

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

Complaint No	11/2019
Date of institution	01.02.2019
Date of decision	18.05.2019.

Khalid Hussain Malik R/o House No.71, Firdoos Colony, Zari University, Faisalabad.

Versus

Al-Riaz Electronics Katchary Bazar, Faisalabad.

Claim under the Punjab Consumer Protection Act, 2005.

Present:-

Khalid Hussain Malik, the claimant in person.

ORDER:-

Through the instant complaint, the claimant Khalid Hussain Malik has alleged that he purchased a mobile phone set branded Nokia 2DS from the defendant on 05.09.2018, through receipt No.4727 which went dysfunctional soon after its purchase, on which he approached the defendant but the mobile phone set did not properly function again and that also went faulty on three other occasions. Finally, the mobile phone set was returned to the claimant on 07.01.2019 by defendant in defective condition instead of repair of the same or replacement of the same, therefore, the legal notice Mark P/A on 09.01.2019 was issued on which no reply on behalf of the defendant was given, hence, this complaint.

2. The defendant was summoned through the Process Server and registered post. He was served with the summons but he did not appear before the court, thereby, he was proceeded against ex-parte.

3. The ex-parte evidence was got recorded on behalf of the claimant i.e. the statement of the claimant as PW1 and his sworn

affidavit Ex-P1 was submitted in support of his claim alongwith the postal receipts as Ex-P2 to Ex-P4, the purchase receipt as Ex-P5, the warranty card as Ex-P6 and copy of legal notice as Mark P/A.

4. The ex-parte arguments heard, record perused.

5. Perusal of the record shows that the mobile phone set in question was purchased for the amount of Rs.11,000/- only. Perusal of warranty card Ex-P6 shows that as per terms of warranty mentioned on serial Nos.3 to 7, following situation were not covered by warranty, they are reproduced as under:-

1. Any (i) normal wear and tear, (ii) reduced charging capacity of the battery resulting from its natural end of product life, or (iii) pixel defects in product's display that are within the scope of industry standards;

2. Sim card and / or any cellular or other networks or system on which your product operates;

3. Errors or damage caused by (i) misuse or not using your product in accordance with the user guide, such as if the product has been exposed to moisture, to dampness or to extreme thermal or environmental conditions or to rapid changes in such conditions, to corrosion, to oxidation, to spillage of food or liquid or to influence from chemical products, (ii) using your product with, or connecting it to, any product, accessory, software, or service not manufactured or supplied by manufacturer, (iii) any products combined systems or network; or (v) other acts beyond manufacturer's reasonable control;

4. Under the terms of this warranty, Third Party authorized by TNS Mobile, is responsible for after sales Service including but not limited to warranty claims for all Nokia mobiles devices distributed by Advance Telecom;

5. Advance Telecom or any of its affiliates are not liable for any accidental or consequential damage from breach of any express or implied warranty on the product.

The above produced conditions are not covered by the warranty and the grievance which are alleged by the claimant in his complaint in which he has alleged that the mobile phone set is not functioning properly for using internet or wi-fi and data saving capacity of the mobile phone set was limited, no other non-functioning of the mobile phone set of its ordinarily usage by consumer, such as receiving calls and making ordinary calls etc is alleged by the claimant. Further perusal of the record shows that the mobile phone set is purchased for the amount of Rs.11,000/-, such amount cannot normally provides advanced “smart phone”, with enhanced usage facilities. Moreover, the legal notice was issued on 09.01.2019 and as per the same, the mobile phone set according to the claimant went dysfunctional soon after its purchase i.e. on 05.09.2018, therefore, the complaint in hand is time barred even since issuance of legal notice, the original of which is the part of the complaint which further reveals that whether the copy of the same was issued to the defendant or not. Under these circumstances, no case of the claimant against the defendant is made, therefore, same is dismissed. After due completion, the file be consigned to the record room.

Announced
18.05.2019

(Javed Iqbal Sheikh)
District & Sessions Judge/
Presiding Officer,
District Consumer Court, Faisalabad.

Certified that this order consists of three pages and each page has been dictated, read, corrected and signed by me.

Dated
18.05.2019

Presiding Officer,
District Consumer Court, Faisalabad

Short order.

Present:-

Khalid Hussain Malik, the claimant in person.

ORDER

Arguments heard and record perused.

2. Vide order dated even, passed in English separately, the complaint in hand is dismissed. After due completion, the file be consigned to the record room.

Announced
18.05.2019

(Javed Iqbal Sheikh)
District & Sessions Judge/
Presiding Officer,
District Consumer Court, Faisalabad.