

SIALKOT.

IN THE COURT OF DISTRICT & SESSIONS JUDGE/PRESIDING OFFICER,
DISTRICT CONSUMER COURT,
SIALKOT/NAROWAL.

(Case No.15/2007)
(Instituted. 17.11.2007)
(Date of Decision 01-12-2007)

Annyat Ali Chishti VS M/S. Saleem Autos.

ORDER SHEET.

Presence:

Complainant in person.

State through A.D. (L).

Respondent already proceeded against ex-parte.

Arguments heard, the brief facts of the complaint in hand are that complainant Annyat Ullah Chishti purchased a Motor-Cycle (King Hero), fully described in Para No. 1 of the complaint on 17-11-2007, for net cash in sum of Rs. 41,500/- (Rupees Forty One Thousand Five Hundred only). According to complainant no original receipt of the company/NOC or other necessary papers of Motor-Cycle were ever delivered by the respondent, despite repeated requests, as a result of which complainant remained unable to get Motor-Cycle duly registered from the Excise Motor Registering Office, Sialkot. He also claimed that Motor-Bike actually valued for sum of Rs. 31,500/- (Rupees Thirty One Thousand Five Hundred only) but respondent with dishonest intention sold it at the higher rate and thus, complainant was entitled for delivery of original receipt of the company alongwith necessary papers from the respondent, return of excessive rupees in sum of Rs. 10,000/- (Ten Thousand only) and compensation in sum of Rs. 50,000/- (Fifty Thousand only), hence this case.

The respondent was summoned through learned Senior Civil Judge, Sialkot and SHO concerned, who was duly served, vide report recorded by the process server of Civil Court, Sialkot. It was also disclosed by the process server and others that respondent in pursuance of his service had attended the Court on 24-11-2007 but in order to defeat the process of law, slipped away from the Court premises without any intimation, accordingly, he was proceeded against ex-parte. Despite that Police Officer in attendance was asked to ensure the appearance of respondent for verification of rate list of the Motor-Bikes and that complainant was also directed to ensure the submission of factory/agencies rate list.

Respondent again has failed to put in appearance, whereas, complainant in stead of placing the rate list of factory/agencies has submitted photocopy of some papers, apparently registered at Motor-Registering Office, Gujranwala, in order to show that the value of Motor-Cycle is Rs. 31,500/- (Rupees Thirty One Thousand Five Hundred only), in stead of 41,500/- (Rupees Forty One Thousand Five Hundred only).

Heard.

After having heard complainant, A.D. (L) and perused the record, it is evident that respondent despite his personal service had failed to put into appearance before the Court, in order to controvert or rebut the allegations leveled against him, in the Court, rather he disappeared from the Court, which manifestly embeds in the mind of this Court that he has nothing to rebut or controvert the allegations of the complainant and thus, legal presumption is that allegations against the respondent stand substantiated.

Now the question arises as to what is the actual sale price of the Motor-Cycle. Admittedly the rate list of the Motor-Bike is not furnished from either

side, however, this Court directed the Registrar of this Office to collect some proofs, who produced two invoices of different Auto-dealers namely Tayyab Autos, Sialkot and Zahid Autos, Gujranwala, according to which the ex-factory sale price is in sum of Rs. 31,096/- (Rupees Thirty One Thousand & Ninety Six Only). At this stage this aspect cannot be left unnoticed that marketing of such articles is made through dealers, as such, while adding dealers profit the market price of disputed Motor-Bike is fixed as Rs. 36,500/- (Rupees Thirty Six Thousand Five Hundred only), hence, the respondent Saleem Autos Corporation is directed to return Rs. 5,000/- (Rupees Five Thousand only), from Rs. 41,500/- from the purchase amount of disputed Bike, as reflected by cash memo dated 10-08-2007, appended with the complaint, in favour of complainant.

It is not disputed that in the absence of valid invoice of Company/dealer/agency and other title papers, the registration of Motor-Cycle is not permitted by the Motor Registration Office/department, which resulted into mental agony and financial loss to the complainant, thus, respondent is directed to deliver original invoice of company alongwith other necessary papers and to compensate the complainant in sum of Rs. 5,000/- (Five Thousand Rupees only), whereas, he will also pay sum of Rs. 15,000/- (Rupees Fifteen Thousand only), as legal expenses to the complainant, within 15 days positively. In crux the case of the complainant is established and his complaint is allowed in the above stated terms. File be consigned to the record room.

Announced:

Dated: 01-12-2007.

Presiding Officer
District Consumer Court
Sialkot/Narowal.