

**IN THE COURT OF MUHAMMAD KALEEM SHEIKH,  
PRESIDING OFFICER / DISTRICT & SESSION JUDGE,  
DISTRICT CONSUMER COURT, FAISALABAD.**

<b>Claim No:</b>	<b>279/DCC-2008.</b>
<b>Date of Institution of Claim</b>	<b>29.11.2008.</b>
<b>Date of decision</b>	<b>09.01.2009.</b>

**WAQAS AHMAD**

**Vs.**

**MUHAMMAD RASHID, ASSISTANT MANAGER, FESCO, etc.**

CLAIM FOR RECOVERY OF DAMAGES /COMPENSATION Rs.125,000/-

U/S.13, 25 OF PUNJAB CONSUMER PROTECTION ACT,2005.

**ORDER:-**

1. Facts discerning this case in nutshell are that, the claimant Waqas Ahmad is the resident of the Chak No.209/R.B, Faisalabad and he is the consumer of electricity to his said premises under Account No.06-3138-07034007-R, Tariff A-1(01) , S/L 3K.W in the name of Mussarat Afza of domestic electricity connection provided by the FESCO. The claimant was never negligent or defaulter to pay the electricity bill on each and every month as he has paid the last bill for the month of June, 2008 amounting to Rs.1378/- payable on or before 25.06.2008. However, the defendants illegally, unlawfully and without notice disconnected the electricity supply of the father of the claimant on 17.06.2008 and took away the meter etc from the site against the above said account installed in the name of Muhammad Iftikhar. The claimant temporarily gave the electricity supply to facilitate his father and his family members in the hot season which was neither an offence nor violation of Abridged Conditions of supply according to the policy of the company. However, the defendants removed the claimant's electric meter from the site on 25.06.2008 at about 12:30 P.M against which the claimant preferred an application regarding such occurrence in the Police Station Sadar for registration of crime case against the FESCO officials as the defendants had knowingly, contumaciously and maliciously deprived the claimant from the due services for

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which the defendants are legally, contractually and ethically duty bound to provide which they have admittedly not provided without any just cause, cogent and plausible reason hence, the claimant has lodged this claim for recovery of an amount 1,75,000/- for loss of physical, mental torture, loss of reputation and loss of inconvenience. Muhammad Rashid, Assistant Manager Operation, FESCO (defendant No.1) also lodged a complaint at the Police Station Sadar with the allegation that the claimant was found to steal the electricity by tempering with the meter but the same was cancelled on inquiry having been found false. The claimant reminded the FESCO officials for restoration of electricity energy to his premises under the above said tariff account as well as for re-installation of electricity meter but in vain causing mental and physical torture as well as disgrace to him.

2. The defendants have vehemently opposed the claim by filing their statement of defence inter-alia on the ground that, the FESCO Authorities have neither dislodged the claimant's electricity of his premises nor disturbed the electricity supply there with the further contention that there is serious litigation between the parties in the Civil Court at Faisalabad that, therefore, the claimant has lodged this false claim in retaliation there of. As the matter needed evidence, therefore, the claimant Waqas Ahmad has appeared as Pw-1 as he submitted his affidavit as Ex.PW-1/1 in support of his version. In his documentary evidence the claimant has tendered the Ownership of 2004-05 dated 16.09.2008 as Ex.P-1, legal notice dated 28.06.2008 as Ex.P-2, postal receipts as Ex.P-3 to Ex.P-9, Postal receipts A.D as Ex.P-10 to Ex.P-12, Receipt of Legal Counsel Fee as Ex.P-13, Photographs as Ex.P-14 to Ex.P-19, the documents in Re: Muhammad Shafiq Vs. FESCO, etc as Ex.P-20 to Ex.P-22, copy of electricity bill for the month of June, 2008 as Mark-A, copy of Notification No.922-25 dated 29.01.1999 as Mark-B, copy of application for registration of case dated 27.06.2008 as Mark-C, copy of

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Certificate issued by Faisalabad College of Commerce as Mark-D. In rebuttal, Muhammad Akram, Line Man, Assistant Manager Operation Office (Defendant No.2) got recorded his statement as DW-1 through his affidavit as Ex.DW-1/1 in support of the defendant's contention. In documentary evidence, the defendants have adduced the electricity bill as Ex.D-1.

