

(2004) 12 NCDRC CK 0028

In the National Consumer Disputes Redressal Commission

RAM KRISHNA

APPELLANT

Vs

MATA CHANAN DEVI HOSPITAL

RESPONDENT

Date of Decision : 03-12-2004

Acts Referred:

Citation : 2005 3 CPJ 564

Hon'ble Judges : J.D.Kapoor , Mahesh Chandra , Rumnita Mittal J.

Final Decision : Appeal disposed of

Judgement

1. THE solitary controversy involved in this appeal directed against the impugned order dated 9.4.2003 passed by the District Forum whereby the complaint of the appellant was rejected, is that whether the medicine prescribed by the respondent-doctor for the treatment of the Cyclodex in the eyes of the appellant was wrongly prescribed and whether it was harmful to the eyes or not.

2. THE perusal of the impugned order shows that the prescriptions and the clinical papers attached with the complaint of the appellant were sent to Safdarjung Hospital for expert or second opinion. However, Dr. K.P.S. Malik of Safdarjung Hospital was not in a position to provide any opinion because of the clinical examination of the appellant being sketchy and unrelated. As is apparent from the observations of Dr. K.P.S. Malik he was not aware of the fact whether the medicine known as "Cyclodex" was prescribed for 10 days or whether this medicine was harmful to the eyes of the appellant who was having clinical Glaucoma. We are afraid District Forum did not try to obtain the opinion of the doctor in respect of the prescription of Cyclodex for 10 days which was the sole question for determination of the claim of the appellant and forwarded all the papers including the complaint, etc. to Dr. K.P.S. Malik of Safdarjung Hospital.

Since no opinion of Dr. Malik was obtained by the District Forum in respect of medicine in question observations of the District Forum that the doctor has failed to give clear opinion regarding negligence are groundless and without any basis. Dr. Malik specifically stated that he was not in a position to provide any opinion because the clinical examination of the patient was sketchy and unrelated.

3. IN view of the foregoing reasons we are constrained to allow the appeal, set aside the impugned order and send back the matter to the District Forum to decide on merit after making specific reference to the Head of Safdarjung Hospital whether the medicine prescribed to the respondent namely "Cyclodex" for 10 days to the appellant who was having chronic "Glaucoma" was wrong medicine and whether it was harmful to the eye of the appellant or not. District Forum may call upon the complainant to formulate the question and facts on which opinion of expert was required. Party shall appear before the District Forum on 24.1.2005 for the aforesaid purpose. The District Forum shall try to decide the matter as expeditiously as possible, preferably within three months.

4. BANK Guarantee/FDR, if any, furnished by the appellant be returned forthwith. A copy of this order as per the statutory requirements, be forwarded to the parties free of charge and also to the concerned District Forum and thereafter the file be consigned to Record Room. Appeal disposed of.