

**In The Court Of Syed Maruf Ahmedali Presiding Officer  
District & Sessions Judge District Consumer Court  
Lahore.**

**Adil Hussain V/S Brother Mobiles.**

**Order.**

The Complainant Adil Hussain has filed a claim for damages amounting to Rs. 50000/- under the Punjab Consumer Protection Act 2005, against the Respondent.

2           Brief facts, according to the Complaint are that the Complainant purchased a Mobile Nokia 6300 in a sealed Box vide receipt dated 05.04.2008 for an amount of Rs. 11700/- under the impression that the Mobile Phone Set is made, manufactured and imported from Hungary. It is alleged that when the Mobile Set was opened by the Complainant at his house it transpired that its Battery, Head Phone, Charger and Memory Card inserted in the Mobile Set was Made in China. Which was brought to the knowledge of the Respondent who insulted and threatened the Complainant. Legal Notice dated 24.04.2008 was dispatched to the Respondent. No reply was given by the Respondent. Hence this claim.

3           The Respondent was summoned. Who contested the claim of the Complainant through his written statement. The complainant in order to prove his case appeared in the Witness Box as PW-1. On the other hand the proprietor of the Respondent Muhammad Azhar appeared as RW-1.

4           It is contended by the counsel for the Complainant that the Complainant has paid an handsome amount of Rs.11700/- for Nokia 6300 Mobile Set which was Made in Hungary, but to surprise of the Complainant when the sealed Box was opened the Battery, Headphone, Charger and Memory Card inserted in the Mobile Set were Made in China. The Respondent has deceived and mislead the Complainant to buy Nokia 6300 Mobile Set which was not made in

Hungary. He has further contended that the Respondent is liable under Section 21 and 22 of the Punjab Consumer Protection Act 2005. No reply to the Legal Notice was given by the Respondent and after filing of this case the Respondent had approached the Complainant for settlement but that was too late. He has further contended that he is entitled to damages amounting to Rs. 50000/- including his Lawyer Fee amounting to Rs. 10000/- He has further contended that the Complaint has proved his case and his claim be accepted.

5                On the other hand the counsel for the Respondent has contended that from the very first day when the Complainant had contacted them, he had offered to refund the sale price of the Mobile Set and now the Complainant who is a Clerk of a Lawyer is blackmailing them and demanding extra amount of Rs. 10000/ which he is not entitled under the Law, as he has failed to prove any damages and there is no defect in the Mobile Set. He has prayed that this Complaint be dismissed.

6                PW-1 has reiterated almost the same facts in his evidence as given in his Complaint. The Complainant has further stated in his evidence that he has paid an amount of Rs. 11700/- for the original accessories which were Made in Hungary, Photo Stat Copy of the Box is Ex-P/2 which that it is Made in Hungary, where as the parts of the Mobile Set Battery, Headphone, Charger and Memory Card are made in China, which were seen and returned. The receipt of the Mobile Set is Ex-P/1. Copy of the Legal Notice is Mark A, Postal Receipt is Mark B and Postal Acknowledgment due is Mark C. He has further stated he be granted damages amounting to Rs. 50000/- and the expenses including his Lawyer Fee. During cross examination the Complainant has admitted that his monthly income is Rs. 5000/- per month and he had paid his Lawyer Rs.10000/- as Fee. He has also admitted that the Respondent visited his office and offered him to refund the price of the Mobile Set.

7                RW-1 Muhammad Azhar the proprietor of the Respondent has appeared in the Witness Box and tendered his Affidavit Ex-R/1, that he is ready and willing to return the price of the Mobile Set but the Complainant is demanding Rs. 10000/- as his Lawyer Fee and blackmailing him. During cross examination he had stated that after one week of the sale of the Mobile Set, he had offered the Petitioner to return the Mobile Set and he will refund the sale price to him. This offer was made to the Complainant on Telephone as well as when the Complainant visited his shop.

8                After scanning the evidence of both the parties and perusing the record. The price of the Mobile Set i.e. Rs.11700/- and the sale and purchase of the same is admitted by both the parties. It is also admitted that on the Box of the Mobile Set Ex-P/2 it is mentioned that it is Made in Hungary. It is also admitted that the parts inside the Mobile Set i.e. Battery, Charger, Headphone and Memory Card are Made in China. Receipt of the Mobile Set is Ex-P/1 and Photo Stat Copy of the Box of the Mobile Set is Ex-P/2 . Legal Notice Mark A has not been denied by the Respondent. As far as the working of the Mobile Set is concerned there is no technical defect in the Mobile Set. The Respondent is ready and willing to refund the price of the Mobile Set i.e. Rs. 11700/- The Lawyer's Fee amounting to Rs. 10000/- alleged lay by the Complainant to his Lawyer is not believable, as the Complainant is the Munshi of Mirza Aziz-ur-Rehman Advocate, who is his counsel in this case and a Lawyer would never charge a Fee from his Munshi. Admittedly the monthly income of the Complainant is Rs.5000/- per month and he cannot afford to pay a Fee of Rs. 10000/- to his Lawyer with whom he is working. The Complainant has failed to prove the actual damages which he had suffered under Section 10 of the Punjab Consumer Protection Act 2005.

In view of the afore said reasons, the Complaint is accepted to the extent that the Respondent shall refund price of the Mobile Set amounting to Rs. 11700/- and shall also pay costs amounting to Rs. 2000/- within 10 days from the date of this Order. The Complainant shall return the Nokia 6300 Mobile Set to the Respondent.

File be consigned to record room after due completion.

**Announced  
18.12.2008**

**Presiding Officer  
District Consumer Court  
Lahore.**

**Certificate**

Certified that this Order consist of Four (4) pages which have been dictated, read, corrected and signed by me.

**Announced  
18.12.2008**

**Presiding Officer  
District Consumer Court  
Lahore.**