

(2014) 09 NCDRC CK 0126

In the National Consumer Disputes Redressal Commission

MUKAT HOSPITAL AND HEART INSTITUTE

APPELLANT

Vs

Dibyendu Ghara

RESPONDENT

Date of Decision : 11-09-2014

Acts Referred:

Citation : 2014 0 NCDRC 576 : 2014 4 CPJ 380

Hon'ble Judges : K.S.CHAUDHARI J.

Advocate : B.B.BAGGA , SANJOY KUMAR GHOSH

Judgement

1. THIS revision petition has been filed by the petitioner against the order dated 01.07.2013 passed by the State Consumer Disputes Redressal Commission, UT Chandigarh (in short, "the State Commission ") in Appeal No. 270 of 2013 - Mukat Hospital and Heart Institute Vs. Mr. Dibyendu Ghara by which, while dismissing appeal, order of District Forum allowing complaint was upheld.

2. BRIEF facts of the case are that complainant/respondent is a Government employee and was authorized to take treatment under CGHS rules from private hospital. OP/Petitioner was empanelled under the said rules for treatment. Complainant 's wife Mrs. Anamika Ghara felt abdomen pain on 25.12.2011 and was admitted in OP 's hospital on 26.12.2011 and after treatment was discharged on 29.12.2011. Single operation was carried out and OP asked complainant to pay Rs.69,000/ - towards approximate expenses without providing copy of bill. Ordnance Cable Factory sent draft of Rs.69,000/ - to OP. OP issued final bill in January 2012 and had shown more than one operation to cover up amount of Rs.69,000/ -. It was further submitted that if one or more minor procedures form part of a major treatment procedure then the package charges would be permissible for major procedure and only 50% of charges for minor procedure as per rules. After sending final bill to Principal Controller of Accounts, he directed that an amount of Rs. 33,630/ - be recovered from complainant on account of excess bill from the package amount. Complainant asked OP to refund the amount. As amount was not refunded, alleging deficiency on the part of OP, complainant filed complaint before District Forum. OP resisted

complaint and submitted that complainant 's wife was admitted in a private single room for she was not entitled as a result thereof actual charges were reduced by 15% as per entitlement of the ward of the patient. It was further submitted that bill was raised in accordance with the approved package rates and OP is not liable to refund any alleged excess payment and prayed for dismissal of complaint. Learned District Forum after hearing both the parties allowed complaint and directed OP to refund Rs.28,107/ - with 9% p.a. interest and further allowed Rs.10,000/ - as compensation and Rs.7500/ - as litigation expenses. Appeal filed by the OP was dismissed by learned State Commission vide impugned order against which, this revision petition has been filed.

3. HEARD learned Counsel for the parties and perused record. Learned Counsel for the petitioner submitted that complainant was not covered by CGHS rules and petitioner rightly raised bill, but learned District Forum committed error in allowing complaint and learned State Commission further committed error in dismissing appeal; hence, revision petition be allowed and impugned order be set aside. On the other hand, learned Counsel for the respondent submitted that petitioner has raised issue about non -application of CGHS scheme to respondent first time in revision petition which is not tenable and further submitted that order passed by learned State Commission is in accordance with law; hence, revision petition be dismissed.

4. LEARNED Counsel for the petitioner submitted that CGHS facilities are available only to the employees of Ordnance Factory Board Headquarters, Calcutta and Ordnance Equipment Factories Headquarters, Kanpur and complainant who is employee of Ordnance Cable Factory, Chandigarh is not covered by this scheme. Firstly, this argument has been raised for the first time in the revision petition and such objection should have been taken in the written statement before District Forum. Secondly, as per certificate issued by Ministry of Defence, Government of India dated 8.4.2014, complainant is working in Ordnance Cable Factory, Chandigarh which is the unit of Ordnance Factory Board, Calcutta. In the light of aforesaid certificate it becomes clear that complainant was entitled to CGHS facilities.

5. AS far excess bill by the petitioner is concerned, learned District Forum at length discussed all the charges mentioned in the bill and held that Rs.28,107/ - has been charged excess by the OP. Learned State Commission again discussed all charges leveled in the bill at length and rightly dismissed appeal. Perusal of impugned order reveals that charges for private room has already been disallowed by District Forum and it further appears that as complainant 's wife was under in -patient treatment, amount of medicines, X -Ray, E.C.G., Laboratory charges and Ultrasound were to be included in the package rate and petitioner was not justified to charge aforesaid charges from the complainant. Looking to the concurrent findings of the Fora below, I do not find any illegality, irregularity or jurisdictional error in the impugned order and revision petition is liable to be dismissed to the extent of refund of Rs.28,107/ - with interest.

6. LEARNED District Forum has also allowed compensation of Rs.10,000/ - on refund amount of Rs.28,107/ - along with 9% p.a. interest. It would be appropriate to set aside order of payment of compensation of Rs.10,000/ - on refund of only Rs.28,107/ - and rest of the order is to be upheld.

7. CONSEQUENT LY , revision petition filed by the petitioner is partly allowed and order dated 01.07.2013 passed by the State Commission, UT Chandigarh in Appeal No. 270 of 2013 - Mukat Hospital and Heart Institute Vs. Mr. Dibyendu Gharais partly modified and order upholding compensation of Rs.10,000/ - towards mental agony and harassment is set aside and rest of the order is affirmed with no order as to costs.