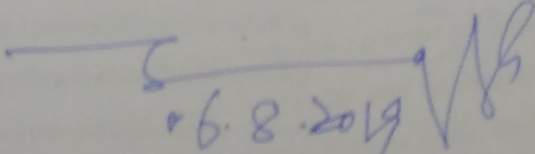


weather change it becomes down (102psi). In summer season when gas pressure becomes 135 to 150psi internal load will be **increased**". And " In my conclusion w.r.t. above three readings have average current is 3.7 Ampere but in summer season due to change in internal gas pressure and major difference in atmospheric temperature this average can be **increased**".

In these circumstances, there appears no reason to disbelieve the version of the complainant. It is therefore established that load of the aforesaid AC was much more than the asserted/assured by Respondent. Respondent sold a product to complainant with the false assertion about it load (ampere). Respondent is guilty of defrauding the complainant. In these facts and circumstances, complainant is held entitled to the return of sale price in the sum of Rs. 80,000/-. Sale price claimed by the complainant is reduced to Rs. 80,000/- in the given circumstances.

Nutshell of my above discussion is that petitioner/complainant has proved his case that aforesaid AC used power consumption more than one ampere. He has been defrauded by the respondent/defendant, therefore petitioner/complaint is entitled to receive/recover the price of aforesaid AC in sum of Rs. 80,000/- and applicant/complainant will return the aforesaid AC to respondent/defendant through the official of this court within two months and charges of the official are fixed in the sum of RS. 5000/- to be paid by the respondent/defendant. The fee/costs/expenses of the aforesaid TEVTA technical expert is fixed in sum of RS. 10,000/- which is also to be paid by the respondent to the technical expert within two months subject to issuance of receipt. The case is accordingly decreed in favour of complainant and against the Respondent/Defendant in the above terms. File be consigned to the record room after its due completion.



(MALIK LIAQAT ALI LANGRIAL)
Judge/P.O., D.C.C., D.G. Khan

Announced:
06-08-2019.

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Respondent remained appearing before this court. Ultimately, hearing was adjourned to 14-05-2019 but on 14-05-2019, none appeared for Respondent despite many repeated calls. In this view of the situation, Respondent/Defendant had been proceeded against ex-parte by this court and hearing was adjourned for arguments again (as my learned predecessor had been transferred from this court after hearing arguments).

4. I have heard the arguments and perused the record.

5. First of all it is notable that conduct of the respondent/defendant since the very inception, remained dubious. After appearing before this court, on the very next date, he absented himself from this court and this court had been constrained to issue BWA against Respondent/Defendant by showing lenience and grace to the respondent/defendant. Despite his admission and offer on 11-10-2018, he absented himself when technical report by the aforesaid official of TEVTA was submitted against him. He again disappeared, however, on the dates, when bar was observing strike he appeared before this court with the full knowledge that hearing would be adjourned automatically. Thus Respondent/Defendant is playing hide and seek with the court.

6. Contention of petitioner/complainant is that he was assured/informed that the load of aforesaid AC inverted was only one ampere. After installation and use, the load of said AC was much more than asserted/represented and assured. In the very first paragraph in his written version, respondent has admitted in the very clear terms that aforesaid AC was purchased by complainant/petitioner. Remaining version of Respondent/Defendant is also quite evasive. Complainant/petitioner has submitted affidavit in evidence that aforesaid AC was purchased by him. Its power consumption was much more than the asserted one ampere, whereas Respondent/Defendant had asserted that aforesaid AC consume only one ampere. Complainant/petitioner has also submitted affidavit that the contents of the complaint are correct to his knowledge and belief. The technical report of TEVTA made and submitted by Muhammad Subtain Haider, Electronics Application, GTTI, (TEVTA) Dera Ghazi Khan strongly reflects again Respondent/Defendant. In nutshell it goes as under:-

It has been concluded by aforesaid Instructor Electronics Application "in summer season gas pressure should be 135 to 150psi. Due to

MAJIK LAQAT ALL LANGRHAL
District & Sessions Judge
DISTRICT CONSUMER COURT
Dera Ghazi Khan

26.8.2019

MS

Warning to the respondent
filling of written statement on 0
production of
2018, parties
this court
order in
terms-

