to the present complaint, for its disposal are that complainant on instigation and persuasion of respondents, purchased a **King Hero** Motor-Bike, bearing Engine No. A07329 and chassis No. A07329 on 08-06-2007, on installment basis from respondent No.2, vide receipt dated 08-06-2007 (Ex-A.W.1/A) for total sum of Rs. 44,000/- out of which complainant had paid Rs. 40,000/-, whereas, Rs. 4,000/- were kept out standing till the delivery of original papers and registration in favour of the complainant but despite repeated requests respondent has refused, culminating into show cause notice

(Conti.....2)

~2~

notice (Ex-A.W.1/2 true certified copy of the original), vide postal receipts (Ex-A.W1/C & A.W.1/D) to the respondents, hence, the complaint.

The respondents were summoned but despite substituted service through daily newspaper *Jehan-Numa* on 01-07-2008, the respondent No.1 failed to enter into appearance, accordingly, he is proceeded against ex-parte, however, respondent No.2 after entering into appearance before the Court initially submitted his written reply while controverting the allegations of the complaint but later on he also disappeared, as a result of which he was also proceeded against ex-parte on 23-08-2008.

Ex-parte evidence comprising of Lal Khan (A.W.1) and Ehsan-Ullah (A.W.2) was recorded, whereas, complainant while closing his evidence also submitted documentary evidence comprising of affidavits of the A.Ws (Ex-A.W.1/A & Ex-A.W2/A) as well as copy of legal show cause notice (Ex-A.W.1/B), original postal receipts (Ex-A.W.1/C & Ex-A.W.1/D) and acknowledgment delivery receipt (Ex-A.W.1/A).

Ex-parte arguments have been heard. Record also perused.

Having gone through the arguments at the instance of the learned counsel for complainant and gone through the record, it is manifest that no rebuttal of the allegations has **(Conti.....3)**

Case No. 49 /2008

~3~

Lal Khan VS Naeem Autos etc.

been furnished on the record nor oral as well as documentary evidence adduced at the instance of the complainant side has been controverted or negated which embeds in the mind of the Court that respondents had no plausible explanation or rebuttal evidence qua the allegations of the complaint.

On meticulous scrutiny of the ex-parte evidence and record, it is transparent from the report that initially respondent No.2 while

appearing before the Court submitted his controverting reply before the Court but later on he disappeared which certainly gives a legal impression that he had nothing to rebut the allegations and thus, this Court has no other option but to believe the allegations and claim of complainant thus, it can be legitimately held that claim and complaint of complainant stands proved and established.

Before parting with the order, this Court is bound to recapitulate that order dated 03-05-2008, in case titled “Muhammad Hussain VS Mubin Autos etc”, (bearing No. 29/08), dated 12-03-2008, whereby it was held that all dealers of Motor-Bikes while selling their Motor-Bikes to the customers/consumers on installment basis charge high rate of profit/interest by mean of exploitation which **(Conti.....4)**

~4~

practice was disapproved and Punjab Govt. as well as local Govt. were asked to keep close vigilance, upon this kind of business in order to fix the rate of interest nor more than 16 % in order to avoid exploitation of the consumers/customers, accordingly, while borrowing and relying upon the same view this Court holds that any excessive amount of the interest received by the respondents more than 16% must be returned to the complainant.

While concluding the entire discussion this Court is of confirmed view that complainant has successfully proved and established his allegations and claim and thus, respondents severally or collectively are bound to (a) return back the excessive amount of interest after receiving outstanding amount of Rs. 4,000/-or may and adjust the same if possible (b) to deliver original papers of the above mentioned Motor-Bike in favour of the complainant for the purpose

of registration of its title in favour of complainant as well as to render full cooperation in the process of registration to the complainant.

The legal expenses are assessed as Rs. 35, 00/- (Rupees Thirty Five Hundreds only) which will be paid by the respondents in favour of the complainant, hence, the complaint is allowed with costs in sum of Rs. 1,000/- (Rupees One Thousand Only) with the further direction that **(Conti.....5)**

Case No. 49 /2008

~5~

Lal Khan VS Naeem Autos etc.

respondents are directed to comply with the direction **Within Twenty Days Positively**, failing which the proceedings under Sec. 32 of “The Punjab Consumer Protection Act, 2005”, will be initiated against them. File be consigned to the record room after its due compilation.

**Announced:
27-10-2008.**

***Presiding Officer*
District Consumer Court
Sialkot/Narowal.**

C E R T I F I C A T E.

Certified that this order contains five pages and each of pages is dictated, corrected and signed by me.

**Announced:
27-10-2008.**

***Presiding Officer*
District Consumer Court
Sialkot/Narowal.**

