

(2006) 11 NCDRC CK 0032

In the National Consumer Disputes Redressal Commission

KARUNA HOSPITAL

APPELLANT

Vs

KOCHURANI JOSE

RESPONDENT

Date of Decision : 08-11-2006

Acts Referred:

Citation : 2006 3 CPR 341 : 2007 1 CLT 363 : 2007 1 CPJ 31

Hon'ble Judges : S.N.Kapoor , B.K.Taimni J.

Advocate : B.V.Deepak

Judgement

1. -APPELLANT was the opposite party before the State Commission where respondents/complainants have filed a complaint alleging medical negligence on the part of the appellant.

2. VERY briefly stated the facts of the case are that the deceased Dr. Jose Kurian was himself a reputed surgeon and was running two hospitals. On 16. 5. 1999, he approached the appellant/hospital, complaining chest pain where he was attended to by one Dr. Benjamin Issac. Actually it was the case of the complainant that it was one Ninan who was impersonating as Dr. Benjamin Issac and it is the quack who treated the deceased resulting in the death of the deceased the very same day. It is in these circumstances, that a complaint was filed before the State Commission, who after hearing the parts passed a very comprehensive and long order directing the appellant to pay Rs. 12 lakh as compensation along with cost of Rs. 5,000. Aggrieved by this order this appeal has been filed before us. We heard the learned Counsel for the appellant. He only supported what has been observed in Para 6 of the State Commission order that the said Benjamin Issac is a quack doctor and did not have the requisite qualification to deal with such a case and admittedly he was employed by the appellant Hospital allegedly in good faith, resulting in fraud being played upon the hospital. In view of the fact that the "due care" by Doctors is by now well settled under a catena of judgments of House of Lords as also the Supreme Court and this Commission since the treating doctor did not have the qualification to handle such a case, a case of medical negligence stands

established.

Coming to the quantum of compensation granted. As per material on record the deceased was a surgeon of some repute and owned two hospitals and was aged 45 years. Even if we take his income as Rs. 1 lakh per month and after catering for income tax and his contribution towards running of the household, that about Rs. 40,000 shall be available per month based on which his annual contribution/savings would be over Rs. 4 lakh and if we take the Doctor's working span for another about 10-15 years, the complainant shall be entitled to much larger amount than the one awarded by the State Commission.

3. WE invited learned Counsel for the appellant to show us their formulation based on the law or precedent as to how this amount is on the high side? Nothing has been shown to us to take any contrary view than the one taken by the State Commission, in view of which we see no merit in this appeal, hence dismissed. Appeal dismissed.