26.8.2019

Warning to the respondent that no further adjournment shall be given for filling of written version. Accordingly, Respondent submitted his written statement on 08-10-2018. Hearing was adjourned to 11-10-2018 for production of evidence/affidavit and preliminary arguments. On 11-10-2018, parties alongwith their respective learned counsels appeared before this court and preliminary arguments were heard. This court passed the order in view of admission of the defendant/respondent in the following terms:-

"After hearing the parties and an account of **admission** of the defendant that he while selling the AC in question to the complainant told him its quality that, it after being inverted to DC would consume electricity only 1.5 to 2.00 ampere. After this admission of the defendant the entire case is focused on the question how much the AC in question actually consumes electricity after being inverted to DC because the defendant sticks to stance that the ampere consumption rate is 1.5 to 2.00. Eventually, the parties come to a settlement that if the statement of the defendant is technically correct, then the complaint shall stand dismissed and otherwise the defendant be held at fault and he shall be liable to remediate the complainant in accordance with law. It is also undertaken by the parties that they shall abide by the statement of expert regarding the quality of electricity consumption of the AC in question i.e. Mitsubishi Electric Inverter AC 1.5 Ton Model No. HJ50VA and the payment cost/expenses of the expert for appearance etc in the court shall also be the liability of the party who is found at fault.

Let the Electronics Engineer of TEVTA, D.G. Khan be summoned for getting recorded his statement in above terms on 23-10-2018".

On 30-10-2018 both rival parties appeared before this court. Muhammad Subtain Haider, Electronics Instructor, TEVTA, Dera Ghazi Khan also appeared and submitted his technical report in compliance of interim orders dated 11-10-2018 and 23-10-2018. From 30-10-2018, hearing had been adjourned to 07-11-2018. On 07-11-2018, both rival parties alongwith respective counsels had been present for arguments (on the report submitted by the expert of TEVTA) and arguments had been heard and hearing was adjourned to 08-11-2018 for order. On 23-11-2018, after passage of two dates learned counsel for Respondent again sought adjournment for further arguments. Accordingly his request was exceeded to and hearing was adjourned to 04-12-2018. On subsequent dates, advocates had been observing strikes. Neither respondent nor his learned counsel appeared before this court. However, clerk of learned counsel for

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MALIK LAQAT ALLANGRIAL
District & Sessions Judge
DISTRICT CONSUMER COURT
Dera Ghazi Khan

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IN THE COURT OF MALIK LIAQAT ALI LANGRIAL,
DISTRICT & SESSIONS JUDGE, PRESIDING OFFICER,
DISTRICT CONSUMER COURT, DERA GHAZI KHAN

Qazi Muhammad Ghayias ul Din Versus Chief Executive, Foreign Electronics.
Complaint /Case No: 56/2018.

COMPLAINT ABOUT DEFECTIVE PRODUCT.

ORDER
06-08-2019

Precisely, facts of the instant complaint/petition are that initially complainant/petitioner moved an application to Deputy Commissioner/Authority, District Consumer Protection Council. He contended in the said petition as well as instant complaint that petitioner/consumer purchased a DC inverter Air Conditioner (AC) of Mitsubishi Company for the price in the sum of Rs. 90,000/- and got installed before the Holy month of Ramdan. At the time of purchase, the consumer (petitioner) was informed by the respondent/shopkeeper that the load of aforesaid AC inverter use was only one ampere. But after installing and use, the aforesaid AC, the complainant/petitioner was shocked to know and find that load of the aforesaid AC was much more than asserted.

2. According to the complainant/consumer, he contacted respondent telephonically and also sent legal notice to him on 14-06-2018 and informed him the whole story and requested respondent to get returned the aforesaid AC. The respondent after receiving the legal notice, did not respond positively to the complainant/consumer and he sought the replacement of the aforesaid AC or return the same or any other relief/compensation. That the Authority u/s 2(b) is filling the claim u/s 23(2) of PCPA-2005.

3. After moving of aforesaid complaint, in due course of law, respondent appeared before this court on 03-09-2018. But strangely, on the very next date i.e. 07-09-2018 he absented himself and this court, to dispose of this complaint in fair and just manner, again summoned the respondent through BWA for 24-09-2018. On 24-09-2018 defendant /respondent appeared again before this court alongwith his learned counsel namely Muhammad Nadeem Ansari, who filed his power of attorney for respondent. Hearing was adjourned to 08-10-2018 with the

06.8.2019
MALIK LIAQAT ALI LANGRIAL
District & Sessions Judge
DISTRICT CONSUMER COURT
Dera Ghazi Khan