

**IN THE COURT OF BAKHT FAKHAR BAHZAD,
DISTRICT & SESSIONS JUDGE/JUDGE CONSUMER COURT
GUJRAT**

CASE NO. 10-2017
Date of institution: 30-01-2017
Date of decision: 10-04-2017

Syed Suleman Shah Bokhari S/O Syed Yaseen Shah Bokhari, R/O New Murghzar Colony, Bhimber Road, Bujrat City.

Claimant

Vs

Imran Alias Poma, Proprietor Imran Furniture House R/O Mohla Rangpura, Gujrat.

(Defendant)

*Present: Claimant Syed Suleman Shah Bokhari Ali along with his counsel Ch. Aamir Javid Gural Advocate.
Defendant ex-parte*

COMPLAINT/CLAIM UNDER SECTION 30 OF PUNJAB CONSUMER PROTECTION ACT,2005

Judgment:

1. By filing this claim under section 25 of Punjab Consumer Protection Act, 2005 (herein after referred to as "Act" for brevity) against the defendant, Syed Suleman Bokhari claimant has asserted that on 09-11-2016 at 04:00pm he approached the defendant on his showroom and selected the design of table and for preparing the same he paid Rs.20,000/- to the defendant and it was agreed between the parties that defendant shall prepare the table as per design selected by the claimant. On 05-12-2016 the defendant prepared the table and handed over to the claimant which was not found according to requirement, on this he made complaint to the defendant who went to his office for inspection and himself noticed defects and agreed to remove these defects. Therefore, as per commitment after removing the defects in the table it was agreed that he shall deliver the Table in the office of claimant on 08-12-2016 but the defendant did not honour his commitment and the matter has been putting off on one pretext or the other. On 09-01-2017 claimant sent legal notice to the defendant who refused to accept the same, hence the claimant has

constrained to file the instant claim before this court with the following prayer

- 1 Original Price of Table Rs.20,000/-
 - 2 Rent for table Transportation Rs.3,00/-
 - 3 Claim for mental torture and harassment Rs.50,000/-
 - 4 Counsel fee Rs.15,000/-
 - 5 Litigation expenses Rs.10,000/-
 - 6 Transportation expenses Rs.5,000/-
 - 7 Damages for defective services Rs.50,000/-
2. The defendant was summoned through TCS as well as through messenger of this court. The messenger of this court Zulfiqar Ahmad has submitted his report that the defendant has been duly served and copy of claim has been handed over to him. In this regard a separate statement of the messenger has been recorded. As the defendant has intentionally did not appear before the court therefore he is being proceeded ex-parte.
3. After availing opportunity of listening ex-parte arguments and pursuing the data available, I have given my anxious consideration on the facts and circumstances of the case, perused the claim and all documents annexed thereto minutely and has also gone through the relevant provisions of law. Before proceeding further it would be appropriate to place on the record relevant provisions of Punjab Consumer Protection Rules, 2009 and are hereby reproduced as under:-
- “14 (5) if the defendant fails to appear on the day of hearing , the Court may decide the claim ex-parte on the basis of documents available on the record or adjourned it”.
4. After doing the said exercise I have straight way observed that Rule 14(5) of Punjab Consumer Protection Rules,2009 authorize this court to decide the claim ex-parte if defendant fails to appear on the day of hearing. As earlier mentioned despite of service the defendant has failed to appear before this court. Therefore I have again peeped into the claim filed by the claimant alongwith all documentary evidence and have observed that contents of claim of claimant which have been referred supra are supported by an affidavit and there is no rebuttal of these contents from

defendant side. Copy of legal notice sent to the defendant is also part of judicial file and postal receipt annexed with claim shows that the same was dispatched to the defendant on 30-01-2017. Acknowledgment due card is also attached with the judicial file.

5. Claimant purchased Table from the defendant for consideration of Rs.20,000/-, in these circumstances relationship of consumer and manufacturer as defined in section 2 (h) between the parties has been established.

6. In view of the above, I feel no hurdle to hold that defendant is liable for selling defective product i.e Table to the claimant due to which reason claimant definitely suffered financial loss, also suffered agony and inconvenience due to supply of defective product.

7. In view of above, claimant has succeeded to prove his claim. Coming to question of relief, the claimant has not annexed the certificate of fee of counsel as required under section 28 (3)PCPA2005 & Rule 13 PCPR 2009, therefore the same can not be granted as prayed for. Moreover, the claim for damages of mental torture, reputation and insult has been mixed up. The claim of transportation of worth Rs.5,000 & 300/- also seems to be exaggerated. However, to some extent relief of compensation is liable to be granted although the same has not been specifically prayed for.

8. Therefore in terms of section 30(1) and section 31 of the Act, this court issue an order to defendant to take following steps within one month from today

1. To replace Table with new product of similar description and price which shall be free from any defect.
2. To pay lawyers fee of Rs.10,000/- which incurred on the legal proceedings instead of Rs.15000/-as demanded.
3. To pay Rs.10,000/- as compensation to claimant due to defective product.

Disposed off.

9. File shall be consigned to record room after its due completion. Copy of this judgment shall be sent to defendant through post by Registrar of this court forthwith.

Announced: 10 -04-2017

BAKHT FAKHAR BAHZAD
District & Sessions

Judge/

judge Consumer

Court Gujrat.

Certificate:-

It is certified that this judgment consists of three pages. Each page has been dictated, read, corrected and signed by me.

Announced: 10 -04-2017

Judge consumer court

GUJRAT.

Present: Claimant Syed Suleman Shah Bokhari in person.

Ch.Aamir Javid Gural Advocate Counsel for the complainant.

Ex-parte evidence has been recorded today. After recording ex-parte evidence, ex-parte arguments have been heard, record perused.

Vide my detailed separate order written in English language of even dated, the complaint in hand is hereby accepted in favour of the complainant and against the respondent to the extent of following order

- 1. To replace Table with new product of similar description and price which shall be free from any defect.*
- 2. To pay lawyers fee of Rs.10,000/- which incurred on the legal proceedings.*

3. To pay Rs.10,000/- as compensation to claimant due to defective product.

File be consigned to record room.

Announced: 10-04-2017

BAKHT FAKHAR BAHZAD

District & Sessions

Judge/

judge Consumer

Court Gujrat.