

**IN THE HIGH COURT OF SINDH,
AT KARACHI**

C. P. No. D-4630 of 2025

Present:

Yousuf Ali Sayeed and
Muhammad Osman Ali Hadi, JJ

Petitioners : Imtiaz Hussain Kazi & others
through Ravi Pinjani & Hamza
Hidayatullah, Advocates.

Respondents No.1&2 : Parwaz Express (Private)
Limited through Muhammad
Ali Akhtar, Advocate.

Official Respondents : Muhammad Hisham Mahar,
Assistant Advocate General
Sindh.

Date of hearing : 25.03.2026.

ORDER

YOUSUF ALI SAYEED, J. - The Petitioners impugn the Orders made by the Consumer Court Karachi East and learned VIIIth Additional District and Session Judge Karachi East on 24.02.2025 and 11.08.2025 in Consumer Complaint No. 38/2024 (the “**Complaint**”) and Consumer Appeal 12/2025 respectively, the first of which dismissed their Complaint under the Sindh Consumer Protection Act, 2014 (the “**Act**”) as being time-barred in terms of Section 29(4) thereof, with the second upholding that measure. While the Petitioners also assailed the very statutory provision as being inconsistent with Articles 9 and 10 of the Constitution, that part of challenge was not pressed at the time of arguments, with the scope of the proceedings being circumscribed accordingly.

2. Through the Complaint, as presented on 26.09.2024, the Petitioners claimed compensation and damages on account of what was termed by them as “faulty travel agent services”, stating that they had booked airline tickets through the Respondent No.1 a registered travel agency, whose authorized representative, the Respondent No.2 had, suggested a return from Sarajevo airport on 28.07.2024 using a combination of carriers with multiple transits, firstly through Pegasus Airlines to Istanbul and then from there to Karachi on Emirates Airlines, via Dubai. The Petitioners allege that they had expressed concern regarding the transfer of their checked-in luggage between the two airlines but had been assured by the Respondent No.2 that the same would be handled seamlessly. However, it transpired that they had to collect and then check-in their luggage again at Istanbul, hence missed their onward flight due to the short layover and had to book alternate passage, resulting in anguish, inconvenience and additional cost.

3. An Application under Section 29(4) of the Act was preferred along with the Complaint, seeking condonation of the delay in its filing, which was allowed by the Consumer Court on 26.09.2024 though an endorsement made to that effect on the face thereof. As per the Petitioners, the matter of limitation thus attained finality, however, upon the Respondent No. 1 then filing an Application under Order 7 Rule 11 CPC on 16.10.2024, the Complaint came to be dismissed on the same ground, with the Order made in that regard being upheld on appeal, as aforementioned.

4. The Petitioner's challenge essentially turns on the assertion that the dismissal Order could not have been passed in the wake of the earlier Order made on their Application and was unwarranted in view of the scope for relaxation under the overall scheme of Section 29, which reads as follows:

29. (1) A consumer who has suffered damage, or Authority in other cases, shall, by written notice, call upon a manufacturer or provider of services that a product or service is defective or faulty, or the conduct of the manufacturer if service provider is in contravention of the provisions of this Act and he should remedy the defects or give damages where the consumer has suffered damage, or cease to contravene the provisions of this Act.

(2) The manufacturer or service provider shall within fifteen days of the receipt of the notice, reply, thereto.

(3) No claim shall be entertained by a Consumer Court unless the consumer or the Authority has given notice under sub-section: (1) and provided proof that the notice was duly delivered but manufacturer or service provider has not responded thereto.

(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:

Provided further that such extension shall not be allowed beyond a period of sixty days from the expiry of the warranty or guarantee period specified by the manufacturer or service provider and if no period is specified one year from the date of purchase of the products or providing of service.

5. Proceeding with his submissions, learned counsel for the Petitioner invited attention to an Order endorsed at the foot of the Application, signifying that the same stood allowed with the delay being condoned, and pointed out that no appeal, revision or other challenge had been made thereagainst so as to argue that the matter had thus attained finality in terms of Section 35 of the Act. He contended that the Consumer Court had then erred in entertaining and allowing the Application under Order VII Rule 11 CPC as one under Section 36 of the Act by exercising the powers under that provision to dismiss the Complaint, rather than proceeding to adjudicate the same on merits.

6. He submitted that the fora below had lost sight of the fact that the Act constituted beneficial legislation intended to safeguard the rights of consumers, and that its provisions ought to be interpreted in favour of extending relief rather than being restricted by technicalities. He pointed out that Section 29(4) conferred wide powers for condonation of a delay up to one (1) year and argued that the same ought to be exercised liberally, whereas in the instant case the condonation earlier granted had been reversed so as to dismiss the Complaint. He argued further that the Consumer Court had exercised a jurisdiction not vested in it by law while treating the Application under Order VII Rule 11 CPC as one under Section 36 of the Act and exercising powers under that provision, which pertained to the dismissal of a complaint on the ground of being either frivolous or vexatious, which could not be equated to the dismissal of a complaint as being time-barred.

