

**IN THE COURT OF PERVEZ IQBAL SIPRA,  
DISTRICT & SESSIONS JUDGE / PRESIDING OFFICER,  
DISTRICT CONSUMER COURT,  
FAISALABAD.**

Complaint No                    114/2017  
Date of institution            24.04.2017  
Date of decision                11.04.2018.

Abdul Latif S/o Haji Nazir Ahmad R/o Madina Town, Faisalabad.

**Versus**

Sajjad Haider (Engineering Works) P-157 Dar-ul-Ehsan Town,  
Samundri Road, Faisalabad.

**Claim u/s 25 of the Punjab Consumer Protection Act, 2005.**

**ORDER:**

By filing this claim, the claimant has contended that on 01.11.2016, he purchased two dry batteries from the defendant for Rs.83,000/- and he gave one year warranty. The batteries were defective thereby stopped to work after one month. He contacted with the defendant and asked him to replace the batteries or repair. He received Rs.20,000/- from him and changed the batteries by new one but the new batteries also went out of order after one month. He again contacted with the defendant and asked him to deliver new batteries by replacement of the defective batteries but he denied. He gave notice u/s 28 (1) of the Punjab Consumer Protection Act, 2005, to the defendant on 29.03.2017 but of no avail, hence, the instant complaint.

2.            The defendant contested the complaint by filing written statement. He has contended that on 24.04.2016, the claimant's son Faisal and one Jameel purchased batteries from him. Alongwith the batteries, two UPS of 720W were also purchased. No warranty for the batteries was given and no warranty is also given

by the manufacturer. The aforesaid Muhammad Jameel who is a relative of the claimant also purchased a UPS and battery in June. In October 2016, Mr. Faisal contacted with him and made a complaint. The product was checked and it was observed that one battery was accurate and the other was defective. After 25 days, Mr. Faisal contacted with him and asked for purchasing a new battery. He paid Rs.16,000/- for battery and Rs.10,500/- were outstanding towards him. On occurring a defect, he was asked to replace the UPS and battery and it was done. There was a problem of voltage at the house of Mr. Faisal and he was not bound to replace the batteries by new one because there was no warranty.

3. At pre-trial stage, no one offered for settlement and then, the evidence of both the parties was recorded.

4. The claimant himself entered into the witness box as PW1 and also examined Faisal Latif PW2. They both submitted their affidavits Ex-P1 and Ex-P6. The claimant while getting his statement recorded also produced some documents which are the copy of notice Mark P/A, the receipt of TCS Ex-P2, the warranty cards Ex-P3 and Ex-P4 and the receipt of SS Traders Ex-P5. On the other hand, the defendant entered into the witness box as DW1 and submitted his affidavit Ex-D1. He also examined Waseem Abbas DW2 who submitted his affidavit Ex-D3. Sajjad Haider (DW1) also brought on file the copy of receipt Mark D/A and the duplicate bills Mark D/B to Mark D/P.

5. Arguments heard, record perused.

6. As per contents of the complaint, the claimant purchased two dry batteries from the defendant on 01.11.2016 and the warranty thereof was for one year. After one month, the batteries went out of order and the claimant contacted with the defendant who replaced the batteries by new and received Rs.20,000/- more from the claimant. These batteries after one month also went out of order, the complaint of which was made by the claimant to the defendant but the defendant denied to replace the batteries or repay the price of batteries. This fact leads to conclude that in the first week of January 2017, the claimant accrued the cause of action but he filed the claim on 24.04.2017, thereby it is beyond the period of limitation. No application u/s 28 (4) of the Punjab Consumer Protection Act, 2005, for extension of time has been submitted and the court itself is not empowered to extent time suo motu.

7. The claimant during his cross-examination admitted that the batteries were purchased by Faisal Latif who is a witness of this case. Faisal Latif is son of the claimant. He has also stated that when the batteries went out of order, the defendant himself checked the product and told that one of the batteries was out of order. He denied from the fact that his son Faisal Latif paid Rs.16,000/- to the defendant and obtained from him new battery and Rs.10,500/- were outstanding towards him. However, he admitted that the defendant replaced the batteries by new one and the new batteries were of 100W each. He has also denied that the defendant replaced the UPS

inverter also. Faisal Latif, the son of the claimant had entered into the witness box as PW2. He stated that the batteries were purchased on 24.04.2016 and one UPS inverter was also purchased. No written warranty was given by the defendant about the product and in October 2016, the defendant replaced the old batteries by new and new batteries were of 100W each. He paid Rs.16,000/- to the defendant and the UPS inverter was also replaced. However, he denied that the amount of Rs.10,500/- was outstanding towards him.

8. The claimant has taken plea that on 01.11.2016, the batteries were purchased alongwith UPS inverter. The warranty card Ex-P5 shows that the inverter was purchased on 19.04.2016 and this document speaks as Faisal Latif PW2 stated and admitted the suggestion that in April 2016, the product was purchased. Ex-P3 is also the warranty card of inverter. The inverter was replaced by the defendant after about six months and this warranty card appears to have been issued for new inverter. No warranty in respect to the batteries was given. In absence of any express warranty, the product may not be deemed defective.

9. The batteries were purchased by Faisal Latif, the claimant's son, he used the same and thereafter contacted with the defendant and got new batteries. He was the consumer and had cause of action to file claim but he has not come to the court. The claimant although is the father of Faisal Latif, yet he may not be deemed a consumer when he did not purchase the batteries and even

he has not used the product after purchasing by his son. In the circumstances, Faisal Latif is the user and consumer.

10. The product was once got changed by paying some amount. If there were any warranty for the product, the consideration for new batteries would have not been paid. Faisal Latif PW2 admits that he paid Rs.16,000/- to the defendant when he got the batteries replaced. This very admission by Faisal Latif denotes that no warranty was for the batteries for which this claim has been made.

11. For what has been discussed above, the complaint in hand is not well founded, therefore, is dismissed. After due completion, the file be consigned to the record room.

**Announced**  
**11.04.2018**

**(Pervez Iqbal Sipra)**  
District & Sessions Judge/  
Presiding Officer,  
District Consumer Court, Faisalabad.

Certified that this order consists of five pages and each page has been dictated, read, corrected and signed by me.

**Dated**  
**11.04.2018**

**Presiding Officer,**  
**District Consumer Court, Faisalabad.**

**Short order.**

**Present:-**

**Nemo.**

**ORDER**

Vide order dated even passed in English separately, the complaint in hand is dismissed. After due completion, the file be consigned to the record room.

**Announced**  
**11.04.2018**

**(Pervez Iqbal Sipra)**  
District & Sessions Judge/  
Presiding Officer,  
District Consumer Court, Faisalabad