

IN THE COURT OF SOHAIB AHMED RUMI  
DISTRICT & SESSIONS JUDGE/PRESIDING OFFICER  
DISTRICT CONSUMER COURT  
SIALKOT/NAROWAL.

*Case No.61/2018*

Date of Institution: 20.08.2018.

Date of Decision: 11.09.2018.

- Haider Ali S/O Muhammad Aslam, Ansari by caste R/O  
Abdali P.O Ban Bajwa, Tehsil Pasrur, District Sialkot.

VERSUS

- Bilal Travels & Cargo Services, Sialkot

PETITION FOR RECOVERY OF PARCEL AMOUNT AND AWARD  
OF DAMAGES

*APPLICATIN UNDER ORDER 07 RULE 11 C.P.C.*

**ORDER**

Through this order an application filled by the respondent U/Order 07 Rule 11 C.PC is being disposed of, seeking rejection of the plaint on the ground of limitation under section 28(4) of the Punjab Consumer Protection Act, 2005, stating that Court cannot entertain the claim being barred by time which was to be filed within 30 days from the accrual of cause of action and thus, claimant is not competent to invoke the jurisdiction of Consumer Court. In reply of the application claimant submitted that case is based on factual ground; cause of action accrued to claimant on 30.07.2018 when defendant finally denied returning the parcel or its amount, as such Consumer Court, Sialkot is quite competent to hear and adjudicate the matter.

I have heard the counsel for the parties.

Learned counsel for the claimant argued that claimant while hiring services of respondent dispatched a parcel to Faisalabad containing valuable articles which was to be delivered to its destination on 07.11.2017 but due to negligent/poor services of respondent the shipment misplaced and could not reach to its destination. Mandatory legal notice was given to respondent on 31.07.2018

(Conti....02)


but two days before on final denial the cause of action accrued, hence, complaint was filed on 20.08.2018.

On the other hand contention of learned counsel for respondent is that cause of action in this matter was accrued on 07.11.2017 when the shipment did not reach to its destination while the legal notice was issued on 31.07.2018, after a period of 08 months and twenty four days Irrespective of the issuance of legal notice, consumer was bound to file the complaint within 30 days after arising of the cause of action as per terms of section 28 (4) of the Punjab Consumer Protection Act, 2005. Dispatch of legal notice or no response to the legal notice has no bearing upon the period of limitation which has started to run from the date when shipment was not delivered.

I have gone through the record; admittedly in this case services were hired on 06.11.2017 for delivery of consignment to Faisalabad for 07.11.2017 but on the given time shipment was not delivered. Under section 28 (4) of the Punjab Consumer Protection Act, 2005 claim is to be filed within 30 days from accrual of the cause of action. The claim was filed on 20.08.2018, after 09 months and 13 days of accrual of the cause of action. However, an application for condonation of delay was filed by the claimant but failed to justify the reasons of each and every day for non filing of case within the prescribed period of limitation. Moreover, when special law i.e The Punjab Consumer Protection Act, 2005 has defined the limitation period by itself, provisions of Limitation Act are not applicable in such a case. It was held by the Hon,'ble Lahore High Court, Lahore that Sec. 05 of the Limitation Act, 1908 had been excluded from application to cases covered by special laws and therefore, cases instituted under the Punjab Consumer Protection Act, 2005 which was a special law, could not be governed by provisions of Sec.05 of the Limitation Act, 1908. Reliance is PLD 2013 Lah 468. Therefore, this Court has no jurisdiction to proceed with the same, resultantly; complaint being barred by limitation is rejected. Reliance is placed on PLD 2014, 196 and 2017 CLD 1196 File be consigned to the record room after its completion.

Announced:  
11.09.2018.



  
Presiding Officer  
District Consumer Court  
Sialkot/Narowal.