7. For his part, learned counsel for the Respondent No.1 maintained that the impugned Orders had been correctly made, as time in respect of the thirty (30) day period of limitation prescribed under Section 29(4) of the Act had begun to run from the date of knowledge of the alleged defect in the service(s) in question and the Complaint had been rightly dismissed for having been filed beyond that limit, with no proper cause for condoning the delay being disclosed through the Application preferred by the Petitioners under that provision. He relied on the judgment of the Supreme Court in the case reported as Messrs. Pak Suzuki Motors Company Limited through Manager Vs. Faisal Jameel Butt and another 2023 CLD 934. He argued that the plea of limitation remained available to the Respondent and open to the Court despite the Order passed on 26.09.2024 as any delay as may have been condoned ex-parte without notice did not preclude a party from agitating the issue of limitation before the same Court, and placed reliance on the judgments rendered in the cases reported as Abdul Karim v. Sheikh Muhammad and others PLD 1966 (W. P.) BJ 14, AON Muhammad v. Rehabilitation Commissioner and another PLD 1966 (W.P.) Lahore 319, The Meghalaya State Electricity Board v. Ambunath Choudhury and Ors. (1994) IGLR 61, Krishnasami Pandikondar v. Ramasami Chettiar and Ors AIR 1917 PC 179, Bikram Dass v. The Financial Commissioner, Revenue, Punjab, Chandigarh and Ors AIR 1975 P&H 1, and Janaswami Venkataseshamma v. Prativadi Bhayankaram Ranganaryakamma AIR 1950 Mad 769. In furtherance of the submission, he pointed out that a separate Order had been passed on the Complaint on 26.09.2024 stating:

“Admit, registered subject to legal objection if any at the time of hearing. Issue summons to respondents through Bailiff registered post A/D, and Courier Service.”

8. As such, the matter essentially entails a determination as to (1) whether the Respondents were entitled to raise the plea of limitation despite the Order dated 26.09.2024 passed on the Petitioner's condonation of delay application; and (ii) whether the decision of the Consumer Court to dismiss the Complaint as time barred was 'unreasonable'. It merits consideration in that regard that the findings of the Consumer Court on that score read as follows:

“Findings: The Claimant's complaint was filed beyond the 30-day limitation period prescribed under Section 29(4) of the Sindh Consumer Protection Act, 2014. The Court allowed the condonation of delay, but this does not automatically render the complaint immune from challenge on the grounds of limitation. The respondent's objection is valid and must be considered on its merits.

The claimant has not provided sufficient justification for the delay in filing the complaint. While the Court initially allowed the condonation of delay, it did so subject to legal objections, and the respondent has now raised a valid legal objection regarding limitation.

So far as applicability of CPC is concern, the applicability of the Code of Civil Procedure (CPC) to the Consumer Court, as outlined in Section 31(3) of the Consumer Protection Act of 2014, requires detailed clarification: The provision reads as follows:

“31 (3) For the purposes of this section, the Consumer Court shall have the same powers as are vested in a Civil Court under the Code of Civil Procedure, 1908 (Act V of 1908), while trying a suit, in respect of the following matters, namely:

(a) the summoning and enforcing attendance of any defendant or witness and examining him on oath; (b) the discovery and production of any material object which may be produced as evidence. (c) the receiving of evidence of affidavits: (d) issuing of any commission for the examination of any matter: or (e) any other matter which may be prescribed”

A plain reading of the above provision clearly indicates that the Consumer Court is vested with the same procedural powers as a Civil Court under the CPC. This inclusion is intended to ensure that

the Consumer Court can effectively manage the adjudication process, which includes summoning and examining witnesses, handling evidence, and issuing necessary orders to ensure a fair trial. Furthermore, Section 36 of the Consumer Protection Act, 2014 grants the Consumer Court the authority to dismiss claims that are found to be frivolous or vexatious. The Court is also empowered to impose a fine of up to ten thousand rupees on the claimant for knowingly instituting a false claim. Additionally, the Court can award compensation to the defendant from the fine imposed on the claimant. In light of the powers conferred by Section 36 of the Act, the Consumer Court should exercise its authority under this specific provision rather than invoking Order VII Rule 11 of the CPC. As a result, the instant application is converted to one under Section 36 of the Consumer Protection Act, 2014.”

