
(2017) 02 NCDRC CK 0047

In the National Consumer Disputes Redressal Commission

Case No : 968 of 2015

DR. RAVINDER VERMA & ANR

APPELLANT

Vs

SALMA BEGAM

RESPONDENT

Date of Decision : 14-02-2017

Acts Referred:

Citation : 2017 1 CPR 807

Hon'ble Judges : D.K. Jain, M. Shreesha

Advocate : Nasimuddin Usmani

Judgement

1. This Revision Petition, by the Opposite Parties in the Complaint, is directed against the order dated 6.1.2015 passed by the State Consumer Disputes Redressal Commission, U.P. at Lucknow (for short "the State Commission") in Appeal No.1664/2005. By the impugned order, the State Commission has reversed the order dated 3.9.2005, passed by the District Consumer Disputes Redressal Forum, Gautam Budh Nagar (for short "the District Forum") in Complaint No.1085/2003. By the said order, the District Forum had dismissed the Complaint preferred by the Respondent herein, alleging negligence on the part of the Petitioners, in removing her uterus during the surgery performed for Hysterectomy with removal of ectopic pregnancy on the ground that the Complainant had failed to prove any negligence on the part of the Opposite Parties, viz. the two surgeons, who had performed the said procedure.

2. Despite service of notice, the Petitioners remain unrepresented. The husband of the Complainant is present in person. Since the incident relates back to 23.3.2002, instead of dismissing the Revision Petition for non-prosecution, we proceed to dispose it of on merits.

3. As noted above, the main grievance of the Complainant was that though she was admitted in the maternity home, run by the Petitioners, who happen to be husband and wife, on 23.3.2002 with pain in the abdomen; she was diagnosed +ve for pregnancy and was advised hysterectomy; her "consent to operate uterus" was obtained on 4.4.2002 and the surgery was conducted, she was never

informed that during the procedure for hysterectomy, her uterus was also removed. According to the Complainant, she learnt about this fact only in the post-operation check-up. It was alleged that the uterus was removed without her consent, thus, causing mental agony to her as she was only 25 years of age at that point of time.

4. Having perused the documents on record, including the so-called consent obtained before conducting the procedure, we are of the opinion that the afore-stated consent fails the test of "informed consent", as enunciated by the Hon"ble Supreme Court in *Samira Kohli vs. Prabha Manchanda (Dr.)* - (2008) 2 SCC 1.

5. Having arrived at the said conclusion, we do not find any jurisdictional error in the impugned order warranting our interference. Further, taking into consideration the age of the Complainant/Patient (25 years), the compensation of 1,00,000/-, awarded by the State Commission, cannot be said to be arbitrary or excessive. The Revision Petition is dismissed accordingly.

6. It is pointed out that a sum of 1,10,000/- has already been deposited by the Petitioners in terms of our order dated 15.5.2015. If that be so, the said amount, along with accrued interest, if any, shall be released to the Complainant forthwith.

7. The Revision Petition stands disposed of in the above terms.