

(1994) 11 NCDRC CK 0005

In the National Consumer Disputes Redressal Commission

GANESH N.PUNDKAR

APPELLANT

Vs

SUDHAKAR PUNDLIKRAO LOMTE

RESPONDENT

Date of Decision : 08-11-1994

Acts Referred:

Citation : 1994 0 NCDRC 49 : 1995 1 CLT 328 : 1995 1 CPJ 27

Hon'ble Judges : V.BALAKRISHNA ERADI , Y.KRISHAN , B.S.YADAV J.

Advocate : MANOJ WAD

Judgement

1. AFTER hearing the Counsel for the Revision Petitioner and going through the records of the case inclusive of the impugned order passed by the State Commission, we are clearly of opinion that there was absolutely no justification for the course of action adopted by the State Commission, namely remanding the case to the District Forum for fresh adjudication. From, the Order of the District Forum it is seen that the forum had analytically considered in detail the entire evidence adduced before it and given valid, sound and convincing reasons for the conclusions that it has recorded in its order. It was at the instance of the Complainant himself that the District Forum had referred the question as to whether there was any negligence on the part of the Opposite Party (Medical Doctor), to an expert in the Medical College Amarawathi for his opinion. The report of the expert was submitted to the District Forum in the form of an affidavit sworn to by the expert. The said report was found to be acceptable and was relied on by the District Forum in the form of an affidavit sworn to by the expert. The said report was found to be acceptable and was relied on by the District Forum which it was fully open to it to do. The view taken by the State Commission that even when there was no request made to the forum by any party for calling the expert as a witness there was a mandatory obligation on the part of the District Forum to call the expert as a witness and to record his oral evidence, does not appeal to us as correct or valid in law. We have carefully considered the entire evidence adduced in the case and we are of opinion that the findings recorded by the District Forum are fully justified by the evidence aforementioned. This Revision Petition is accordingly set aside and the Order of

remand made by the State Commission is set aside and the Order passed by the District Forum is hereby confirmed. Since the Respondents do not appear, the parties are directed to bear their respective costs.