

(2002) 05 NCDRC CK 0030

In the National Consumer Disputes Redressal Commission

P. PUSHPARAJ

APPELLANT

Vs

IRT PERUNDURAI MEDICAL COLLEGE HOSPITAL

RESPONDENT

Date of Decision : 30-05-2002

Acts Referred:

Citation : 2007 4 CPJ 312

Hon'ble Judges : K.Sampath , PonGunasekaran J.

Final Decision : Appeal dismissed

Judgement

1. THE complainant in C.O.P. No. 42/2001 on the file of the District Consumer Disputes Redressal Forum, Erode is the appellant herein. His grievance was as follows: (a) He had fever, cough and weight loss and approached the opposite party hospital on 10.1.2000 and took treatment for 10 days and as there was no improvement, he was advised to get treated in Coimbatore Government Medical College Hospital that even there he did not get better. He went to Christian Fellowship Hospital in Oddanchatiram. THERE also he did not get relief. He got admitted in Coimbatore Ramakrishna Hospital and getting treated there. THE opposite party had not studied the results of the tests taken on 10.1.2000 and had been careless and had negligently stated that he did not have T.B. that if the opposite party had diagnosed properly, the problem would not have aggravated and there would not have been threat to his life and there would not have been need to have treatment from 1.5.2000. Thus, there was deficiency in service, that for the treatment, he had spent Rs. 45,546 that the opposite party hospital was liable to pay the said amount with interest as also compensation. When the complainant had approached the opposite party on 10.1.2000 and 11.1.2000, though there were indications that his left lung had been affected, still the opposite party did not do proper tests to have it confirmed and also did not give treatment for T.B. as could be seen from the care records. THERE was suspicion that the complainant had T.B. and Pneumothorax and if only further tests had been done properly it would have come to their knowledge that the complainant had T.B. and this clearly amounted to negligence.

2. THE case of the opposite party was that the complainant had been given proper treatment at the opposite party hospital from 10.1.2000 to 4.2.2000 that the complainant did not follow the advice and instructions given by the opposite party that after 4.2.2000, he reported only on 1.5.2000 in a bad shape and condition. He was given good treatment and on 10.5.2000 he was sent to Kovai Medical College Hospital for heart and chest treatment but he did not heed to the advice of the opposite party but got treated in some other hospital and there was no deficiency in service. Before the District Forum, on the side of the complainant Exs. A1 to A17 were marked while on the side of the opposite party no document was marked. The doctors, who had treated the complainant at the opposite party hospital Dr. A. Selestin Raj Manohar and Dr. G.T. Manohar, were examined as also the complainant.

The District Forum on the basis of the materials furnished and the evidence recorded found that the complainant had not established that there was any negligence on the part of the opposite party hospital. The District Forum also found that the complainant had deliberately kept back some of the vital documents which if they had been produced would wholly falsify his case. The District Forum also found that the complainant could not find fault with the opposite party as he did not co-operate with them that the diagnosis for T.B. involved longer time that when the complainant reported to the opposite party he had complained of fever, cough and weight loss only in the previous few days that the tests for T.B. required longer time to be done that from the tests they diagnosed the problem and treated that problem that they had specifically asked the complainant to report after 10 days from 4.2.2000 that he did not report and he went away and got treated elsewhere and there was no negligence on the part of the opposite party. By order dated 26.9.2003, the District Forum dismissed the complaint.

3. THOUGH the complainant as also the opposite party have filed written argument running to several pages, it is not necessary to go into full details and the reason for this course is as follows : The complainant was examined on 7.7.2003. In his evidence, he stated as follows: He went to the opposite party hospital on 10.1.2000. He had cold, lack of appetite that these problems were there for 10 to 15 days prior to 10.1.2000. On 10.1.2000 and 11.1.2000, he had told the doctor who examined him that there was indication that he had T.B. On 10.1.2000, x-ray was taken. Blood test was done also urine test. He had been given chits on 11.1.2000, 14.1.2000 and 4.2.2000. He had filed only the chit given on 4.2.2000 and not the chits given on 11.1.2000 and 14.1.2000. On 14.1.2000, he had been given medicines for 15 days that thereafter only on 4.2.2000, he went to the hospital and during the intervening 20 days, he had taken medicines, but still he did not get better, that on 4.2.2000, no tests were done. He also said that after 2.2.2000 he went to the hospital only on 1.5.2000. According to him, on 11.1.2000 he was prescribed injections to be taken once in 10 days that he had not mentioned about it in his complaint that he had not filed the prescriptions given on 11.1.2000 that the injection lasted till February end