9. Looking at the first of those two aspects, it merits consideration that the prospect of a legal objection being raised by the Respondents as to the maintainability of the Complaint was specifically left open at the time of its admission. Even otherwise, the contention as to such a prospect being precluded by virtue of the ex-parte Order made on the Petitioner’s Application under Section 29(4) of the Act stands addressed through the line of case law cited on behalf of the Respondent No.1. Most notably, in the case of Krishnasami Pandikondar v. Ramasami Chettiar and Ors (Supra), the Privy Council ruled that when delay is initially condoned so as to admit a time-barred appeal without notice to the respondent, that decision is not final and can be reconsidered and the matter can be dismissed accordingly at the final hearing. It was held that admitting an appeal *ex parte* (without notice to the opposing party) puts a valuable, vested right of the respondent in peril, therefore, such an ex-parte order condoning a delay is implicitly open to reconsideration once the respondent appears, with the Privy Council going on to direct that in the future, Indian Courts should determine issues of limitation and

condonation of delay after due notice to all parties. The relevant excerpt from the Judgment reads as follows:

“It has been argued that the admission of the appeal by Sankaran Nair, J. was final, and that the Division Bench had no jurisdiction at the hearing of the appeal to re-consider the question whether the delay was excusable. But this order of admission was made not only in the absence of Ramasamy Chettiar, the contesting respondent, but without notice to him. And yet in terms it purported to deprive him of a valuable right, for it put in peril the finality of the decision in his favour, so that to preclude him from questioning the property would amount to a denial of justice. It must, therefore, in common fairness be regarded as a tacit term of an order like the present that, though unqualified in expression, it should be open to re-consideration at the instance of the party prejudicially affected; and this view is sanctioned by the practice of the Courts in India.”

10. That judgment was followed in the cases of Abdul Karim, AON Muhammad, and The Meghalaya State Electricity Board (Supra), with it having been observed/held in those matters as follows:

Abdul Karim Vs. Sheikh Muhammad and others PLD 1966 (W. P.) BJ 14

Even otherwise, it has been held that where an appeal or application filed beyond time is admitted ex parte after excusing delay, without notice to the opposite-party, the latter is entitled, at the hearing, to object to the admission and the Court can re-open the question and decide whether there is sufficient cause for admitting the appeal or application beyond time. The leading case on this point is Krishnasami v. Ramasami in which their Lordships of the Privy Council observed as follows:-

...

It is thus clear that even if the order of the admitting Bench had purported consciously to condone delay, the matter could be re-agitated by the opposite party on the ground that he had no notice in this behalf and no opportunity to defend the finality of the judgment and decree already made in his favour.

AON Muhammad Vs. Rehabilitation Commissioner and another (PLD 1966 (W.P.) Lahore 319)

It is well-settled that there could not have been ex parte condonation or extension of time and even in cases where ex parte condonations, are made, the affected parties can always, on coming to know of such orders, take exception thereto and claim that the matter is barred by time, the extension of time, if any, is illegal and that effect to plea of limitation should be given. Ex parte condonations of delay would be illegal as being opposed to violation of the principles of natural justice, as well as against law. In the case of Krishnasami Panikondar v. Ramasami Chettior and others (1), their Lordships of the Privy Council observed as follows with regard to a practice of admitting appeals or condoning delays ex parte.

“But while this procedure may have the sanction of usage it is manifestly open to grave objection. It may, as in this case lead to a needless expenditure of money and an unprofitable waste of time, and thus create elements of considerable embarrassment when the Court comes to decide on the question of delay. Their Lordships, therefore, desire to impress on the Courts in India the urgent expediency of adopting in place of this practice a procedure which will secure at the stage of admission, the final determination (after due notice to all parties) of any question of limitation affecting the competence of the appeal.”

The Meghalaya State Electricity Board Vs. Ambunath Choudhury and Ors. (1994) IGLR 61.

5. It is also admitted that at the time of admission, no opportunity was given to the Respondents to show as to why the prayer for condonation of delay should not be granted. On the expiry of the period of limitations, the other side acquires a right. Such right can be interfered with by the Court only when the Court is satisfied about the existence of sufficient cause for not filing the appeal in time. When the delay in filing an appeal is condoned without any notice to the Respondent, it is open to the Respondent to raise the question of limitation even at the time of final hearing of the appeal. It is well settled that where an appeal or application filed beyond time is admitted ex parte, after excusing delay, without notice to the opposite party, this is violative of the principles of natural justice and the latter is entitled, at the hearing to object in the admission and the Court can reopen the question and decide whether there is sufficient cause for condoning the delay.

