

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

Complaint No                    27/2017  
Date of institution        24.01.2017  
Date of decision            06.07.2017.

Malik Hamza Amjad Advocate S/o Amjad Hussain R/o P-247,  
Lasani Town, Sargodha Road, Faisalabad.

**Versus**

Q-Mobile/Digicom near Ambian Wali Puli, Jail Road, Faisalabad.

**Claim u/s 25 the Punjab Consumers Protection Act, 2005.**

**ORDER:**

The claimant has filed this complaint by contending that five months before, he purchased a Q-Mobile phone set from the defendant. One day, the mobile phone set became dead and on the next day, he contacted with the defendant and made a complaint. On 08.12.2016, he went at the company's office and an agent of the company checked the mobile phone set and then accepted the claim and said that on 18.12.2016, come to collect your mobile phone set. Lateron, he received a call from the company whereby he was informed that the mobile phone set was liquid damage and no claim under the warranty might be claimed. He again went to the company's office and the mobile phone set was returned to him. There was no his negligence for the alleged defect in the product and if there was liquid damage, it was also a fault on behalf of the company. He gave notice u/s 28 (1) of the Punjab Consumer Protection Act, 2005, to the defendant for redressal of his grievance but no reply, hence, the instant complaint.

2.            The defendant was summoned through the process server and registered post but no one appeared on his behalf and

consequently he was proceeded against ex-parte. Lateron, an application for setting aside the ex-parte proceedings was submitted on 18.02.2017. This application was accepted and the defendant was asked to submit his written statement. He despite availing sufficient opportunities failed to submit written statement thereby his right of defence was struck off and on 08.06.2017, he also was proceeded against ex-parte.

3. The ex-parte evidence of the claimant has been recorded.

4. The claimant entered into the witness box as PW1 and submitted his affidavit Ex-P1, whereby he reiterated the contents of his complaint. The post office receipt Ex-P2 shows that an envelope stately containing notice was sent to the defendant by the claimant and the acknowledgment due Ex-P3 is evident that the notice was delivered to the defendant also. The Mark P/A is the copy of repair order which shows that the defendant collected the mobile phone set from the claimant for removing the defect there from. The copy of notice u/s 28 (1) of the Punjab Consumers Protection Act, 2005 is Mark P/B which was sent by the claimant to the defendant.

5. The claimant purchased the mobile phone set five months before and on 08.12.2016, he contacted with the defendant and handed over him the mobile phone set for removing the defect. On 18.12.2016, the mobile phone set was returned to the claimant without redressal of his grievance. The complaint in hand was filed on 24.01.2017, thereby it is beyond six days of the period provided for filing a claim. The claimant has submitted an application u/s 28

(4) of the Punjab Consumers Protection Act, 2005 for extension of time. He has contended that the defendant contacted with him and engaged him under the pretext of compromise and when the period of thirty days for filing claim expired, he denied to redress his grievance. Because of false offer of the defendant for compromise, he could not file the claim within thirty days and the delay of about six days caused. The cause shown by the claimant for filing the claim with delay is sufficient, therefore, this prayer is accepted and the time is extended. The claim was filed within the warranty period and the mobile phone set sold to the claimant was defective. The defendant despite knowledge has not come to the court to deny from the claimant's contention. It also has not been proved on behalf of the defendant that the mobile phone set was liquid damage and it become defective because of an act of the defendant. The evidence produced by the claimant is un-rebutted and when all the facts and the institution of this complaint were in knowledge of the defendant and he has not denied there from by appearing before the court, the claimant's stance is accepted true and he is held entitled to claim. Accordingly, the complaint in hand is accepted and the defendant is directed to hand over a new mobile phone set to the claimant on return of the old one. As stated in the notice, the mobile phone set was purchased of Rs.8000/-. If the defendant fails to hand over a new mobile phone set, he will have to pay Rs.8000/- as price of the mobile phone set. Section 10 of the Punjab Consumers Protection Act, 2005, restricts to grant damages, where the consumer has not suffered any damage from the product except the loss of utility. The claimant only suffered the loss of utility and

no further damage was caused, therefore, he is not entitled to damages, however, he is held entitled to costs amounting to Rs.5000/- incurred on legal proceedings. The defendant is directed to comply with this order and if he fails to comply with this order, the proceedings u/s 32 (2) of the Punjab Consumers Protection Act, 2005 will be initiated against him. The Registrar of this court is directed to send a copy of this order to the defendant free of costs and the receipt thereof be ensured and got acknowledged. After due completion, the file be consigned to the record room.

**Announced**  
**06.07.2017**

**(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**  
**06.07.2017**

Presiding Officer,  
District Consumer Court, Faisalabad.

**Short order****Present:-****The learned counsel for the claimant.****ORDER**

Arguments heard.

2. Vide order dated even passed in English separately, the complaint in hand is accepted and the defendant is directed to hand over a new mobile phone set to the claimant on return of the old one. If the defendant fails to hand over a new mobile phone set, he will have to pay Rs.8000/- as price of the mobile phone set and also to pay Rs.5000/- as costs incurred on the legal proceedings. After due completion, the file be consigned to the record room.

**Announced**  
**06.07.2017**

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