

88/24

IN THE SUPREME COURT OF PAKISTAN
(Appellate Jurisdiction)

PRESENT:

Mr. Justice Sardar Tariq Masood
Mr. Justice Mazhar Alam Khan Miankhel

C.P.L.A.NO.944-L OF 2014

(against the judgment dated 02.06.2014 passed by Lahore High Court, Lahore in FAO No.305/2014)

Raja Shahzad Ahmad

Petitioner

VERSUS

*Incharge Baggage Routing Pakistan
International Airline, Lahore and others*

Respondents

For the Petitioner	:	Mr. Muhammad Rafique Shah, ASC (Through Video Link Lahore)
For the Respondents	:	N.R.
Date of Hearing	:	18.11.2024

JUDGEMENT

Mazhar Alam Khan Miankhel, J. The petitioner through instant petition for leave to appeal has questioned the impugned order dated 02.06.2014 of the Lahore High Court, Lahore whereby his first appeal against order dated 14.03.2014 passed by Presiding Officer, District Consumer Court, Sheikhpura was dismissed.

2. We have heard the learned counsel for the petitioner and have gone through the available record. The record of the case would reflect that the claim of the petitioner against the respondents regarding missing of his family baggage was dismissed on the ground of limitation only. As per record, the cause of action accrued to him on 15.11.2010 whereas he filed the complaint before the Consumer Court on 14.03.2011 after a period of four months whereas section 28 sub-section 4 of the Punjab Consumer Protection Act, 2005 provides a period of limitation of 30 days from accruing the cause of action. The complaint was no doubt, hopelessly time

barred. The learned counsel for the petitioner tried to argue that his application under section 5 of the Limitation Act, 1908 was not considered at all by the Consumer Court or by the High Court. The argument of learned counsel for the petitioner, on the face of it, is totally based on misconception of law. The Act of 2005 does not provide application of Limitation Act 1908 rather proviso to subsection 4 of section 28 of the Act, 2005 empowers the Consumer Court to condone the delay in filing a plaint if a sufficient cause is shown to the satisfaction of the court. Except the provision of subsection 4 and the proviso, application of Limitation Act has not been provided. Section 29 of the Act 1908 provides that any period of limitation provided in any special or local law would be considered as if provided by the first schedule of the Limitation Act and the provisions of section 3 of the Limitation Act would be applicable. Similarly, subclause a of section 29 (2) also excludes the application of section 5 for condonation of delay. For ready reference, the provisions of section 3 and section 29 are reproduced herein below:-

3. Dismissal of suit, etc., instituted, etc., after period of limitation.

– Subject to the provisions contained in sections 4 to 25 (inclusive), every suit instituted, appeal preferred, and application made, after the period of limitation prescribed therefor by the first schedule shall be dismissed, although limitation has not been set up as a defence.

Explanation.....

29. Savings-.....

(2) Where any special or local law prescribes for any suit, appeal or application a period or limitation different from the period prescribed therefor by the first schedule, the provisions of section 3 shall apply, as if such period were prescribed therefor in that schedule, and for the purpose of determining any period of limitation prescribed for any suit, appeal or application by any special or local law-

a) The provisions contained in section 4, section 9 to 18, and section 22 shall apply only in so far as, and to the extent to which, they are not expressly excluded by such special or local law; and

b)

3. Besides the above, the provisions of section 28 (4) and the first proviso of the Act, 2005 are also reproduced to understand the situation.

28. Settlement of Claims.- (1).....

(2).....

(3).....

(4) A claim by the consumer or the Authority shall be filed within thirty days of the arising of the cause of action:

Provided that the Consumer Court, having jurisdiction to hear the claim, may allow a claim to be filed after thirty days within such time as it may allow if it is satisfied that there was sufficient cause for not filing the complaint within the specified period:

A look at the above provisions of law makes it clear that section 5 of the Limitation Act in the given situation, is not applicable to the proceedings before the Consumer Court and the argument of the learned counsel in this regard has no legal force at all. When confronted, the learned counsel for the petitioner had no answer much less plausible to meet the situation.

4. This petition having no force at all is dismissed as such and leave refused.

Islamabad

18.11.2024

Approved for Reporting

Nufan Aslam