
(2003) 06 NCDRC CK 0020

In the National Consumer Disputes Redressal Commission

K.C.NASA

APPELLANT

Vs

SAHIB CHAND SHARMA

RESPONDENT

Date of Decision : 18-06-2003

Acts Referred:

Citation : 2003 3 CPJ 622 : 2003 3 CPR 509

Hon'ble Judges : Lokeshwar Prasad , Mahesh Chandra J.

Final Decision : Appeal dismissed

Judgement

1. THE present appeal, filed by the appellant, under Section 15 of the Consumer Protection Act, 1986 (hereinafter referred to as "the Act"), is directed against order dated 3.2.2003, passed by District Forum-III, Janakpuri, New Delhi in Complaint Case No. 1810/2000 - entitled Sh. Sahib Chand Sharma v. Dr. K.C. Nasa.

2. THE facts, relevant for the disposal of the present appeal, briefly stated, are that the respondent Shri Sahib Chand Sharma had filed a complaint under Section 12 of the Act before the District Forum averring therein that he got a denture for his wife Smt. Sushila prepared by the appellant for which he paid a sum of Rs. 3,000/- to the appellant which included the cost of the denture and also the cost of the treatment. It was stated in the complaint, filed by the respondent, that there was some problem with the denture as the same was itching the lower gum. THE defect in the denture was reported to the appellant who tried to rectify the defect by grinding the denture but after the removal of the alleged defect, the grip of the denture became so loose that not only during eating but even while talking the same used to come out. It was stated that 12 visits were made by the respondent/complainant and many letters were written but there was no response from the appellant. Finally a legal notice was also got issued by the respondent to the appellant requesting either to rectify the defect or to refund the amount or to remake the denture but nothing was done by the appellant to satisfy the grievance of the respondent. Alleging deficiency in service on the part of the appellant, the respondent in the complaint, filed by him,

prayed for the refund of Rs. 3,000/-, paid to the appellant and compensation of Rs. 5,000/- together with cost of litigation. The claim of the respondent in the District Forum was resisted by the appellant and in the reply/written version filed on behalf of the appellant it was stated that there was no deficiency in service on the part of the appellant in the reply/written version filed on behalf of the appellant certain preliminary objections were taken. On merits, it was stated that no authentic proof had been given on the point whether the denture prepared by him had any problems. It was stated that the patient may not be satisfied despite best efforts of the Dentist and good denture. The reason for loose denture, as stated by the appellant in the reply/written version, was not any defect or deficiency in service on his part but was attributed to psychological conditions, age of the patient, talkative nature etc. etc.

The learned District Forum, vide impugned order, has held that there was deficiency in service (negligence) on the part of the appellant and on the basis of the above finding has directed the appellant to refund the amount of Rs. 3,000/- together with compensation of Rs. 2,000/-.

3. FEELING aggrieved, the appellant has preferred the present appeal under Section 15 of the Act. We have heard the appellant at length on the question of admission of the present appeal and have also carefully gone through the documents/material on record. It is not in dispute that the appellant, being a medical practitioner (Dentist), is a provider of "service" and the respondent who got the denture of his wife prepared after paying consideration is a "consumer" within the meaning of Section 2(1)(d)(ii) of the Act. The only question requiring consideration in the present case is as to whether, in the given facts, was there any deficiency in service on the part of the appellant. The case of the respondent/complainant in the complaint filed by him before the District Forum, in nutshell, was that the denture prepared by the appellant for his wife Smt. Sushila was defective. The allegation of the complainant is that the denture prepared by the appellant was defective and the same was so loose that not only during eating but even while talking the same used to come out. It is also not in dispute that the respondent/complainant had to get another denture prepared from another doctor after paying Rs. 5,000/-. It does not appeal to reason why a consumer would level false allegation and would go to the extent of having got prepared a new denture from another dentist. During the course of arguments, the appellant made a vain attempt to justify the lapse on his part by arguing that the denture prepared by him was defect free but the defect pointed out by the complainant (loose grip of the denture) was due to the fact that the wife of the complainant Ms. Sushila had a flat ridge as a result of which the grip of the denture was not proper. Even if the situation was as stated by the appellant, it was the bounden duty of the appellant to have explained the above aspect to the complainant and also to his wife, the patient, before preparing the denture in question. In the given facts, decidedly there was deficiency in service on the part of the appellant and the finding of the learned District Forum to the above effect, in our opinion, in the given facts, suffers from no infirmity so as to call for any interference by

this Commission in exercise of its appellate powers. The reliefs, given by the learned District Forum to the respondent/complainant also appears to be just and adequate in the facts and circumstances of the case. The present appeal filed by the appellant is, therefore, devoid of substance. The same merits dismissal. Accordingly, the same is dismissed in limine with no order as to costs. Appeal dismissed.