that between February end and 1.5.2000 he did not take any medicine that from January 2000 till April 2000 his health had not improved that between 4.2.2000 and 1.5.2000 he did not go to any other doctor that in the interregnum, he had not taken any medicine and he had been careless that on 4.2.2000, the doctor had said that he had only mouth ulcers for which he was prescribed some vitamins. On 1.5.2000, he went to hospital in Tiruppur that he did not produce any material to show the treatment he took in the hospital at Tiruppur. The complainant had been treated as outpatient on 10.1.2000, 11.1.2000, 14.1.2000 and 4.2.2000. After that between 1.5.2000 and 10.5.2000 he got treated as inpatient in the opposite party hospital. Admittedly, the complainant had not mentioned that he had indications of T.B. to the doctor either on 10.1.2000 or on 11.1.2000. It was the duty of the complainant to establish negligence on the part of the opposite party. He had not mentioned in his complaint as to when his T.B. commenced. He had also not mentioned as to whether his parents or anybody in his family had T.B. The x-ray taken on 10.1.2000 which would have been the proper indicator of T.B. had not been filed by the complainant. It is a matter of common knowledge that after the onset of T.B., the signs of T.B. could be seen only in an x-ray taken between 3 to 6 weeks. Only after 6 to 8 weeks of the entry of the bacteria, the test for T.B. would give results. It is not possible to say with certainty before the 6th to 8th weeks as to whether T.B. bacteria had entered the system. Mantoux's Test is one of the recognised test for finding out whether the patient had T.B. Apart from x-ray, the sputum test is the proper test for diagnosing T.B. If this sputum is tested once and if the bacteria are not traced, it has to be done thrice as per Seil Neilson method. Before the commencement of the treatment, if haemoglobin level was higher, there was every chance of the disease getting completely cured. It could also be seen that along with T.B., the patient would have anaemia. When the T.B. is in a critical stage, the red corpuscles percentage will be more. Bearing the above in mind, it could be seen as follows: When Dr. Selestine Manohar, examined the complainant on 11.1.2000, he had cough, fever and loss of weight as his complaints. The doctor found that there was crepitation in the lungs. With the x-ray already done, it was seen that there was air in that area and it was found that the complainant had patchy opacity and it was thought that the complainant had pneumonia (normal cough). The complainant admitted that x-ray, Blood widal, ESR, Haemoglobin, Mantoux/ Sputum tests were all done at the opposite party hospital. After examining the results, it was found that the complainant had typhoid-pneumonitis and treatment was given for that. If ESR was raised, it would not necessarily mean that it was a case of T.B. Even for other problems, ESR could be at a raised level. With regard to haemoglobin, it was found that it was 11.3 gm. Only if it was less than 11 gm, it would be a case of anaemia. There was no problem with regard to urine. Mantoux Test, it was 10 mm positive. That would not indicate the onset of T.B. So far as India was concerned, only if it exceeded 15 mm. T.B. could be suspected. In the sputum test, it was found that there were no T.B. bacteria. It was found it was only because of typhoid bacteria, there was patchy opacity in the lungs. On 14.1.2000, the complainant was asked to undergo Bronchoscopy

test. That facility was not available in the opposite party hospital. The complainant was advised to have it done outside. He was prescribed medicines for typhoid-pneumonitis for 10 days and on 4.2.2000 when the complainant reported back, he had only mouth-ulcers. The complainant had not taken any treatment from 4.2.2000 to 1.5.2000 either in the opposite party hospital or elsewhere. He had his own reasons. He could not afford to get treated; and on his own admission, he had been careless. After that, from 1.5.2000 to 10.5.2000, he got treated as inpatient in the opposite party hospital. If according to the complainant, he had not been treated properly between 10.1.2000 and 4.2.2000 in the opposite party hospital, he could very well have got treated elsewhere. As rightly pointed out by the District Forum, the fault lay only with the complainant. He had not connected that because of any wrong treatment given on 11.1.2000, 14.1.2000 and 4.2.2000, the complaint aggravated on 1.5.2000. The complainant had not also let in expert evidence to show that because of wrong diagnosis, it was found that he had Bio Pneumothorax ailment. It is also possible that between 4.2.2000 and 1.5.2000, the complainant could have got some other ailment. It had also not been shown by the complainant that the problem that complainant he had from 1.5.2000 had connection to Acute Hydro-Pneumothorax. Apparently, at the initial stage, the opposite party did not find that the complainant had T.B. If treatment had been given for a wrong disease, it would also have aggravated the problem and the consequences could have been serious. When the opposite party did not find that the complainant had T.B. at the time he reported to them, it was highly improper on the part of the complainant to find fault with the opposite party for not diagnosing the non-existent T.B. The complainant had not admittedly produced any expert evidence. He had not produced the chits given by the opposite party for 11.1.2000, 14.1.2000 and 4.2.2000. When he was asked to report after 10 days, it was inconceivable that he would have been advised to take 5 injections once every 10 days. That would mean that he was to report after 50 days. Apparently, the opposite party had not prescribed any such injections and if the chits had been produced, they would have falsified the case of the complainant and that was the reason why the complainant chose to keep back those records.

4. WE are satisfied that the District Forum has rightly held against the complainant and dismissed the complaint. Consequently, the appeal fails and the same is dismissed. No costs. Appeal dismissed.