

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



Case No.77/2015

Date of Institution: 16.10.2017.

Date of Decision: 26-06-2018.

Malik Muhammad Rizwan S/O Malik Muhammad Asghar
R/O new Abadi Habib Purra, Tehsil and District Sialkot.

(Consumer/Claimant)

Versus

1. Gourmet Pakistan through Chairman Ch. Muhammad Nawaz Chattha, kot lakhpat, Lahore.
2. Gourmet Hajvari Foods Daska Road, Sialkot.
3. Ibrar Hussain, Branch Manager Gourmet, Naika Purra, Sialkot.

(Defendants)

CLAIM UNDER SEC. 25 OF THE PUNJAB CONSUMER
PROTECTION ACT, 2005.

Judgment:

Briefly stated facts of the case in hand launched under Sec. 25 of the Punjab Consumer Protection Act, 2005 are that Malik Muhammad Rizwan, claimant on 26.09.2017 purchased 01 litter Ice-Cream, (Kulfa Flavor) and a plane Bread against Rs. 199/- (One Hundred & Ninety Nine rupees) from defendant No.03. Same was served to the guests where suddenly an insect appeared in the Ice-Cream as a result of which all the guests and claimant got food poisoning; consequently they rushed to doctor who informed about food poisoning and infection. Defendant visited defendant No.02 & 03 and showed them the defective ice cream where defendant No.03 destroyed it. A pre- requisite legal notice was issued to defendants but no response thereof, hence, this claim with the

Attested

Registrar of 12-18
District Consumer Court
Sialkot

District & Sessions Judge

Malik Muhammad Rizwan VS Gourmet Pakistan, etc



02. Defendants appeared before the Court and while submitting their reply controverted the allegations leveled against them with the assertion that defendants prepared best quality products by following safety and health care rules. The claim has been filed just to harass and black mail the defendants, he is not entitled to any relief, as such the claim be dismissed with costs.

03. Reconciliation efforts remained fruitless and both the parties were invited to lead their respective evidence.

04. From the claimant side, P.W.1 Malik Muhammad Rizwan appeared in the witness box and produced P.W.2 Qasim Ali. They submitted their affidavits in evidence in the shape of Exh-P.1 & Exh-P.2, acknowledge the contents and signatures thereon. Counsel for the claimant, while submitting original purchase receipt of Ice-Cream Exh-P.03, copy of legal notice 'Mark-A', 04 number of snaps regarding disputed Ice-Cream Exh-P.4 tp Exh-P.07, original postal receipt in respect of issuance of legal notice Exh-P.07 to Exh-P.09 and closed the claimant's evidence.

From defendant side Ibrar Hussain, defendant No.03 appeared in the Court as R.W.01 and produced Umer Yaseen as R.W.02. Both the witnesses submitted their affidavits in evidence in the shape of Exh-R.01 & Exh-R.2, acknowledge contents and verified signatures thereon. Defendants counsel thereafter closed the oral as well as documentary evidence.

05. Arguments heard and record also perused.

06. Case of the claimant is that he purchased Ice-Cream from defendant No.03 Ibrar Hussain, Branch Manager Naika Pura, Sialkot which was being served when an insect was found in the ice-cream and thereby the guests started

(Conti....03)

Attested

Registrar 03-12-18
District Consumer Court
Sialkot

Malik Muhammad Rizwan VS

Gourmet Pakistan, et al



vomiting as a result of food poisoning. While making complaint to defendant No. 02 & 03 the said Ice-cream was destroyed.

Sale and purchase of the ice-cream is an admitted fact. As the ice-cream in question has not been produced in the Court and no technical report of chemical analysis of the same could be made available, therefore, important question as to whether the insect was already present in the ice-cream is to be determined through available evidence which has been thoroughly scanned but the standard of evidence excluding any doubt that the insect in the ice-cream was not entered at the start of time when it was opened and being served is not available on record. As for as the question that the ice-cream was destroyed is concerned no concrete evidence in this regard has been produced on the file. Food poisoning or any other sort of infection caused by the use of ice-cream in question has also not been produced during evidence. Medical prescription, the medicine used for the treatment of gastritis or food poisoning is also not available on record. Cases cannot be decided on the basis of surmises and conjectures. Required evidence to establish guilt of the defendants for manufacturing the ice-cream in unhygienic condition and not fit for human consumption is not available on the file. Therefore, complaint is declined for lack of evidence. File be consigned to the record room after its due compilation within the stipulated period.

Announced:
26-06-2018.

[Signature]
Presiding Officer
District Consumer Court
Sialkot/Narowal.

CERTIFICATE

Certified that this order contains three pages and each of pages is dictated, corrected and signed by me.

Announced:
26-06-2018.



[Signature]
Presiding Officer
District Consumer Court
Sialkot/Narowal.

نقل مطابق اصل ہے
محکمہ برادری و برادری
12-08-2018
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