
(2003) 06 NCDRC CK 0005

In the National Consumer Disputes Redressal Commission

P.GOPINATHAN

APPELLANT

Vs

ANAND SOMAYA

RESPONDENT

Date of Decision : 19-06-2003

Acts Referred:

Citation : 2003 3 CLT 703 : 2003 4 CPJ 92 : 2004 2 CPR 381

Hon'ble Judges : M.S.Rane , V.K.Data J.

Final Decision : Complaint dismissed

Judgement

1. THIS complaint has been filed in the year 1997 alleging medical negligence on the part of the O.Ps. O.P. No. 1 is Doctor and O.P. No. 2 is Hospital.

2. THE complainant alleged to have taken treatment between 6.10.1993 to 29.10.1993 from the O.Ps. THE complaint herein has been filed on 17.2.1997 i.e. nearly three and half years after the treatment. It will thus be noticed that leaving aside the period of two years limitation, there is delay of sixteen months in filing the complaint.

The complainant has filed separate affidavit requesting for condonation of delay. Only in the application it is stated that he was not keeping well.

3. HOWEVER, the same has not been supported by any documentary evidence. Apart therefrom from the averments in the complaint it is noticed that during the said period the complainant had also visited his native place in Kerala which shows that his mobility was not affected by his sickness. O.P. No. 1 has filed affidavit asserting that sufficient ground has not been made out in the Explanation given for such inordinate delay.

4. IT is well settled principle that delay is to be explained by assigning sufficient and convincing Explanation under Section 24(A) of Consumer Protection Act, 1986. Two years limitation is provided from the date of accrual of cause of action. There is provision for condonation on sufficient cause being shown. Here in this case no sufficient cause as such has been shown. Although we have full sympathy for the complainant, as the delay has not been explained convincingly,

we have no alternative but to dismiss the complaint as being barred by law of limitation. ORDER 1. Complaint stands dismissed by law of limitation. 2. No order as to cost. 3. Office to furnish copies of the order to the parties. Complaint dismissed.