

(2015) 03 NCDRC CK 0053

In the National Consumer Disputes Redressal Commission

Case No : NO 3713 of 2010

SABINA BEGUM

APPELLANT

Vs

DR. K.K. SHUKLA

RESPONDENT

Date of Decision : 16-03-2015

Acts Referred:

[Constitution of India](#), [Article 226](#) -
Power of High Courts to Issue certain writs

Citation : 2015 3 CPJ 68

Hon'ble Judges : J.M. Malik, S.M. Kantikar

Advocate : Karan Dewan, Sukumar Pattjoshi, Sunil Mund, S. K. Dubey

Judgement

1. Brief facts in this revision are, that the complainant, Shabina Begum, was suffering from pain in her left leg from 11.06.2000. She was operated upon, by OP at Akshay Nursing Home, in the second week of Jun, 2000. Thereafter, she suffered further pain and disability in her leg, and was unable to walk. Therefore, alleging medical negligence, the Complainant filed a complaint before the District Forum, Jabalpur.

2. The District Forum vide its order dated 18.07.2006 awarded a sum of Rs.1,00,000/- to the Complainant/Petitioner on account of the mental & physical agony suffered due to the medical negligence committed on part of the Respondent, further sum of Rs.25,000/- as costs incurred on treatment and a sum of Rs.1000/- as the cost of the Complainant.

3. Against the order of District Forum, the OP filed First Appeal No 1620 of 2006 before the State Commission, which was allowed by holding that there was no proper evidence of negligence and deviation from the normal treatment procedure.

4. Aggrieved by the impugned order, the Complainant/Petitioner filed this revision.

5. We have heard the learned counsel for both the parties. The counsel for

complainant argued that, the complainant was operated upon, by the OP Dr. K. K. Shukla, and was charged Rs.5500/- for the treatment. Thereafter, the Complainant suffered loss of sensation in his left leg, therefore it was negligence of OP. The counsel for OP denied the negligence. He further submitted that the patient was suffering from malaria and Dr. Akshay gave him treatment for malaria only, after performing laboratory test. The counsel for OP submitted that, the OP- Dr. K. K. Shukla was a Regional Joint Director, Public Health and Family Welfare and posted at Jabalpur, he never treated the patient and never issued any receipt of Rs.5,500/- to the complainant, on 20.06.2001. The Akshya Nursing Home was run by Dr. Akshay Shukla, who is a Radiologist and his wife as a Gynecologist.

6. After thoughtful consideration, the main controversy swirls around whether, OP- Dr. K. K. Shukla conducted the surgery of Complainant Smt. Shabina Begum for neurofibroma thigh at Akshay Nursing & Maternity Home, Jabalpur or not?. We have perused the prescription of a Neurosurgeon; Dr. Alok Agrawal dated 16.07.2001 (Annexure 17/ C/6). He had also mentioned that, the patient was referred by Dr. Sudhir Tiwari, Orthopedic Surgeon to him, wherein the patient's history discloses that, she was operated at Victoria Hospital for thigh neurofibroma. Dr. Agrawal advised the patient to consult Dr. Milind Wagh at Bombay for further treatment. It is also, pertinent to note that, a letter dated 20.11.05 is the clarification given by the Civil Surgeon-cum-Hospital Superintendent, Victoria Hospital, Jabalpur, that, the patient Sabina Begum was suffering from Neurofibroma of left thigh and she was operated for the same on 20.06.2001 in Victoria Hospital, Jabalpur under local anesthesia as an outdoor patient and surgery was conducted by Dr. R. S. Chakraverty, who was posted as Surgeon in Victoria Hospital, Jabalpur. Therefore, the receipt for Rs.5500/- did not appear to be genuine. The laboratory report and prescriptions issued by Dr. Akshay Shukla of Akshay Nursing Home revealed that the diagnosis and treatment given, was for malaria. The complainant failed to prove on record any cogent evidence about the surgical treatment of neurofibroma that took place at Akshya Nursing Home. Therefore, on the basis of foregoing discussion, we don't find any merit in this revision, hence dismissed. There shall be no order as to costs.