

**IN THE COURT OF MUHAMMAD KALEEM SHEIKH,
PRESIDING OFFICER / DISTRICT & SESSION JUDGE,
DISTRICT CONSUMER COURT, FAISALABAD.**

Claim No:	224/DCC-2008.
Date of Institution of Claim	07.06.2008.
Date of decision	03.01.2009.

**AAMIR MEHMOOD AWAN ADVOCATE etc.
Vs.
FESCO, FAISALABAD AND OTHERS.**

CLAIM FOR RECOVERY OF DAMAGES /COMPENSATION Rs.80,70,000/-

U/S.13, 25 OF PUNJAB CONSUMER PROTECTION ACT,2005.

ORDER:-

1. The facts discerning this case, in nutshell, are that the claimants are co-owners of the House No.P-37, Rehman Town, Faisalabad and FESCO is the service provider to them through its Sub Division Garden Colony, FESCO, Faisalabad. Out of the four dangerous naked electricity Wires stretched by the FESCO, one is touching the roof of the claimant's house as one highly dangerous 11K.V wire is also passing through the premises of the above said house. Before starting constructing of above said house the claimants submitted the applications to the head of Sub Division WAPDA concerned to remove such dangerous and naked electricity wires from the claimant's above said house on 24.08.2008 and subsequently on 10.07.2001 but of no avail. Despite several verbal requests, the said dangerous electricity wires have not so far been removed from the claimant's premises, hence, after issuance of legal notice, the claimants have submitted the claim in hand for recovery of damages caused by defective and faulty services of the FESCO, Faisalabad with an added prayer for removal of such dangerous electricity wires from their house.

2. The defendants have vehemently opposed the above said claim by filing their statement of defence with the main contention that on receiving the claimant's applications, the spot was inspected by the FESCO Authorities,

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where after the Deputy Manager of FESCO was requested to remove the dangerous electricity wires and the estimated demand notice of Rs.14,038/- was issued against the claimants vide No.2202 dated 11.06.2008, that as and when the said amount is paid by the claimants, the dangerous electricity wires would be removed from claimant's premises.

3. As the matter needed evidence for final adjudication of the case, hence, Tahir Mehmood Awan appeared as Pw-1 whereas Yasir Shabbir, Aizad Shahzad Mehmood Awan and Muhammad Zafar Awan got recorded their statements as Pw-2, Pw-3 and Pw-4 respectively who produced their affidavits as EX.PW-1, EX.PW-2, EX.PW-3 and EX.PW-4 in support of their versions. After pithy cross-examination on the above said PW's, Sabir Ali, Assistant Manager Operation FESCO and Najeeb Khan, Deputy Manager Operation appeared as DW-1 and DW-2 respectively through their affidavits as EX.DW-1 and EX.DW-2. Both the sides have also tendered the documents in support of their respective ends.

4. Heard the arguments, record perused.

5. From the facts readily available on record squeezed out from pleadings of the parties, the evidence produced by both the sides and the documentary evidence on record, it is crystal clear to my entire satisfaction that the dangerous electricity wires touching the walls of the residential / commercial premises of the claimants have been stretched by the FESCO Authorities without the permission and consent of the claimants as is also manifest Para No.2 on preliminary objections of the written statement. In view of the principal laid down in 1994 MLD808 Lahore, it was obligatory on the part of the concerned FESCO Authorities at Faisalabad to obtain prior permission of the owners before installing the Aerial lines over the land. However, Aerial lines dangerous to human life were not removed by the FESCO Authorities despite hectic efforts made by the

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claimants for such purpose rather they burdened the claimants with issuance of a demand notice to pay extra charges for removal of such wires from their premises. From such scenario, I am of the fortified opinion that by issuance of demand notice against the claimants the FESCO Authorities have tried but in vain to provide canopy and shelter to their illegal action.

6. The upshot of the above whole discussion is that, the claimants have rightly demanded the removal of the dangerous electricity wires from their premises with an added prayer for grant of compensation to them. However, while accepting the claim, it is the consumer's forum to pay an appropriate amount by way of compensation / damages to the claimants due to the faulty and defective services of the opposite party, the claimants are awarded damages / compensation Rs.10,000/- and further amount of Rs.5,000/- as legal expenses incurred by them, whereas the FESCO Authorities concerned (defendants) shall remove the dangerous electricity wires from the claimant's premises within fifteen days, otherwise, they shall be dealt with U/S.32 (2) of the Punjab Consumer Protection Act, 2005. With these observations file be consigned to the record room after its due completion.

Announced
03.01.2009.

Muhammad Kaleem Sheikh,
Presiding Officer/
District & Session Judge,
District Consumer Court, Faisalabad.

Certified that this judgment consists of three pages, dictated, signed and corrected by me.

Muhammad Kaleem Sheikh,
Presiding Officer/
District & Session Judge,
District Consumer Court, Faisalabad.