3. After conclusion of evidence of the parties I have heard both the sides at length and carefully perused the documentary evidence as produced by both the sides.

4. From the facts readily available on record, on critical appreciation of evidence, the matter has been confined to the core moot able point as to whether or not the defendants have disconnected illegally the electricity supply to the claimant's premises on 25.06.2008 at about 12:30 P.M. From the evidence on record, it appears that the claimants lodged a complaint in this regard at the Police Station Sadar, that the defendant No.1 Muhammad Rashid, Assistant Manager Operation also lodged a crime complaint against the claimant for theft of electricity at the same Police Station which was cancelled having been found false. Although, Muhammad Akram, Line Man, office of the Assistant Manager Operation, FESCO (DW-1) has denied the disruption and disconnection of the electricity supply to the claimant's premises in his affidavit Ex.DW-1/1 but the documents in support of the claimant provide beacon light to resolve the controversy between parties. Mark-C is the copy of an application showing that soon after disconnection of electricity supply of the claimant's premises; the claimant went to the Police Station Sadar, Faisalabad for lodging the crime case against the FESCO Authorities concerned on the same day. As the Station House Officer of Police Station Sadar, Faisalabad was hesitant to file crime case against the FESCO officials, hence, the claimant approached D.I.G Police (Operation) Faisalabad for registration of crime case vide his application. The FESCO

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Authorities also submitted a complaint before the Station House Officer of Police Station Sadar, Faisalabad for theft of electricity energy by the claimant in his premises but on investigation this complaint was found false. It is very strange to note that Muhammad Rashid (the defendant No.1) dared not to appear in rebuttal of such document and Muhammad Akram, Line Man (defendant No.2) appeared as DW-1 remained mum about the authenticity of such documentary evidence, hence, the same has attained authenticity.

5. From the above said facts on record, on close scrutiny of evidence; I have squeezed out with clarity the following points:

A- *The statement of Waqas Ahmad (PW-1) supported by documentary evidence as referred above is worth believing, confidence inspiring, cogent and coherent;*

B- *The non appearance of Muhammad Rashid, Assistant Manager Operation (defendant No.1) in support of his version that he never disconnected the electricity connection to the claimant's premises goes adverse to the stand of FESCO, Faisalabad as the claimant raised direct allegation in this regard but he dared not to appear in witnesses box.*

C- *Although, Muhammad Akram, Line Man, DW-1 has denied to have removed the electricity meter from the claimant's premises but he has been unable to say even a single word in rebuttal of documents Mark-C, Therefore, the persons may tell a lie but not the documents, hence, evidentiary value of the statement of Muhammad Akram, Line Man, DW-1 is hereby discarded.*

6. The upshot of the above whole discussion is that, the defendants (the FESCO Authorities) have illegally disconnected the electricity connection to the claimant's premises in the month of June, 2008 which is the period of scorching heat causing mental and physical torture and disturbance to the claimant and his family members and, thereafter, re-installed the meter on 04.07.2008 in order to

provide the shelter of their illegal act, therefore, it has been proved that their services are faulty and defective, hence, the consumer / claimant is entitled to the damages for faulty and defective services for non providence of electricity energy to the claimant's premises in between the period of 25.06.2008 to 04.07.2008. However, as regards the quantum of compensation, it is consumer's forum to pay an appropriate amount by way of compensation to the claimants for any loss and injury suffered by them due to the negligence of the opposite party, hence, the defendants shall pay an amount of Rs.15,000/- to the claimant as damages / compensation whereas they shall further pay an amount of Rs.10,000/- as legal expenses i.e total amount of Rs.25,000/-. The defendants shall pay the above said amount to the claimant within a period of thirty days, otherwise, they shall be dealt with U/S.32 (2) of the Punjab Consumer Protection Act, 2005. With these observations file be consigned to the record room after its due completion.

Announced  
09.01.2009.

Muhammad Kaleem Sheikh,  
Presiding Officer/  
District & Session Judge,  
District Consumer Court, Faisalabad.

Certified that this judgment consists of five pages, dictated, signed and corrected by me.

Muhammad Kaleem Sheikh,  
Presiding Officer/  
District & Session Judge,  
District Consumer Court, Faisalabad.