

**In The Court Of Syed Maruf Ahmedali Presiding Officer
District & Sessions Judge District Consumer Court
Lahore.**

Iftikhar Ahmed V/S GM.TCS .

Order.

The Complainant Iftikhar Ahmed has filed a claim under Section 25 of the Punjab Consumer Protection Act 2005 against the Respondent Company.

2 Brief facts, according to the Complaint are that the Complainant on 09.05.2008 shipped a Birth Day Cake for the consignee namely Maham R/O House No.B/266 Block-6 Gulshan-e-Iqbal Karachi. Consignment was to be delivered on the same day therefore, an extra amount of Rs. 200/- was paid other than normal freight charges of Rs. 675/- Consignment did not reach the addressee on the same day. The Complainant issued a Legal Notice on 15.05.2008. Reply was also given by the Respondent in which it was stated that consignment could not be delivered to the addressee on the same day due to operational reasons. Hence this claim for damages amounting to Rs. 1000000/- and refund of the freight charges amounting to Rs. 875/- along with Legal fee.

3 The Respondents were summoned. Who contested the claim of the Complainant through their Written Statement. The complainant in order to prove his case appeared in the Witness Box as PW-1 and produced copy of the Gift order Mark A. On the other hand Respondent produced RW-1 Muhammad Shahbaz Tahir (Assistant Manager Sentiments Express) who produced Copy of the reply of the Legal Notice Mark R/1 and copy of the refusal Mark R/2.

4 It is contended by the counsel for the Complainant that the Respondent has admitted that they could not deliver the consignment i.e. Birth Day Cake to the addressee on the same day for which it was booked. He has also argued that they had received extra charges of Rs. 200/- than normal freight rate for same day delivery. He has further contended that due to the

faulty and defective service of the Respondent, the sentiments of the complainant and the addressee were badly hurt and the Complainant is entitled to the damages amounting to Rs. 1000000/- refund of the amount of the freight charges and Legal Fee.

5 On the other hand the counsel for the Respondent has contended that due to operational reasons the consignment i.e. Birth Day Cake could not be delivered on the same day and they tendered apology and had also requested that the Complainant shall be compensated but the Complainant refused. He has further contended that the Complainant is not entitled to any damages under Section 15 of the Punjab Consumer Protection Act 2005 and his claim be dismissed.

6 After hearing the arguments of both the parties and perusing the record. PW-1 Iftikhar Ahmed Complainant in this case, has almost reiterated the same facts as given in his Complaint. According to him a Birth Day Cake was booked on 09.05.2008 for same day delivery and Rs.200 were paid as extra charges other than normal freight rate amounting to Rs. 675/-. Birth Day Cake was not delivered on the same day till 12:00 midnight. Then he visited the office of TCS and lodged a Complaint on the next day, in the evening a Telephone call was received from Karachi that a Van is waiting outside for the delivery of the Cake. He told the addressee not to accept the same as it was not delivered on the required date. He has placed on record Copy of the Gift Order Mark A.

7 RW-1 Muhammad Shahbaz Tahir Assistant Manager Sentiments Express who has appeared on behalf of Respondent had admitted that due to operational reasons the Birth Day cake could not be delivered on the same day i.e. on 09.05.2008 and the same was delivered on 10.05.2008 at 9:am but the addressee refused to accept the same. He has also admitted in cross examination that they had received extra charges for the same day delivery but could not deliver.

8 After carefully scanning the evidence of both the parties .It is an admitted fact that the Birth Day Cake was booked for 09.05.2008 for the same day delivery and Rs. 200/- extra

were paid other than normal freight rate of Rs. 675/- Legal Notice and its reply is admitted by the Respondent. No sufficient cause has been shown by the Respondent for not delivering the Birth Day Cake on the same day. When on the next day the Respondent Company went to delivery the Cake it was rightly refused by the addressee. As the late delivery of the cake had lost its efficacy and utility which had hurt the sentiments of both the parties. However the Complainant has failed to prove the damages which he had allegedly suffered.

In view of the afore said reasons, the Complaint is accepted .The respondent provided faulty and defective service and shall also pay Rs. 5000/- as costs and shall also refund the shipment charges amounting to Rs. 875/- within 10 days from the date of this Order.

Before parting with this Order, the counsel for the Respondent has filed an Application for permission to place on record the terms and conditions of the contract. At this belated stage the Application can not be allowed which is dismissed.

File be consigned to record room after due completion.

Announced
23.12.2008

Presiding Officer
District Consumer Court
Lahore.

Certificate

Certified that this Order consist of Four (4) pages which have been dictated, read, corrected and signed by me.

Announced
23.12.2008

Presiding Officer
District Consumer Court
Lahore.