11. In the same vein, it was held in the case of Bikram Das (Supra) that although the Admitting Bench may condone delay while admitting an appeal, the respondent would be entitled to reopen the question upon hearing of the appeal and contend that there was no sufficient cause for doing so, whereas in the case of Janaswami Venkataseshamma (Supra) it was held as under:

3. Unfortunately in this case the delay was excused by a learned Judge of this Court. It was sought to be argued on behalf of the respondent by Mr. Ramamurthi Ayyar that as a learned Judge of this Court has excused the delay, the only course for the other side was to file a review application. He drew our attention to the decision of Wallace J. in Basavayya, v. Venkatapayya, MANU/TN/0145/1926: AIR 1926 Mad 676 but we are unable to find anything in that decision to lay down that a review is the only remedy open to the party to whom notice was not given before passing an order to his detriment. On the other hand, we are in entire agreement with the observations of the learned Judges in Kunhammad v. Kunhammad, (1914) 1 M. L. W. 440: A.I.R. 1914 Mad. 386 that in cases in which a Judge sitting in the, Admission Court excuses the delay in payment of court-fee or delay in presentation of the appeal without notice to the other side, it is assumed that the other side would be always at liberty at a subsequent stage or even at the hearing of the appeal to contend that the delay should not have been excused. It is desirable that notice should be given in such cases to the other side to obviate inconvenience and expense which might be avoided if the Court were to eventually refuse to excuse the delay. We therefore think that it is open to the other side in this case to come up before us and contend that the delay should not have been excused in the circumstances and if she can persuade us to hold in her favour, to dismiss the appeal.

12. Upon consideration of the aforementioned precedents, we see no reason to take a contrary view. That being said, when one turns to the further aspect of the matter, it bears consideration that the filing of the condonation Application itself indicates that the Complaint was undisputedly filed beyond the prescribed 30-day period. Indeed, in Paragraph 9 of the Complaint, the Petitioners

pleaded that when they reached Sarajevo airport on 28.07.2024, they were informed at the check-in-counter of Pegasus Airlines that they would have to collect and transfer their own luggage at Istanbul airport by themselves, and went on to state in Paragraph 27 thereof that *“The cause of action for this claim arose first on 28.07.2024 when the faulty service of the Defendants revealed to the Claimants at Sarajevo airport”*. Hence, what falls to be considered by this Court in exercise of the power of judicial review under Article 199 is simply whether the Consumer Court’s determination of the case set up by the Petitioners in support of their plea for condonation was ‘unreasonable’ in the sense of it suffering from illegality or otherwise being perverse in any material sense.

13. On that score, a perusal of the Petitioner’s Application reflects that their plea for condonation turned on the assertion that they had been actively pursuing the matter with the Respondents Nos. 1 and 2, including through an email dated 12.08.2024, and had eventually resorted to recourse by way of the Complaint as no adequate response was forthcoming from that quarter. The relevant excerpts from the Affidavit filed in support of the Application, laying the groundwork for the condonation sought, read as follows:

“3. The Claimants were actively pursuing the matter with the Defendants as is evident also from the email sent by the Claimants dated 12.08.2024 but upon no adequate response from the Defendants was received hence the Claimants had no other choice but to file claim under Section 26 of the Sindh Consumer Protection Act, 2014.

4. While the Claimants also assert the failure to adequately respond as part of the faulty service as the cause of action, so as to avoid any dispute this condonation application is filed keeping in mind the

date of the initial arising of the cause of action. Any delay (if any) was only as the Claimants were first making bonafide attempts to resolve the dispute privately with the Defendant. It is also worth mentioning that too the Claimants are senior citizens hence also entitled for special concession.”

14. In our view, the case set up by the Petitioners did not disclose any facts and circumstances as could properly be regarded as establishing “sufficient cause” for purpose of the First Proviso to Section 29(4) of the Act. The email or subsequent legal notice addressed to the Respondents has no bearing on the matter, with the Supreme Court having held in the case reported as Messrs. Pak Suzuki Motors Company Limited (Supra), that the thirty-day period for filing a complaint starts when the consumer obtains knowledge of the (purported) defect in the service(s), with the relevant excerpt of the Judgement reading as follows:

“9. In our view, even though no limitation period is provided for sending a written notice under Section 28(1) of the Act, it is apparent that Section 28(4) of the Act in unequivocal terms stipulates and clarifies that a claim with regards to a defective or faulty product or service, or contravention of the provisions of the Act by the manufacturer or service provider, has to be filed within 30 days of the arising of the cause of action. The cause of action, in such circumstances where a product or service is faulty, therefore, arises the moment the consumer obtains knowledge that the product or service is defective or faulty. If the provision is interpreted to mean that despite having knowledge of the defect in the product or the service, the consumer can issue a written notice under Section 28(1) of the Act at any time the consumer desires, pursuant to which, after 15 days of such receipt of the notice, the cause of action for the purposes of the 30-day limitation period would ensue this would make Section 28(4) of the Act as redundant, and a claim under the Act can be filed at any time without any limitation period subsequent to obtaining knowledge of the defect or fault in the product or the service.”

15. Under the circumstances, we see no illegality or perversity afflicting the impugned Orders. The Petition is thus found to be devoid of force and stands dismissed accordingly.

JUDGE

JUDGE