

IN THE COURT OF *MIRZA JAWAD A. BAIG*, DISTRICT & SESSIONS JUDGE,  
PRESIDING OFFICER, DISTRICT CONSUMER COURT,  
DISTRICTS: D.G. KHAN; LAYYAH; MUZAFFARGARH; RAJANPUR,  
50/Z, MODEL TOWN, DIVISIONAL HEAD QUARTER, DERA GHAZI KHAN.

(PHONE: PTCL No. 0642474100) (FAX No. 0642470496).

Pari versus Mohammad Ramzan SDO WAPDA & 2 others

COMPLAINT ABOUT FAULTY SERVICES

Complaint / Case No: 1651/ 354/ 11.  
Date of Institution: 29-08-2011.  
Date of Decision: 05-01-2012.

ORDER:

Claimant is represented by his representative while defendants are represented by litigation clerk of Gulshan-abad sub-division of MEPCO as representative.

1. The case is at the stage of the filing of the joint written statement which has not been filed even today however copy of the forwarding letter about checking report of M&T has been placed on record by the representative of the defendants and arguments have been heard on request of the representative of the defendants without written statement and file has been perused as such I proceed to discuss and dispose off the complaint in the light of the arguments in accordance with the findings in the following paragraphs.

2. Briefly stated the version of the claimant is to the effect that he is consumer of electricity under reference No.05-15245-0253801-R; that the claimant is domestic consumer of 5 Marlas house; that Abdul Hameed lineman had allegedly obtained cash amount of Rs.6300/- from the claimant without receipt on the pretext that the meter would be removed on non payment of said bill; that it was promised that the receipt would be given after two days; that meanwhile the claimant got the bill issued from the office and deposited the amount of Rs.6300/- at post office himself but the cash amount was not returned by said lineman despite repeated demands; that the meter was deposited by the claimant due to flood but the disputed bill of Rs.27626/- was issued in August 2011; that the bill should be cancelled alongwith action against the defendants.

3. The version of the defendants as explained by the representative of the defendants is to the effect that they have referred the dispute to the M&T and they are prepared to issue amended bill in accordance with the report of M&T as and when received.

4. It is pertinent to note that although evidence is necessary to be recorded under S.30 of PCP Act 2005 for disposal of the complaints by the Consumer Courts but since the procedural laws known as the Code of Civil

Procedure, 1908; the Code of Criminal Procedure, 1898; the Qanun-e-Shahadat Order, 1984, the Bankers' Books Evidence Act, 1891 are not strictly applicable to the proceedings of the Consumer Courts, as such the propriety demands that the regular evidence should not be recorded in such cases where the points for determination are mostly based on the copies of the admitted documents available in the file of the complaint or admitted in the pleadings just like the present case.

5. It is proper to be observed that the ELECTRICITY is a PRODUCT according to the definition provided in the Sale of Goods Act, 1930 and the said definition has been made applicable on the cases under PCP Act, 2005 by S.2 (j) of the latter Act. It is also observed that the AUTHORITY providing the ELECTRICITY as a product comes within the definition of the MANUFACTURER under S.2 (h) as such the AUTHORITY is obliged to fulfill all the responsibilities of a MANUFACTURER of the product under S.4 to 12 & 18 to 20 being supplied in dual capacity of the MANUFACTURER along with responsibilities of the SERVICE PROVIDER under S.13 to 17 of PCP Act, 2005. The responsibilities of the defendants are therefore dual as MANUFACTURERS as well as SERVICE PROVIDERS. The expectation of the public about better services of the MEPCO is therefore genuine and enforceable under the law.

6. As far as the request for action against the defendants is concerned, it is observed that it is settled law that the manufacturer or service provider is not liable for any damages except a return of the consideration or a part thereof and the costs, specifically where the consumer has not suffered any damages from the product or provision of service except lack of utility/ benefit.

7. It is pertinent to note that the grant of damages is curtailed even under Contract Act, 1872 in which it is provided in S.73 to 75 that the damages should be proportionate to the loss and not excessive by mentioning that such compensation for loss or damage caused by breach of contract is not to be given for any remote and indirect loss or damage sustained by reason of the breach. It is an embargo placed by the general law of contracts upon the powers of the courts about grant of damages.

8. It is also observed that further embargo on the quantum of damages to be awarded by the consumers courts has been placed by the law provided in S. 4, 10, 13 & 15 of PCP Act by declaring that the manufacturer or service provider shall be liable to a consumer for damages proximately caused by anticipated use of the product or provision of services that have caused damage but he shall not be liable for any damages except a return of the consideration or a part thereof and the costs in such cases where the consumer has not suffered any damages from the provision

of service except lack of benefit or loss of utility as such I find that the claimant is not entitled to recover the damages or compensation or counsel fee or litigation charges through this court under the law of consumers.

9. In accordance with above discussion, the complaint is partly accepted to the extent of the direction about waiting for checking report of M&T so as to determine that what was the status of the meter at the time of removal and for issuance of amended bill in accordance with proposed report of M&T with the option reserved with the claimant to challenge the proposed bill if not acceptable by fresh complaint and it is also directed that inquiry should be initiated against the meter reader about taking of the cash amount under intimation to the claimant about the proposed inquiry.

10. *Parties are left to bear their own costs.*

11. *This order would become final u/s 34 of PCP Act 2005, if the appeal is not preferred within period of 30 days under S.33 of PCP Act 2005 & Rule 18 of PCP Rules 2009 in accordance with the Rules of Procedure of Honourable High Court.*

12. *In case of delay in compliance, the claimant is entitled to get the order implemented by filing the application for implementation with reference to S.31, 32 & 36 of PCP Act, 2005, if so required with the warning to the defendants that the costs to be incurred for and during the application for implementation would be liable to be recovered from them.*

13. *A copy of this order is to be provided to the representative of the defendants on demand along with issuance of a copy through the claimant to the RO / SDO MEPCO for compliance.*

14. *A soft copy of this order would be available for publishing on the internet to the website of Punjab Consumer Protection Council Secretariat, 135-J, Model Town, Lahore for public disclosure and easy access of information to the consumers relating to the products and services under Rule 25 of PCP Rules, 2009.*

15. *The file of this complaint is to be consigned to the record room of this court duly page marked with proper index and after due completion and made available for issuance of attested copies and kept under safe custody till the period fixed for destruction in accordance with the Rules & Orders of Honourable Lahore High Court.*