In the Court of Judge Mahar Tahir Nawaz Khan
District & Sessions Judge/ Presiding Officer
Consumer Court Districts Sheikhupura, Nankana-Sahib, Kasur & Lahore.

Complaint No	615/2017
Date of institution	05-12-2017
Date of decision.	31-01-2018

SALMAN BUTT S/O MUHAMMAD AFZAL BUTT R/O STREET NO. 2, HOUSE NO. 13, CHULAM MUHAMMAD BHATTI COLONY, CHANDRAI ROAD, CHUGNI AMAR SIDHU, LAHORE.

Complainant

V/S

1. **NAEEM ELECTRONICS, BRANCH PECO ROAD, LAHORE (THROUGH ITS PROPRIETOR)**

2. **INCHARGE OPPO SERVICE CENTER IT TOWER, EXECUTIVE FLOOR OFFICE NO. 2, GULVERG-III HALI ROAD, LAHORE (THROUGH ITS MANAGER/PROPRIETOR)**

Respondents

SUIT FOR RECOVERY OF DAMAGES OF RS. 2,00,000/- ALONGWITH LEGAL EXPENSES.

Order.

1. The case of the complainant is that he purchased mobile phone OPPO F-1-S with warranty of one year from respondents on 16-03-2017 against Rs. 37,200/- on installments. Allegedly the said mobile was sub-standard and its functions were not as claimed by defendants, after 05 months of purchase, its display and blinking was disturbed. Defendants were contacted and requested for replacement of mobile because it was not working properly. Complainant approached the defendants time and again to resolve the mater and claim his warranty but the defendants refused to accept the genuine request of complainant and misbehaved him for which complainant suffered mental torture and agony. Complainant issued legal notices to respondents to redress his grievance, but in vain, hence the present complaint. Complainant prayed this Court to grant a decree in his favour for recovery of damages to the tune of Rs. 2,00,000/- on account of compensation.

2. Respondent was No. 2 was served through Shaiq receptionist but no one appeared on his behalf, hence he was proceeded against ex-parte vide order dated 14-12-2017. Respondent No. 1 was served through one Farhan, but no body also appeared on his behalf so he was also proceeded against Ex-parte vide order dated 16-01-2018.

3. Complainant was directed to produce ex-parte evidence. Complainant appeared himself in witness box as Pw-1. He also produced his affidavit Ex-P/1 as his examination in chief, warranty card Ex-P/2, legal notices receipts Ex-P/3 to Ex-P/4, complaint token No. 077 as Ex-P/5, copy of legal notice as Mark-P/A clearance certificate of installment as Mark-P/B. Atif Ali appeared as Pw-2. He produced his affidavit as ExP/6 and complainant ex-parte evidence was closed.

4. Ex-parte arguments heard. Record perused.

5. Bare perusal of complaint shows that disputed mobile was purchased on 16-03-2017 and after five months its display and blinking was disturbed, which means that cause of action accrued to the complain on 16-08-2017, complainant did not mention in the complaint what was the date of issuance of legal notice but the copy of legal notice available on file as Mark-P/A bears the date 09-11-2017 and the complaint was filed on 05-12-2017. The instant case should have been filed till 16-09-2017. Present complaint filed with the delay of 03 months. Section 28 of the Punjab Consumer Protection Act 2005 clearly clarifies that claim should be filed within 30 days from arising of cause of action. Claim is hopelessly time barred.

6. Ex-P/B shows that two installment to the tune of Rs. 6200/-were still outstanding against complainant, which means that total consideration has not been paid by complainant so he cannot be presumed as consumer.

7. Although in the instant complaint, respondents have proceeded against ex-parte and present complaint is now ex-parte but it is the duty of court to deliver just and fair decision according to the law.

8. Keeping in view the above said discussion, complainant has failed to prove his complaint, hence is dismissed. File be consigned to the record room after its due completion.

Judge Tahir Nawaz Khan
D&SJ/Presiding Officer
District Consumer Court LHR.

Announced
31-01-2018

It is certified that this Order consists of three pages which have been dictated, corrected and signed by me.

Presiding Officer
D&SJ/P.O, DCC, LHR

Announced
31-01-2018