

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

Complaint No 51/2018
Date of institution 10.02.2018
Date of decision 31.05.2018.

Muhammad Salman Hassan R/o House No.P-106, Near Govt. Girls MC High School Tandlianwala, Faisalabad.

Versus

Chiniot Palace, Risotto Restaurant, 106-C, Peoples Colony, Jaranwala Road, Faisalabad.

Claim u/s 25 of the Punjab Consumer Protection Act, 2005.

ORDER:

By filing this claim, the claimant has contended that he alongwith others, on 13.01.2018, at about 07:52pm, went to the defendant's restaurant to have dinner. He gave an order for three plates of chicken biryani and one chicken malai boti. The waiter asked him to wait for fifteen minutes for food. The waiter served chicken biryani after ten minutes and asked to wait for chicken malai boti. As he was excited and hungry, he and others started to eat chicken biryani without waiting for malai boti. He asked for three times to the waiter for serving malai boti but malai boti was put on the table at about 9 o'clock when he and the others had finished their meal. Because of it, he faced insult before his colleagues and the people present in the hotel. He and his colleagues being advocates were in uniform and were insulted in this way by the restaurant's staff. Moreover, the actual bill issued by the restaurant was Rs.1496/- but only Rs.926/- were paid. The defendant's restaurant received from him services charges in excess while the service provided by the defendant was not accurate. He

gave notice u/s 28 (1) of the Punjab Consumer Protection Act, 2005, to the defendant whereby he asked for damages but of no avail, hence, the instant complaint.

2. The defendant contested the complaint by filing written statement. He has contended that the claimant has no cause of action and locus standi to file this claim and the story narrated by him is concocted one. He has also contended that that the claimant and others only ate chicken biryani as it was delicious and left malai boti. The restaurant's staff cooperated with the claimant and did not receive the bill of malai boti.

3. At pre-trial stage, no one offered for settlement and then, the evidence of both the parties was recorded.

4. The claimant himself entered into the witness box as PW1 and also examined Muhammad Umair PW2. In addition to it the claimant produced the documentary evidence which is the bill Ex-P1, the receipt of post office Ex.P2, the copy of license Mark P/A, the copy of notice Mark P/B and the reply of notice Mark P/C. On the other hand, the defendant examined Abdul Hafeez DW and Khalid Mehmood DW2. They submitted their affidavits Ex-D1 and Ex-D2, and also produced the entries of order submitted by the claimant Mark D/A and the duplicate receipt Mark D/B.

5. Arguments heard, record perused.

6. The claimant as PW1 reiterated the contents of the complaint. In his cross-examination, he explained that he and others were served chicken biryani well in time but malai boti was not

served, therefore, that was not eaten. He paid bill of chicken biryani and mineral water and nothing paid for malai boti. Muhammad Umair PW2 was with the claimant when he went at the defendant restaurant for taking meal. He has fully supported the claimant's version. On the other hand, DW1 who is manager of the hotel through his affidavit Ex-D1 swore that the service of the restaurant was not faulty and that the claimant's companions themselves did not collect malai boti and returned to the restaurant's staff. No bill for malai boti was received. In his cross-examination, he admitted that the receipt Ex-P1 was issued by the hotel and the claimant gave an order of three plates of chicken biryani and one malai boti.

7. It is an admitted and proved fact that the claimant and two others went at the defendant restaurant and gave an order for three plates of chicken biryani and one malai boti. They were served with chicken biryani within ten minutes which they ate. The claimant's version is that malai boti was not served well within time and it was put on the dinning table when they had eaten biryani and thereby they returned malai boti. On the other hand, the defendant's version is that malai boti was served with chicken biryani and chicken biryani was delicious and the claimant and others returned malai boti. The bill was prepared by the defendant restaurant when the order for meal was given. The bill of Rs.1496/- was prepared when the waiter collected order but only chicken biryani was served to the claimant and others well within time, therefore, he paid the bill for chicken biryani, mineral water and service charges and the

bill of malai boti was not paid. From this fact, it may be inferred that the contention of the claimant is true that chicken biryani was served well within time which was eaten and malai boti was put on the dinning table with delay. As he and others already had taken chicken biryani, they returned malai boti. Malai boti was not consumed / eaten by the claimant and others, therefore, he paid nothing for that. It is not logically acceptable that malai boti was served by the restaurant's staff alongwith chicken biryani and the claimant and his companions just ate chicken biryani and did not touch malai boti. The plea taken by the defendant is not plausible rather than the claimant's version is logically acceptable. In the circumstances, the services rendered by the defendant restaurant were faulty thereby the claimant's claim is well founded. The claimant was rendered faulty services on 13.01.2018, while he gave notice to the defendant on 16.01.2018 and the claim was filed on 10.02.2018. The claimant accrued the cause of action on 13.01.2018 and the claim was filed within thirty days and the mandatory requirement of notice also was satisfied by him.

8. For what has been discussed above, the claim in hand is accepted and the defendant is directed to return the amount of Rs.926/- which was received as consideration from the claimant. The claimant was not provided appropriate services thereby he was shocked. Although, he has suffered no loss by not serving well in time malai boti by the defendant, yet he may be awarded damages u/s 31 (f) of the Punjab Consumer Protection Act, 2005, as it

appears appropriate. So the defendant is directed to pay Rs.10,000/- to the claimant as damages and he will also have to pay Rs.5000/- as expenses incurred on legal proceedings. The defendant is directed to comply with this order within sixty days 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. A copy of this order be also delivered to the claimant. After due completion, the file be consigned to the record room.

Announced
31.05.2018

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

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

Dated
31.05.2018

Presiding Officer,
District Consumer Court, Faisalabad.

Short order.**Present:-****The learned counsels for the parties.****ORDER**

Arguments heard, record perused.

2. Vide order dated even passed in English separately, the complaint in hand is accepted and the defendant is directed to return the amount of Rs.926/- which was received as consideration from the claimant and the defendant is also directed to pay Rs.10,000/- to the claimant as damages and Rs.5000/- as expenses incurred on legal proceedings. After due completion, the file be consigned to the record room.

Announced
31.05.2018

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