

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

Complaint No	35/2013
Date of institution	07.03.2013
Date of decision	04.05.2017.

Atif Zaman S/o Zaman Pichers Elahi Abad Road Shahzad Colony Satyana Road, Faisalabad.

Versus

1. Imtiaz, proprietor Micro Computer System, 12/13, First Floor Rexcity Satyana Road, Faisalabad.
2. Kamran, proprietor Micro Computer System, 12/13, First Floor Rexcity Satyana Road, Faisalabad.

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

ORDER:

Through the above captioned complaint, the claimant has contended that he purchased a hard-disk from the defendants, the warranty thereof was for ten months. He paid the sale price amounting to Rs.72,00/- and the defendant handed in him a receipt vide invoice No.025521, dated 29.12.2012. When he used the hard-disk, he came to know that the same was defective. He contacted with the defendants and complained about the defect of the product but they denied to redress his grievance. He gave notice u/s 28 (1) of the Punjab Consumers Protection Act, 2005, to the defendants but no reply, hence, the instant complaint.

2. The defendants contested the complaint by filing written statement. They have contended that the product was sold in accurate condition and the alleged defect occurred by fall. There was no

warranty for fall damage and the claimant after using the hard-disk for six months, made demand to replace the same by new one. He filed the complaint beyond the period of limitation, thereby it is liable to be dismissed.

3. At pre-trial stage, none of the parties offered for settlement and then both the parties were asked to produce their evidence. The oral as well as documentary evidence of the parties has been collected / recorded.

4. Arguments heard, record perused.

5. The product was purchased by the claimant on 29.12.2012 and in his cross-examination, he has stated that on the same day, he contacted with the defendants and complained about the defect. When he purchased the hard-disk, it was packed and he took it to the house in packed condition. He admitted that he gave notice to the defendants on 24.01.2013, through his sister who is advocate and is the second sentence, he said that he was not in knowledge whether the notice was given or not. He was also not in knowledge when the complaint was filed, however, he was of the view that the complaint was filed on 07.03.2013.

6. The product was purchased on 29.12.2012 and on the same day, the claimant came to know about the defect. On the next day i.e. 30.12.2012, he contacted with the defendants but they denied to redress his grievance. It was the day when the claimant accrued the cause of action and he could file claim within period of thirty days.

The complaint was instituted on 07.03.2013, thereby it is beyond the period of limitation. No application u/s 28 (4) of the Punjab Consumers Protection Act, 2005, has been submitted for extension of time on the basis of a sufficient cause, if the claimant had for filing the claim beyond the period of thirty days and the court itself is not empowered to extent the time suo moto. Even no sufficient cause has been shown by the claimant while producing his evidence for filing the claim beyond the period of thirty days. The receipt of courier service Ex-P2 does not evince the date when the notice was sent. In his cross-examination, the claimant stated that on 24.01.2013, the notice was given, if so, the complaint was also not filed within thirty days from the date when the notice was given. Irrespective of it, the period of limitation starts from the date of accruing the cause of action and not from the date of sending notice and the reply thereof. In the circumstances, the complaint is time barred and no ground exists for extending time.

7. In the cross-examination, the claimant admitted that there was a sing of rubbing on the hard-disk. When he purchased the hard-disk, it was packed and it is not acceptable that in packed condition, the hard-disk had sign of rubbing. In the complaint, the claimant also has not contended anywhere that when he opened, the hard-disk was found with a sign of rubbing. When he used the hard-disk, it stately did not work and it was not told by him to the defendants that a sign of rubbing was upon the hard-disk. So, it is inferred that when the

hard-disk was sold to the claimant, there was no sign of rubbing upon it and such sign happened later on because of use by the claimant. This very fact strengthens the defendants' stance that the alleged damage / defect to the hard-disk was because of use / fall of the product. In the circumstances, the claimant has failed to prove his case, thereby, the complaint in hand is dismissed. After due completion, the file be consigned to the record room.

Announced
04.05.2017

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

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

Dated
04.05.2017

Presiding Officer,
District Consumer Court, Faisalabad.

Short Order

Present:-

The learned counsel for the parties.

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
04.05.2017

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