
(2015) 04 NCDRC CK 0177

In the National Consumer Disputes Redressal Commission

Case No : 132 of 2014

Hema Gadodia

APPELLANT

Vs

Calcutta Medical Research Institute

RESPONDENT

Date of Decision : 22-04-2015

Acts Referred:

Citation : (2015) 04 NCDRC CK 0177

Hon'ble Judges : V.K.JAIN , B.C.Gupta J.

Final Decision : Appeal Dismissed

Judgement

1. THERE is no appearance on behalf of the respondents Nos.4 and 7, both of which are reported to have been served. The service is, therefore, now complete in this matter.

2. THIS appeal is directed against the order of the State Commission dated 06 -02 -2014 whereby the complaint filed by the appellant was dismissed for want of pecuniary jurisdiction.

3. THE case of the complainant in nutshell is that her father, Mr. Binod Gadodia was admitted in Calcutta Medical Research Institute on 20 -05 -2009 complaining of chest pain. He was transferred from the aforesaid hospital to B.M. Birla Research Heart Centre on 25 -05 -2009. Coronary Artery Bypass Graft Surgery was performed on the father of the appellant at B.M. Birla Research Heart Centre and he was discharged from there on 29 -06 -2009. He was, however, again admitted to the aforesaid hospital on 28 -07 -2009. Later, he was discharged from the aforesaid hospital. The case of the complainant/appellant is that on both the occasions her father was forced to take discharge from B.M. Birla Research Heart Centre. This is also the case of the complainant that her father was admitted three times to B.M. Birla Research Heart Centre. He was readmitted to ILS Hospital on 23 -08 -2009. According to the complainant/appellant her father was admitted four times to ILS Hospital. Thereafter he was taken to NG Nursing Home on 25 -12 -2009 and discharged from there on 07 -01 -2010. He was admitted to Columbia Asia Hospital on 04 -02 -2010 and

thereafter to N.G. Nursing Home. The father of the complainant was then admitted to Gamma Health Care Pvt. Ltd., followed by his admission to Bellevue Nursing Home on 17 -08 -2010. He was lastly admitted to Sunflower Nursing Home on 24 -09 -2010. Alleging deficiency in the services rendered to him by the opposite parties the following reliefs were claimed in the complaint. (a) direct opposite parties to pay Rs.99.99 lakh as compensation for causing mental, physical harassment, agony, deficiency, negligence in service, amputation, death and loss of life,

(b) interest, relief, suffering of my family,

(c) costs, loss of income, expenses incurred in the treatment and

(d) litigation charges.

4. SECTION 17 of the Consumer Protection Act, to the extent it is relevant for our purpose provides that the State Commission shall have jurisdiction to entertain complaints where the value of the services and compensation exceeds Rs.20,00,000/- but does not exceed Rs.1,00,00,000/-. Admittedly, payments were made to the hospitals where the father of the complainant/appellant was admitted from time to time. The payments made to the hospitals would constitute the value of the services engaged by the deceased or his family members for his treatment and if the aforesaid amount is added to the monetary compensation of Rs.99.99 lakh claimed by the appellant/complainant the aggregate would far exceed Rs.1,00,00,000/-. Therefore, the State Commission did not have the pecuniary jurisdiction to entertain the complaint. Consequently, no fault can be found with the order passed by the State Commission. The appeal is accordingly dismissed.

5. WE , however, make it clear that after making the necessary changes, the complainant shall be entitled to file a fresh complaint either before this Commission if the value of the services and compensation chosen to be claimed by her exceeds Rs.1,00,00,000/- or before the State Commission if the value of the services and the compensation claimed by her exceeds Rs.20,00,000/- but does not exceed Rs.1,00,00,000/-. Similarly, if the aggregate value of the services and compensation sought to be claimed by her does not exceed Rs.20,00,000/- she would be entitled to file fresh complaint before the concerned District Forum. The profession charges of the learned amicus curiae be paid as per the scale approved by the Registry.