

**(2000) 08 NCDRC CK 0045**

**In the National Consumer Disputes Redressal Commission**

KUSUM LATTA

APPELLANT

Vs

ADESH COLLEGE OF PHARMACY

RESPONDENT

**Date of Decision :** 17-08-2000

**Acts Referred:**

**Citation :** 2000 2 CLT 592 : 2000 2 CPC 586 : 2001 1 CPJ 69 : 2001 1 CPR 169

**Hon'ble Judges :** H.S.Brar , Jasbir Singh , Davinder Kaur Bhamrahs J.

**Final Decision :** Appeal allowed with costs

## **Judgement**

1. APPELLANT Kusum Latta is aggrieved against the order dated 16.7.1999 of the District Consumer Disputes Redressal Forum, Muktsar (hereinafter called the District Forum). The appellant has prayed for the modification of the abovesaid order to the effect that the amount of compensation and interest allowed to her by the District Forum be raised. The appellant has also prayed that an amount of Rs. 25,000/-, Rs. 2,000/- and Rs. 6,000/- alleged to have been paid by her to the opposite party Nos. 1 and 2 be repaid back to her.

2. THE District Forum vide its abovenoted order has found opposite party Nos. 1 and 2 to be deficient in performing their due services to the complainant and directed the opposite party Nos. 1 and 2 to pay back an amount of Rs. 10,975/- to the complainant alongwith interest @ 12% from the date of announcement of its order till realization. THE other prayer with regard to the amounts mentioned above was declined. THE reason for declining the amounts of Rs. 25,000/- and Rs. 6,000/- alleged to have been paid by the complainant to opposite party Nos. 1 and 2 was that the complainant was not in possession of any receipt obtained by her from the opposite party Nos. 1 and 2. About the declining of an amount of Rs. 2,000/- alongwith interest, no mention has been made by the District Forum in its order. We have heard the learned Counsel for the parties present and have gone through the record of this case with their help.

We do not find any infirmity in the order of the District Forum so far as the complainant has been denied the payment of Rs. 25,000/- and Rs. 6,000/- alleged to have been paid by her to opposite party Nos. 1 and 2. Neither any

receipt has been produced by the complainant nor any other evidence has been produced by the complainant, which could persuade us to order the payment of the above said amounts to her. This prayer of the appellant-complainant is, thus, rejected.

3. WITH regard to payment of Rs. 2,000/- alleged to have been paid to opposite party Nos. 1 and 2 against a receipt, the claim of the appellant-complainant looks to be genuine. Rs. 2,000/- was paid by the complainant to the opposite party Nos. 1 and 2 against a cash receipt, which is available on the record as Annexure "C". This evidence produced by the complainant cannot be ignored and there is nothing on the record to rebut this evidence. We, thus, allow this claim of payment of Rs. 2,000/- to the complainant against the opposite party Nos. 1 and 2. The further contention of the learned Counsel for the appellant made before us is that though it has been held by the District Forum that opposite party Nos. 1 and 2 were deficient in providing service to the appellant-complainant and that inspite of directions given by the District Forum to the opposite party Nos. 1 and 2 to produce the record relating to the years 1991 and 1992, the opposite party Nos. 1 and 2 neither produced the record nor filed any convincing reply before the District Forum to show as to why the record could not be produced when there was no evidence that the record was lost, burnt or stolen; still the District Forum did not chose to pay the appellant any amount of compensation for harassment and mental agony. Even on the amount of Rs. 10,975/-, which was ordered to be paid back to the complainant, interest was awarded only @ 12% per annum and that also from the date of announcement of the order. We find force in the contention of the learned Counsel for the appellant-complainant. Admittedly, the appellant-complainant was harassed for so many years at the instance of the opposite party Nos. 1 & 2 and it has been so held by the District Forum in its order. But still the rate of interest awarded to the appellant-complainant on Rs. 10,975/- is on lower side and that also not from the date of payment, but from the date of announcement of the order of the District Forum. No valid reasons have been advanced by the District Forum in not allowing the interest from the date of payment of the amount by the appellant-complainant to the opposite party Nos. 1 and 2.

4. IN these circumstances, we do not hesitate in modifying the order dated 16.7.1999 of the District Forum and is, thus, modified as under : Opposite party Nos. 1 and 2 are directed to pay back an amount of Rs. 12,975/- paid by the complainant to opposite party Nos. 1 and 2 vide Receipt No. 000082 dated 8.1.1991 for Rs. 10,975/- and No. 000129 dated 28.12.1991 for Rs. 2,000/-, with interest @ 18% per annum from the date the abovesaid amounts were paid to opposite party Nos. 1 and 2. Resultantly, this appeal is allowed with costs, which are quantified as Rs. 3,000/-. Appeal allowed with costs.