

Adnan Bashir vs Muhammad Afzal etc.

Case No. 974/DCC/SWL

Dated. 26-06-2012

Present. Claimant alongwith his counsel.

Order.

1. Adnan Bashir, the claimant filed a claim with prayer to award him damages to the tune of Rs. 50,000/-.

2. The claimant submitted that he purchased one liter glass made Koka Kola bottle for a consideration of Rs. 50/- from the respondent No. 1 which had been prepared and supplied by the respondent No. 2&3. At the time of opening of the bottle, it was observed that a piece of plastic was lying in it. The claimant made protest to the shop keeper who in turn contacted with respondent No. 2&3 but without any results. The claimant submitted that he had to suffer a mental and physical torture/agonny. Therefore, he was entitled to claim damages to the tune of Rs. 50,000/-

3. Before issuing notice to the respondents, it was deemed appropriate to hear preliminary arguments on behalf of the claimant. The learned counsel for the claimant appeared in the court and advanced arguments on the point of limitation.

4. The learned counsel for the claimant contended that after observing fault in the Koka Kola bottle, the claimant remained in touch with the respondents continuously but his grievances were not settled therefore, he had to file claim in this court.

5. It was an admitted fact on record that the claimant had purchased Koka Kola bottle on 17-04-12. Since it was a cold drink, it would have been opened to take it immediately. As such the factum of defect in cold drink had fallen to the knowledge of the claimant, on the day when he purchased Koka Kola bottle. This fact was apparent from the issuance of legal notice to the respondent through Mr. Abid Rashid Advocate. The said notice was issued on 19-04-12. It can therefore be said that on 19-04-12, the cause of action had arisen in favour of the

claimant. After issuing of legal notice, the claimant was supposed to wait for 15 days for reply and on expiring of that period, there was no hurdle in his way to approach this court. The assertion that the claimant remained in touch with the respondents to redress his grievances during the period from 19-04-12 to 26-06-12, has no legal significance. When the notice was issued, the claimant was not supposed to wait for oral assurance given by the respondents as it was wastage of time for approaching the court for redressal of his grievances. The claimant could, at the most file his claim in the court till 03-06-12 after excluding the period of 15 days required for waiting reply of legal notice from the respondents. Patently the claim was barred by time.

6. At the time of arguments, the claimant filed an application for condonation of delay on the ground that during relevant days, , he remained busy in taking his intermediate examinations. As per role number slip, the claimant appeared in intermediate examination on 10-05-12. This examination, with intervals continued till 20-06-12. Before starting of and during examination, he had enough days for filing the claim. He could come in the court with his grievances. The claimant avoided to approach this court for the reasons known to him. The factum of taking examination, if read in the light of observation recorded above, would not justify the condonation of delay. The application merits rejection. Order accordingly.

7. In view of findings and reasons recorded above, there appear no reasonable cause to extend the period of limitation. Resultantly, the claim being time barred is hereby dismissed

8. File be consigned after its due completion.

Announced

21-07-2012

Sd/-
District & Sessions Judge/District Judge
Consumer Court Sahiwal

