

(1997) 04 NCDRC CK 0034

In the National Consumer Disputes Redressal Commission

A.PASUPATHY

APPELLANT

Vs

C.SUBRAMANIAN

RESPONDENT

Date of Decision : 07-04-1997

Acts Referred:

Citation : 1997 3 CPJ 181

Hon'ble Judges : E.J.Bellie , Pulavar V.S.Kandasamy , Angel Arulraj J.

Final Decision : Complaint dismissed

Judgement

1. FOR the injury sustained in his right leg in a motor accident, on 24.6.1990 the complainant took treatment from the opposite party doctor on 1.7.1990. On that day, his leg was amputated from the thigh. According to the complainant, the Doctor sent him on 30.8.1990 advising him to have an artificial leg fixed at the Government Rehabilitation Centre, K.K. Nagar, Chennai. He was admitted there on 30.9.90, but they could not fix the artificial leg and therefore they discharged him on 18.7.92. Then on 30.6.93, Dr. Mohandas gave a certificate that it was not possible to fix him with an artificial leg. According to the complainant, he was informed by the said Dr. Mohandas that during such operations, usually some length of bone would be left behind, and since sufficient length of bone was not left in his leg while amputating the artificial leg could not be fixed. This happened because of the deficiency in service on the part of the opposite party Dr. C. Subramanian. On account of this the complainant has suffered sufferings and extreme hardship and his life has become meaningless. On these allegations the complainant has claimed a sum of Rs. 20,00,000/- as compensation.

2. THE opposite party filed a written version inter alia contending that the complaint is barred by limitation and the operation has been done with all care and caution and under proper medical care, and as such there was no deficiency in service on the part of the opposite party. When the matter was taken up for hearing, the learned Counsel for the opposite party, as a preliminary point submitted that the complaint is clearly barred by limitation and that being the position, the Commission need not go into the merits of the case. On carefully

considering the matter, it appears to us that the submission of the learned Counsel has great force.

At this stage the complainant files M.P. No. 11/97 for condoning the delay in filing the complaint if for any reason this Commission comes to the conclusion that the complaint is barred by limitation.

3. IT is common case that the treatment by amputation was done on 1.7.1990 and the complainant was discharged by the opposite party on 30.8.1990. According to the complainant, he got admitted in the Government Rehabilitation Centre, K.K. Nagar, Chennai on 13.9.1990 for fixing artificial leg. From there, he was discharged on 18.7.1992 stating that fixing of an artificial leg was not possible. According to the complainant. Dr. Mohandas also on 30.6.1993 stated that fixing of an artificial leg was not possible because there was no sufficient bone left. The complainant has filed some documents along with his complaint which are said to be certificates issued by the Government Rehabilitation Centre, K.K. Nagar, Chennai, and Dr. Mohandas. But nowhere it has been stated that the amputation was not done in a proper manner. In these circumstances, if at all there is any cause of action for the complainant, it must be only on 30.8.1990 when the complainant was discharged by the opposite party after amputation. The complaint has been filed only on 17.3.1995, that is, 4 years after the amputation and discharge by the opposite party. Even if we take three years as the period of limitation, the complaint is barred by limitation. As stated above, the complainant has filed M.P. No. 11/97 for condoning the delay if the complaint is barred by limitation. In this petition, the complainant has mainly stated that he was under the impression that the limitation period was three years and that he did not know that the period has been reduced to two years. But as stated above, even if the limitation is taken as three years, still, the complaint is barred by limitation. For these reasons, we are of the view that both the M.P. No. 11 /97 and the O.P. No. 68/ 95 are liable to be dismissed.

4. ACCORDINGLY, M.P. No. 11/97 and O.P. No. 68/95 are dismissed. There will be no order as to costs. Complaint dismissed.