

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

Complaint No 419/2016
Date of institution 11.11.2016
Date of decision 27.04.2017.

Abdul Sitar S/o Ghulam Muhammad R/o Chak No.30 JB, Faisalabad.

Versus

Liaqat Ali S/o Muhammad Yousaf Haider Brothers Transport, office
address Bus stand Shop No.10, Badami Bag Lahore.

Complaint 25/28 of the Punjab Consumers Protection Act, 2005.

ORDER:

The claimant by filing this complaint has contended that he purchased a bus bearing Registration No.LNC-7628 chassis No.AKIJARKA-11450 Engine No.J086-B33806 Model 2004, for consideration of Rs.31,00,000/- from the defendant, four months before. The transaction of sale completed about two months before the institution of this complaint. At the time of transaction, the defendant gave guarantee about any defect and also said that the engine was at requisite standard. Twenty days before, he came to know that the engine of bus was not at requisite standard and it contained double sleebe instead of single. The actual price of the standard level engine at that time in the market was Rs.6,50,000/- while the engine fixed in the vehicle was of Rs.1,00,000/-. Having knowledge of the defect, he contacted with the defendant and asked him to redress his grievance as per guarantee but he denied. He could not run the vehicle for about fifteen days and thereby suffered a loss of Rs.1,50,000/-. He gave a notice u/s 28 (1) of the Punjab Consumers Protection Act, 2005, to the

defendant on 06.10.2016. The defendants took the dispute before Panchait but no result and ultimately two days before, he denied to redress his grievance, hence, the instant complaint.

2. The defendant was summoned through the process server and registered post but he did not appear before the court and consequently, was proceeded against ex-parte.

3. The ex-parte evidence of the claimant has been recorded.

4. Arguments heard, record perused.

5. The claimant entered into the witness box as PW1 and also examined Saleem Akhtar PW2. They both submitted their affidavits in support of the contents of the complaint. The copy of notice u/s 28 (1) of the Punjab Consumers Protection Act, 2005, is on file as Mark "P/A". This notice was sent by Malik Muhammad Nawaz Advocate as counsel of the claimant. The notice has not been signed by the claimant himself. The notice was prepared on 06.10.2016 while the complaint was filed on 11.11.2016. The courier receipt Ex-P2 also reveals that the notice was sent to the defendant on 06.10.2016. The notice was definitely sent when the claimant had become disappointed from redressal of his grievance and before it, he had accrued the cause of action. The complaint was not filed within thirty days and no application u/s 28 (4) of the Punjab Consumers Protection Act, 2005, for extension of time also has been submitted. No proof on the record is that Malik Muhammad Nawaz Advocate was authorized / empowered by executing a wakalatnama by the claimant, to give

notice. The complaint was filed by the claimant himself and alongwith the complaint, a wakalatnama in the name of Ch. Shahid Hussain Advocate was annexed. The record does not reveal that on 06.10.2016, Malik Muhammad Nawaz was counsel of the claimant, thereby the notice does not fulfill the requirement of Section 28 (1) of the Punjab Consumers Protection Act, 2005, which provides that the claimant is to call upon to the defendant by giving notice.

6. No warranty or guarantee has been brought on file by the claimant whereby the defendant obliged to redress his grievance in respect to any defect of the product. No proof in black and white is also available to see what was the agreed standard level of engine at the time of transaction. No expert opinion is available to infer that the product is defective and not in according with the standard if any agreed between the parties at the time of transaction. In the circumstances, the claimant's claim does not prove and consequently, the complaint in hand is dismissed. After due completion, the file be consigned to the record room.

Announced
27.04.2017

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

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

Dated
27.04.2017

Presiding Officer,
District Consumer Court, Faisalabad.

Short Order

Present:-

The learned counsel for the claimant.

ORDER

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

Announced
27.04.2017

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