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**(2006) 03 NCDRC CK 0074**

**In the National Consumer Disputes Redressal Commission**

P.K.GHOSH

APPELLANT

Vs

PRADYUT RAKSHIT

RESPONDENT

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**Date of Decision :** 10-03-2006

**Acts Referred:**

**Citation :** 2006 1 CPR 328 : 2006 2 CLT 384 : 2006 2 CPC 154 : 2006 2 CPJ 247

**Hon'ble Judges :** Rajyalakshmi Rao J.

**Final Decision :** Revision Petition dismissed

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## **Judgement**

1. THIS Revision Petition is filed against the order dated 17.11.2005 passed by the West Bengal State Commission whereby the appeal filed by the Petitioner was dismissed and order of the District Forum allowing the complaint is upheld. Brief facts of the case are: Mr. Pradyut Rakshit, the original complainant was a goldsmith having a shop at Beldanga. It is averred by the complainant that when he was engaged in his work one particle of gold penetrated in his left index finger which caused injury and severe pain. He went to the chamber of the petitioner, Dr. P.K. Ghosh. Petitioner without taking any precautionary measures for surgical intervention operated his affected finger and prescribed medicines for the post-operative period. The operated finger was put in bandage. When the pain became unbearable and intolerable, the respondent had to rush to two Surgeons for opinion and then to the Nursing Home at Calcutta where the Surgeon had amputated his injured index finger. The Respondent alleged deficiency in service and negligence on the part of the respondent who operated on his finger without bringing the level down of blood sugar when he was aware that it was high at the relevant time. THIS act of the respondent leads to Gangrene and amputation of the finger later. THIS resulted in respondent becoming physically handicapped and further he lost working capacity as a goldsmith.

2. AFTER considering the evidence, District Forum and State Commission came to the conclusion that the said operation was done without ensuring that the patient's blood sugar level is in permissible limits. AFTER the operation, the petitioner could not find the particle of gold therein and prescribed medicines and

assured respondent that he would be fine. Thereafter respondent's finger was amputated due to development of Gangrene. Learned Counsel for the petitioner argued that respondent met him in the chamber for the complaint of his external genital infection. AFTER examination necessary medicines were prescribed and the Doctor also advised him to get post blood sugar test and the report was showing blood sugar as 156. It is contended by the petitioner that the said surgery was never done by him and that he only prescribed medicine for genital infection. Another contention that was raised by the learned Counsel for the petitioner is regarding the case while it was remanded from State Commission to District Forum a direction was given to hear the matter afresh after taking evidence of medical expert. The State Commission in the appeal second time heard on merits and concluded that three experts have opined in this matter and the fact that the operation was done without bringing the blood sugar levels down itself is deficiency in service and that this medical negligence caused amputation of finger later on.

Heard the learned Counsel exhaustively. The allegation made by the petitioner that the respondent came to him for a complaint of external genital infection and that he only gave some medicines to control the infection and pain is not supported by any documents or evidence. It is an admitted fact that the respondent was examined by the petitioner on 13.11.1998. It is on 18.11.1998 Dr. Sanjiv Das, a Surgeon, diagnosed the index finger as distal Gangrene. The respondent was examined on following date by another Surgeon Dr. Nirmal Kar Saha who also diagnosed it as Diabetic Gangrene. On 23.11.1998 Dr. Sunit Chaudhari diagnosed his ailment as Diabetic Gangrene and amputated the left index finger. There is no discussion about the external genital infection which petitioner has been alleging throughout as per the expert evidence.

3. LEARNED State Commission has referred to the grounds raised by the petitioner as to the direction given while remanding the case to the District Forum. Both the fora have given enough time to the parties to lead any further evidence if they chose to. The State Commission rightly observed that expert Surgeons have opined on the case before surgery of amputation was done. It is rightly observed that there is no evidence for external genital infection as contended by the petitioner. In view of the above discussion, I agree with the findings of the District Forum and the State Commission. There is no reason for me to interfere with the order of the State Commission. Hence, Revision Petition is dismissed. Revision Petition dismissed.