
(2012) 03 NCDRC CK 0022

In the National Consumer Disputes Redressal Commission

S K Jain R/O Spandan Care

APPELLANT

Vs

Sahveer Singh S/O Shri Darshan Singh

RESPONDENT

Date of Decision : 20-03-2012

Acts Referred:

Citation : 2012 0 NCDRC 199 : 2012 2 CPJ 463 : 2012 3 CPR 179

Hon'ble Judges : ASHOK BHAN , VINEETA RAI J.

Final Decision : Dismissed

Judgement

1. PETITIONER who was the Opposite Party before the District Forum has filed this Revision Petition against the order and judgment dated 15.11.07 passed by the State Consumer Disputes Redressal Commission, Uttar Pradesh (in short, "the State Commission ") in appeal No.996/02 whereby the State Commission has upheld the order of the District Forum directing the Petitioner to pay compensation of Rs.1,50,000/- to the Respondent. Rs.400/- were awarded as costs.

2. COMPLAINANT /Respondent went to Methodist Hospital, Jaisinghpura, Mathura on 7.05.01 with complaint of general body pain. He was attended to by the Opposite Party/Petitioner herein who was working in the Hospital at that time. Petitioner gave certain medicines to the Respondent which caused reaction. Respondent informed the Petitioner that the medicines given to him caused reaction and did not suit him but Petitioner advised him to continue with the same and come again on the next day. On 8.05.01, Respondent approached the Petitioner and was admitted in the Hospital on the Petitioner 's advice. Respondent was administered Tetracycline injection which caused drug reaction and as a result thereof condition of the Respondent worsened. He was discharged on 12.05.01. He was admitted in Swarna Jayanti Samudayik Hospital for further treatment and was diagnosed as a case of "drug reaction " on account of Tetracycline. Alleging medical negligence on the part of the Petitioner, Respondent filed the complaint before the District Forum claiming a compensation of Rs.5 lakh. Notice sent to the Petitioner by the District Forum

was received back with the postal remarks "refused " and he was ordered to be proceeded ex-parte. District Forum after taking into consideration the medical report/discharge summary dated 12.05.01 and the allegations made in the complaint to which no reply had been filed, allowed the complaint and directed the Petitioner to pay compensation of Rs.1,50,000/- to the Respondent. Rs.400/- were awarded as costs. Petitioner, being aggrieved, filed the appeal before the State Commission which has been dismissed by the impugned order.

3. COUNSEL for the Petitioner contends that the Petitioner had never been served and that he never refused to accept the notice. That the District Forum erred in allowing the complaint without affording any opportunity to him to contest the case on merits. That the Respondent got himself discharged from the Hospital on his own request which has been recorded in the discharge summary also. That there was no medical negligence on the part of the Petitioner as the Respondent was given best possible treatment. That the compensation awarded by the District Forum was excessive. As against this, Learned Counsel for the Respondent supported the orders passed by the fora below. Counsel for the parties have been heard.

4. IT is not disputed before us that the Respondent approached the Petitioner doctor on 7.05.01 for treatment with a complaint of general body pain. He was given certain medicines which caused reaction. Respondent informed the Petitioner that the medicines given to him caused reaction and did not suit him but despite that Petitioner advised him to continue with the same medicine and asked him to come again on the next day. On the next day, despite the fact that the earlier medicines had caused reaction, Petitioner administered the Tetracycline injection as a result of which Respondent got burning and itching over chest, skin lesions over face, chest and back and few lesions were also noted over arms and legs. These facts have been noted in the Medical Report/ Discharge Summary dated 12.05.01 of the Methodist Hospital which is reproduced as under:- " 25 year old male Sahveer Singh presented with symptom of generalized body pain more in both the lumber regions associated with right sided chest pain and malaise. He was put on Tetracycline and Entamizole Forte. He was admitted for observation. On examination: PR=100/min. BP =130/80mm Hg. Systems Normal Inv.: Urine: turbid, brownish acidic pH, sp.gr. 1.040, sug. Trace, alb. Slight trace, EC occ, PC 1-2, RBC occ. 1-2 uric acid crystals. 2hrs.PPBS-123.6mg/dl BUN-38.6 Creat-0.7 Se Bil total - 1.0 Following admission the chest pain increased and he developed ecchymos discoloured or high coloured ecchymotic patches over the lower face and chest wall and arms which progressed to become bullous lesion the following day the lesions on the face dried up and the lesions progress down the forearm and lower limbs. Diagnosis: Drug Reaction to Tetracycline Sd/- Dr. of Duty "

A perusal of the medical report/ discharge summary reveals that there was drug reaction due to Tetracycline administered to the Respondent. Even in the discharge summary of the Swarn Jayanti Samudaik Hospital where the

Respondent was admitted on 12.05.01 it was recorded that "severe bullae all over the body after taking Tetracycline. Preceded by itching and burning ". There was medical negligence on the part of the Petitioner as he administered the Tetracycline injection despite knowing the fact that the earlier medicines given by him to the Respondent did not suit him and had caused drug reaction. Tetracycline injection was given without doing any "reaction test " which clearly shows that the Petitioner was negligent. Since the averments made in the complaint and the evidence led by the Respondent remained unrebutted, District Forum rightly accepted the averments made in the complaint duly supported by the discharge summaries of the two Hospitals and allowed the Complaint.

5. PLEA taken by the Petitioner that he had never refused to take the delivery of the summons or that he had not been served with the notice has been dealt by the State Commission by observing as under:- " As regards the argument of non-affording of opportunity of hearing is concerned, that argument too does not survive. A perusal of the impugned order makes it clear that the appellant was sent registered notice of the case and he refused as per the endorsement of postal employee and taking this factor into consideration the learned District Forum deemed service sufficient and proceeded to decide the case exparte on merit. Such approach is totally justified. Over and above, sufficient opportunity of hearing has been granted at the appellate stage. The contrary argument thus, so made in this connection is not acceptable. We agree with the view taken by the State Commission that the Petitioner had been duly served. We do not find any substance in the submission made by the Counsel for the Petitioner that the compensation of Rs.1,50,000/- is excessive. Respondent had to take the treatment in another hospital and suffered for a number of days which must have entailed huge expenses. The compensation awarded is on the conservative side. No merits. Dismissed.