

In the Court of Qamar Ijaz
District & Sessions Judge/Presiding Officer
Consumer Court Districts Sheikhupura, Nankana Sahib, Kasur
& Lahore

Complaint No. 547/2018
Date of institution 11-10-2018
Date of decision 09-05-2019

**1 Dr. Abdul Hakim Babar s/o Shaikh Abdul Karim r/o 8/C Block,
Model Town, Lahore.**

Complainant

V/s

1 Eyewear & Co

**2 Ch. Kamran Noor Branch Manage Eyewear & Co IEP Building,
Liberty Round About, Main Boulevard, Gulberg, Lahore.**

Defendants

COMPLAINT UNDER PUNJAB CONSUMER PROTECTION
ACT 2005.

ORDER

Dr. Abdul Hakim Babar alleges, that on 28.09.17, he purchased PORSCHE Design Eyewear Men Frame along with AR Lenses from the defendants, for a total consideration of Rs.21,200/- with two years guarantee. It was told by the defendants that sold products, were foreign manufactured. Both the sold products on used proved defective. The complainant time and again approached the defendants to remove the defect or replace it who refused. He also served legal notice and in reply to the said notice defendants declined to redress his grievance. Hence, the complaint.

2 Defendants submitted written statement and sought dismissal of complaint by raising numerous legal/factual objections. However, sale of the products in question is admitted explaining that lenses were changed but due to mishandling by the complainant, it cannot be replaced. It is further stated that damage caused by incorrect use of the product cannot be considered as warranty or an error of the product. However, they subsequently disappeared and were proceeded against ex-parte on 27.02.19.

3 In his ex-parte evidence, the complainant recorded his statement as PW-1, submitted his sworn affidavit Exb-P/1, original receipt of frame dated 28.09.17 Exb-P/2, Original receipt of lenses dated 20.09.18 Exb-P/3, original warranty booklet Exb-P/4, Original warranty card Exb-P/5, Copy of legal notice Mark P/A, acknowledgement due receipt Exb-P/6, Copy of reply of legal notice Mark P/B.

4 From the above stated ex-parte evidence, relationship of consumer and manufacturer is established between the parties. Sending of legal notice is also proved. The products in question were purchased on 28.09.17, and instant complaint was filed on 11.10.18, so instant complaint is within warranty period mentioned in Exb-P/4. There is no rebuttal evidence produced by the defendants. So, court is left with no option but to believe the ex-parte evidence of complainant. The complainant through his ex-parte evidence has succeeded to establish that the lenses and the frame in question have developed fault and defendants have refused to redress his grievance without any justification. So, keeping in view the restrictions contained in S. 10/15 of PCPA 2005, and as provided Under Section 31 of the same Act, the complaint is allowed partially ex-parte against both the defendants jointly and severely (the defendants have right to adjust/settled inter-se claim in accordance with law) to the effect that they shall remove the defect from the lenses and frame in question to the complete satisfaction of complainant without charging any amount from him and if it is not possible then to replace the same with new products of similar description/value which shall be free from any defect, failing which they have to return, to the complainant, the price of the products i.e Rs.21,200/- after received the sold products. On account of litigation charges, complainant who is pursuing the case himself, is held entitled for Rs.1000/- only. Whereas his claim for recovery of damages Rs.2,00,000/- on account of loss of business/mental torture and wastage of time is concerned that being out of preview of section 25 of PCPA 2005, and having not been proved/justified is decline and to that extent complaint is dismissed. Complaint is allowed partially in the above said terms.

Announced
09-05-19

Qamar Ijaz
D& SJ/Presiding Officer
District Consumer Court,
Lahore.

It is certified that this Order consists of two pages which have been dictated, corrected and signed by me.

Announced
09-05-19

Qamar Ijaz
D& SJ/Presiding Officer