
(2001) 04 NCDRC CK 0055

In the National Consumer Disputes Redressal Commission

RAJESH KUMAR

APPELLANT

Vs

D.P.BAKSI

RESPONDENT

Date of Decision : 12-04-2001

Acts Referred:

Citation : 2001 2 CPJ 59

Hon'ble Judges : D.P.Wadhwa , C.L.Chaudhry , J.K.Mehra , B.K.Taimni J.

Final Decision : Original Petition dismissed

Judgement

1. THIS is a complaint filed by the complainant against the opposite party who is a Surgeon for the alleged negligence committed by the said Surgeon in operating upon the complainant's right hand. It is alleged that the patient could not move his wrist and the fingers. It was to remedy this malady that the operation was carried out on 20th April, 1990 at Calcutta. It is stated in the complaint that the hand of the patient did not fully respond after the operation and certain complications also developed later. Even the report of one, Dr. A.K. Biswas which is relied upon by the complainant in the complaint is that of 2nd June, 1990 wherein the fact of missing radial nerves and radial artery is noted. Thereafter, the patient was treated at different centers including All India Institute of Medical Sciences (AIIMS). The fact is that the absence of the radial nerves was known to the complainant on 2nd June, 1990 and that the right radial artery was missing. But the complainant filed the present complaint in February, 1999 which is almost 9 years after the said operation. Limitation provided under Section 24A of the Act is 2 years. Such delay can, however, be explained in terms of proviso to the said section. But no explanation for such long delay has been shown nor any prayer for condonation of delay has been made before us.

2. IN these circumstances, we are not inclined to condone the delay of about 7 years in filing the complaint. This original petition is, therefore, dismissed, as time barred. This disposal shall not prevent the complainant to such remedy in any other Forum in accordance with law. Original Petition dismissed.