

(1993) 02 NCDRC CK 0070

In the National Consumer Disputes Redressal Commission

DHRUBAJYATI BANERJEE

APPELLANT

Vs

P. SINGH, PROP. OF C.E.M.C.O.-O.P.

RESPONDENT

Date of Decision : 03-02-1993

Acts Referred:

Citation : 1993 1 CPR 418 : 1993 2 CPJ 801

Hon'ble Judges : Jyotirmoyee Nag , Sunil Kanti Kar J.

Final Decision : Complaint disposed of

Judgement

1. THE petitioner is a well known medical practitioner. He also has reputation as an eminent poet, writer and filatelic personality in India. THE O.P. is the owner of an electrical video shop under the name and style of M/s. CEMCO at 67, Ballygunge Circular Road, P.S. Ball Ygunge, Calcutta-700 019.

2. ON 30.9.91 at about 12-45 P.M. the petitioner went to the O.P. 's shop to take delivery of some cassettes on hire, he being a permanent subscriber. The shop is situated on the 1st floor and there is a narrow marble stair case leading to it. ON the right hand there is a metal bannister for the whole length of the stair case and on the left hand side the metal bannister covers only the last (on the upper side) 3 or 4 steps. The petitioner while climbing the stairs to reach the 1st floor he took the help of the right side bannister and when he reached almost the last steps he was electrocuted as soon as he touched the left hand side metal bannister. As a result he felt severe pain in his arm and head. He had the feeling of passing waves of electrical shock through his upper body. The petitioner could tear himself away from the metal bannister by using force. But, in the process his both the arm are injured especially his left wrist joint was broken badly. He had also the sensation of giddiness and he had the feeling of pressure on his chest. Before this petitioner while approaching the 1st floor through stairs found that some wires were frayed at places and some of them were covered by blacktape. But, at one point the blacktape was not properly covered and that ought to have come in direct contact with the metal bannister causing thereby the electricution to the petitioner. The incident occurred before the petitioner

could point it out to the employees of the shop. Thereafter, on receipt of the news of such accident the petitioner's wife and one of her assistant (driver) arrived on the spot. They immediately brought him to the Bellevue Clinic where X-Ray was done and it was found that a Smith fracture dislocation has taken place on the left wrist joint of petitioner. Although there was no visible injury on the right hand upper arm or shoulder even then the petitioner could not move his right hand. The attending physician at Bellevue Clinic allowed the petitioner to go home after preliminary treatment and ECG examination. As the sooting pain was still subsisting in the left wrist joint in the same evening, the said wrist joint was set and put in plaster at St. Mary's Nursing Home. Due to high fever and severe headache from 1.10.91, the petitioner had to arrange for medical treatment by eminent doctors who advised complete bed rest and follow course of medicines.

As a matter of fact, due to such unfortunate incidents, the professional as well as social and public life of the petitioner became crippled for a considerable period of time and he was mentally disturbed apart from incurring the great financial loss for not being able to carry on his normal professional work.

3. THE defence of the opposite party is that there is no metal bannister in the shop at all. Hence, there was no accident and that this case is maliciously brought against him out of grudge. THE police gave a final report to the FIR lodged by the petitioner on 4.10.1991. Dr. Dhrubajyoti Banerjee, the eminent attending physician of the petitioner, Dr. Sanjoy Sen, Mr. Gangadhar Paul, Dr. Biswapati Chatterjee Director of Radiology, Bellevue Clinic and eminent writer and journalist Shri Sunil Gangapadhyaya were elaborately examined by this Ld. State Commission. Dr. Biswapati Chatterjee Director of Radiology of Bellevue Clinic who examined the petitioner confirmed that Dr. Banerjee got a Smith fracture of the radial styled with fracture of the triquetri on his left wrist joint Dr. Sanjoy Sen, also confirmed that Dr. Banerjee had a very painful shelling of his left wrist. THERE was gross witness of extension movement of both shoulders joints and erythma at his left palm. THE petitioner's blood pressure was 170/100 of Murcury. His ECG just after the incidents showed wild ischaemic changes Mr. Sum! Gangopadhyay confirmed that he knows the petitioner for a long period. He himself is also a member of the video library - CEMCO which is situated at Ballygunge Circular Road, opposite to Tivoli Court. At the same date of incident when he came to learn about the accident of the petitioner he visited Bellevue Nursing Home and found that the petitioner's both hands were injured. On further examination Shri Gangapadayaya confirmed that there is a staircase with metal bannister leading to the 1st floor of the Video Library. He further stated that Dr. Dhrubajyoti Banerjee is a well known Doctor, a great social worker and a connoisseur of music Dr. Bannerjee's wife informed him about the accident over telephone. Mr. Gangadhar Paul also submitted before the Commission that he was informed about the incident by the driver of the petitioner and took him to the Bellevue Nursing Home. At the Video shop he found Dr. Banerjee in a senseless condition near the metal bannister which was partially wrapped by black tape for a temporary electric wiring him. After going through the records of

the case, examining the witnesses and hearing advocates of both the sides we are convinced that Dr. Dhrubajyoti Bannerjee sustained severe injuries on account of electrical shock while holding metal banrrister fitted in the stairs of the shop leading to the 1st floor where the video library is located. As a result, Dr. Banerjee suffered not only physically, but, mentally and financially due to the negligence of the O.P. for not taking care of the frayed electrical wiring in his shop which caused the accident. We feel that it could have been a fatal accident causing even the death of the petitioner. This type of negligence cannot be pardoned on account of reasonings. Accordingly, we hold that Dr. Dhrubajyoti Banerjee is entitled to get adequate compensation. Therefore, considering the loss he suffered and by virtue of his status we award the sum of Rs. 1,50,000/- as compensation. This compensation be paid within a fortnight from the date of communication of this order. Accordingly, the matter is disposed of with no cost. Complaint disposed of.