
(2007) 04 NCDRC CK 0091

In the National Consumer Disputes Redressal Commission

JOGINDER BABBAR

APPELLANT

Vs

G L KAUL KILAM

RESPONDENT

Date of Decision : 02-04-2007

Acts Referred:

Citation : 2008 2 CPJ 26

Hon'ble Judges : J.D.Kapoor , Mahesh Chandra J.

Final Decision : Appeal dismissed

Judgement

1. -VIDE impugned order dated 7. 11. 2001, the appellant doctor, who is a dental surgeon has been directed to pay Rs. 12,000 as damages for pain and sufferings besides another Rs. 3,000 as cost of litigation for faulty fixing of the bridge and metal crowing of the teeth at the clinic of the appellant.

2. FEELING aggrieved the appellant has preferred this appeal. The allegations of the respondent leading to the impugned order in brief were that he had a dental problem and approached the appellant Dr. Babbar Dental Clinic where he was charged a sum of Rs. 11,200 vide receipt No. 3/111641 dated 10. 7. 1999 and a bridge was fixed on his upper jaw and white metal on the molar teeth, The teeth was also grinded and a metal crown was also fixed. The appellant Dr. Joginder Babbar had assured him that the teeth will last for more than 20 years. Subsequently the respondent had the problem and had contacted various hospitals including Lok Nayak Jaya Prakash Narain Hospital, New Delhi on 5. 7. 1999 and 14. 8. 1999, Lal Bahadur Shastri Hospital on 29. 10. 1999 and finally in the month of December 1999, he contacted Delhi Dental and Medical Centre on 28. 12. 1999 where he was advised to undergo the fixation of the bridge again along with the white metal and acrylic facing for which an estimate of Rs. 11,000 was given. The record of LNJP Hospital as well as that of Lal Bahadur Shashtri Hospital shows the problem in his teeth. He was advised on 23. 8. 1999 to rectify the crown by the doctors of Lal Bahadur Shastri Hospital. His dental condition was found to be deteriorating on 21. 1. 2000. Claiming deficiency in service on the part of Dr. Babbar Dental Clinic, the respondent had claimed the

refund of Rs. 11,200 charged by the appellant from him besides a compensation of Rs. 50,000 and another Rs. 2,500 as cost of litigation.

As against this the version of the appellant was that the respondent was advised by Dr. Kiran Babbar that he should not spend money on the bridge work as there were other shaky teeth in his mouth and if any shaky teeth was required to be extracted in future for any reason then the bridge work will be required to be redone. But the respondent ignored the said advice and insisted for the bridge work immediately, which was done. The respondent had no pain upto December 1999 while the bridge work was done on 10. 7. 1999. Problem relating to the bleeding gum could be a result of pyorrhea. The complaint of pain occurred due to the refixing of the bridge by Delhi Dental Medical Centre and not from the appellant's clinic. It was also submitted that entire medical record shows the complaint of swelling of gums which could have been caused by various other reasons such as high blood pressure, constipation, chewing some hard articles, drinking some very hot drink, etc.

3. AFTER perusing the impugned order we find that the District Forum has based its finding of fact on the record of LNJP Hospital and Lal Bahadur Shastri Hospital, which shows that first complaint was not made in the month of December but much earlier and in fact even prior to 14. 8. 1999, which period is less than a month from the date of fixing of the bridge by the appellant. Since his condition continued to deteriorate as is clear from the record of Lal Bahadur Shastri Hospital he was advised to spend another sum of Rs. 11,000 for refixing of the bridge at Delhi Dental Medical Centre. The appellant was rightly held guilty for deficiency in service in not fixing the bridge and metal crowning of the teeth. Impugned order does not suffer from any infirmity as a result the appeal is dismissed being devoid of merit.

4. THE payment shall be made within one month from the date of receipt of this order. Bank Guarantee/fdr, if any, furnished by the appellant be returned forthwith. A copy of this order as per the statutory requirements be forwarded to the parties free of charge and also to the concerned District Forum and thereafter the file be consigned to Record Room. Appeal dismissed.