

(1997) 12 NCDRC CK 0019

In the National Consumer Disputes Redressal Commission

M.PARIMANAM

APPELLANT

Vs

C.P.JAGANATHAN

RESPONDENT

Date of Decision : 09-12-1997

Acts Referred:

Citation : 1998 1 CPR 273 : 1999 1 CPJ 243

Hon'ble Judges : E.J.Bellie , Angel Arulraj J.

Final Decision : Complaint dismissed

Judgement

1. THE complainant took his son by name Johny Prabhu to the 1st opposite party Doctor for treatment of fever, on 20.2.1992. THE 1st opposite party treated him for fever on 20.2.1992 and 21.2.1992. But the fever did not subside. On 22.2.1992, the 1st opposite party referred him to the 2nd opposite party Kovai Medical Centre Hospital as a case of rabies. THE 2nd opposite party treated the boy for six hours but the boy died. Now the case of the complainant is that the boy was not suffering from any rabies and the opposite parties have not conducted the tests and diagnosed the disease properly and therefore the treatment given was wrong and on account of that the boy died. Alleging deficiency in service on the part of the 1st and 2nd opposite parties, the complaint has been filed. After the filing of the complaint, the 3rd opposite party M/s. New India Assurance Company Ltd. was impleaded at the instance of the complainant.

2. THE 1st opposite party in his written version contended that after the clinical test for rabies viz., hydrophobia was conducted, it was found positive. Since no advanced medical facilities were available at Erode, he referred the patient to the 2nd opposite party viz., Kovai Medical Central Hospital. Thus there was no deficiency in service on his part. The 2nd opposite party in its written version contended that the boy was admitted in their Hospital at 1.42 a.m. on 23.2.1992. At the time of admission of the boy, the complainant himself said that there was a dog bite on the boy some two months before. The Doctors examined the boy and it was provisionally diagnosed as rabies and the necessary treatment

was given. But the boy died later at 7 a.m. on the same day. Thus there was no negligence or deficiency in service on the part of the 2nd opposite party.

The points that arise for consideration are: (i) As alleged by the complainant, whether there was any deficiency in service on the part of the opposite parties? and (ii) If, so what relief can be granted to the complainant?

3. THE case of the complainant appears to be that the 1st opposite party was wrong in diagnosing the illness as a case of rabies and on that basis referring the boy to the 2nd opposite party Hospital. Thus on wrong diagnosis wrong treatment was given for rabies. Subsequently, on enquiries made by the complainant with the Pasteur Institute, Coonoor, he came to know that there was no symptom of rabies in his son. THESE clearly show the negligence and deficiency in service on the part of the opposite parties. But both the 1st and 2nd opposite parties contend that the boy was clinically examined by both of them and it was found only to be a case of rabies and such tests were done based on the past history, and accordingly the treatment was given. THE 1st opposite party Doctor has clearly stated in his written version that the boy was made to sit down in front of a fan and a cup of water was brought near him and upon that the boy cried and such behaviour of the boy showed the symptom of rabies and it was found to be positive for rabies. According to the 2nd opposite party, in their Hospital also, one Dr. Chandra, a Paediatrician, examined the patient and provisionally diagnosed the disease as rabies. Now, the complainant has not chosen to examine anybody as a witness to substantiate his averments. Apart from the averments in the complaint, there is nothing to support the case of the complainant. According to the complainant, enquiries made with the Pasteur Institute, Coonoor showed that the boy died not of rabies. But in this regard, no evidence whatsoever has been let in. In these circumstances, it cannot be said that the boy was not suffering from rabies and there was no proper diagnosis on the part of the opposite parties and the treatment given by them was wrong. In these circumstances, it cannot be held that the 1st and the 2nd opposite parties were negligent or deficient in service. Thus we find no merit in the complaint.

4. IN the result, therefore, we dismiss the complaint. There will be no order as to costs. Complaint dismissed.