
(1990) 12 NCDRC CK 0016

In the National Consumer Disputes Redressal Commission

MOTIBAI DALVI HOSPITAL

APPELLANT

Vs

M.I.GVILKAR

RESPONDENT

Date of Decision : 05-12-1990

Acts Referred:

Citation : 1991 0 CPC 52 : 1991 1 CPR 334 : 1991 2 CPJ 684

Hon'ble Judges : G.G.Loney , M.G.Gavai J.

Final Decision : Appeal dismissed

Judgement

1. THIS is an appeal against the order of District Forum, Bombay passed on 11.9.90 in complaint No. DF/BOM/214/1990. The short facts necessary for the just decision are as under : -

2. THE complainant Mukund Govilkar and his daughter in law Smita Govilkar claimed that while she was receiving the treatment in the appellant-Hospital, the complainant was charged the payment for which no explanation is given from the Hospital. According to the complainant (original) she was to reimburse the medical bill from her employer. But despite the correspondence the appellant-Hospital did not render necessary details and therefore, claimed the refund of excess payment of bill. THE complainant claimed Rs. 860/- towards excess payment of pathology test. She also claimed that service charge at the rate of 15% was unnecessary. She also claimed Rs. 20,000/- towards compensation for mental suffering. THE Hospital insisted that their bill dated 12.9.90 was proper and that there is no question of excess payment. THE District Forum, Bombay ordered that the hospital authority to repay Rs. 1164/- towards surcharge and Rs, 1,550/- towards the payment made to the nurses and also directed to pay compensation of Rs. 1,000/ - to the complainant. We have heard Shri R.S. Tripathi for the appellant Hospital and Shri M.S. Govilkar and Smt. Smita Govilkar. The first point raised by the learned Counsel for the appellant is that the & complainant Shri M.B. Govilkar cannot be said to be a consumer within the definition (d) of Section 2 of the Consumer Protection Act, 1986. He also made a grievance that signature of Smita Govilkar was subsequently obtained on the

complaint. According to Shri Tripathi, for all these reasons the complaint was not maintainable before the District Forum. We find no substance in this argument in as much as Smt. Smita Govilkar signed original complaint and merely because her father-in-law initiated the complaint, it cannot be said that it was a complaint by a non-consumer. Another limb of the argument was that it was a contract of personal service and therefore, also the District Forum could not proceed to inquire into the complaint. We are not agreeable with the contentions of Shri Tripathi for the simple reason that the appellant Hospital renders services for consideration to the patients who hires the services of the appellant-Hospital on payment as such he or she is a consumer within the meaning of definition of Consumer appearing in the Consumer Protection Act, 1986. We, therefore, find no substance in any of the contentions raised by Shri Tripathi.

A perusal of the bill dated 12.2.83 admittedly issued by the appellant Hospital shows that there is a surcharge of Rs. 1164/- levied at the rate of 15% on the total bill. We asked Shri Tripathi as to what is the nature of the surcharge. Shri Tripathi was unable to explain the nature of the surcharge. He, however, stated that the surcharge is meant for the telephone bills and use of surgical cotton etc. But we find that a telephone bill of Rs. 27/- has already been collected. Similarly, there was no requirement of surgical cotton as no operation theatre charges seem to have been levied in the bill. Thus we find that the collection of Rs. 1164/- as surcharge from the complainant was not correct. The appellant is unable to show that there is any rule or regulation which permits the levy of such a charge.

3. THE District Forum has allowed the refund of Rs. 1550/- towards the payment made to the nurses by the complainant. It is true that the appellant has failed to communicate to the complainant the names and addresses of the nurses but at the same time, we find that the respondent also did not have any receipt of payment made to the nurses. Under these circumstances we find that the refund of Rs. 1550/- ordered by the District Forum is not correct in as much as there is no documentary evidence on record to show that any payment was made by complainant to the nurses. THERE is no mention on the bill dated 12.2.90 about any payment showing the payment to the nurses. As regards the direction to pay the compensation of Rs. 1000/-, according to us, it was justified taking into consideration the harassment caused to the complainant. We, therefore, partly allow this appeal. The order to refund Rs. 1550/- to the complainant (original) requires to be modified. The rest of the order of the District Forum granting the payment of Rs. 1164/- and Rs. 1000/- together with 18% interest is upheld. Thus, the appeal stands dismissed with modification as mentioned above. No costs. Appeal dismissed.