

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

Complaint No	231/2013
Date of institution	21.10.2013
Date of decision	04.01.2017.

Zafar Iqbal S/o Muhammad Ashraf R/o House No.75-A Peoples Colony No.1, Faisalabad.

Versus

1. M/S EXIDE situated at A-44 Hills Street of Manghu Peer Road, S.I.T.E, Karachi through Chairman.
2. Waseem Electronics situated at Green Town Faisalabad and dealer EXIDE Battery through its proprietor.

Claim u/s 13 & 25 the Punjab Consumers Protection Act, 2005.

ORDER:

The facts giving rising to this complaint are that the claimant purchased an Exide Battery from defendant No.2, the manufacture of which was defendant No.1, for consideration of Rs.14,000/- and obtained receipt and warranty card. The defendant assured that if the battery did not work properly, that would be returnable. The claimant installed the battery to his UPS but that did not work. After 2/3 days, he contacted with defendant No.2 and told that the battery was not functioning. He received the warranty card and battery from the claimant and promised to replace the battery and if he failed to replace the battery, he would pay back the amount of Rs.14,000/-. After that, the claimant for many times visited the shop of defendant No.2 and asked him to redress his grievance but of no avail. On 16.09.2013, defendant No.2 demanded one half of the sale price of the battery for handing over

him a new battery, but he refused. As the defendants sold him a defective product, they were under liability to fulfill their obligation as per terms and conditions of warranty but they failed. The claimant on 16.09.2013, gave a notice to the defendants u/s 28 (1) of the Punjab Consumers Protection Act, 2005, but no reply, hence, the instant complaint.

2. The defendants were summoned through the Process Server and registered post. Defendant No.2 appeared before the court while defendant No.1 was proceeded against ex-parte. Defendant No.2 submitted his written reply by contended that the claimant purchased an Exide Battery from his shop on 17.05.2013 but after three and half months, his battery stopped working. He came to his shop for change of battery and made a claim. The claimant insisted for a new battery which was not possible for him as the battery had been used for four months and as per terms and conditions of warranty card, half amount only could be claimed after three months usage. On 19.12.2016, no one appeared on behalf of the defendants and as such, they were proceeded against ex-parte and the ex-parte evidence of the claimant was collected.

3. Arguments heard, record perused.

4. The claimant while appearing before the court as PW-1 submitted his affidavit Ex-P1 and reiterated the contents of his complaint. Irfan Hameed PW-2 fully supported the claimant's version by filing his affidavit Ex-P2. The receipt Ex-P3 shows that an Exide Battery was sold by Waseem Electronics (defendant No.2)

for Rs.14,000/-. The warranty card of the battery is Ex-P4. The record shows that the battery was not used by the claimant for the period more than three months as stated by defendant No.2. As per his version, when he connected with UPS but the battery did not work properly and after 2/3 days, he contacted with defendant No.2 and told him that the battery was defective. It shows that from the very first day, the battery did not work properly and a manufacturing fault was in it. As per warranty, the defendants were under obligation to change the battery by new one. The evidence produced by the claimant has not been rebutted thereby this court has no option but for accepting the ex-parte evidence of the claimant as true. The battery sold to the claimant was defective and as per terms and conditions of the warranty card, the defendants are bound to replace the battery by new one or pay the price thereof. Hence, the complaint in hand is accepted and the defendants are directed to replace the battery in question by new one or pay the price amounting to Rs.14,000/-. Section 10 of the Punjab Consumers Protection Act, 2005, restricts to grant damages, where the consumer has not suffered any damage from the product except the loss of utility. The claimant only suffered the loss of utility and no further damage was caused, therefore, he is not entitled to damages, however he is held entitled to costs amounting to Rs.6000/- incurred on legal proceedings. The defendants are directed to comply with this order within thirty days and if they fail to comply with this order, the proceedings u/s 32 (2) of the Punjab

Consumers Protection Act, 2005 will be initiated against them. The Registrar of this court is directed to send a copy of this order to the defendants free of costs and the receipt thereof be ensured and got acknowledged. After due completion, the file be consigned to the record room.

Announced
04.01.2017

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

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

Dated
04.01.2017

Presiding Officer,
District Consumer Court, Faisalabad.

Short order

Present:-

The learned counsel for the claimant.

ORDER

Arguments heard.

2. Vide order dated even passed in English separately, the complaint in hand is accepted and the defendants are directed to replace the battery in question by new one or pay the price amount to Rs.14,000/- and to also pay Rs.6000/- as costs incurred on the legal proceedings. After due completion, the file be consigned to the record room.

Announced
04.01.2017

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