

(2001) 11 NCDRC CK 0007

In the National Consumer Disputes Redressal Commission

SANDHYA R SANYAL

APPELLANT

Vs

Behala BALANANDA B.HOSPITAL

RESPONDENT

Date of Decision : 12-11-2001

Acts Referred:

Citation : 2002 1 CPJ 353

Hon'ble Judges : S.C.Datta , S.Majumder , D.Karformas J.

Final Decision : Appeal dismissed

Judgement

1. VIDE order dated 4.3.1999, the Forum dismissed the complaint as being barred by limitation.

2. THE allegation of the complainant, in short, is that she met with an accident on 24.6.1982 and in consequence thereof the neck of the right femur joint was fractured. On the N/D, she was taken to opposite party-1 hospital for treatment. On 6.7.1982, opposite party-3 operated upon the complainant but her pain did not subside and the problem continued to develop day-by-day. THE review by the doctor yielded no result. THE X-ray Report showed that the operation was faulty and as a consequence she had become completely handicapped. THE present petition was filed on 27.7.1998. THE complainant filed a petition for condonation of delay. According to the complainant, cause of action arose in the year 1982 and it continued till 1994. She did not file complaint even within 2 years from 1994, but has approached the Forum 4 years later. THE complainant has of course filed a petition praying for condonation of delay. But she has not shown sufficient cause for not filing the petition of complaint within the period of limitation. THE Forum noticed that there was no whisper nor any cogent reason for not approaching the Forum with the period of limitation. Since the complainant has failed to establish the reason for not coming to the Forum much earlier, the Forum declined to condone the delay. We find that this is a stale claim which the Forum has rightly refused to adjudicate. THE complainant did not visit the doctor after 1982. THE learned Counsel appearing for the appellant concedes that there exists some lacuna in the case. He prays that the complainant may be

given opportunity to prove her allegation about deficiency in service on the part of the opposite parties. He submits that technicalities should not stand in the way of granting a relief to the complainant. As indicated earlier, the cause of action arose in 1982 and after the lapse of long 16 years the complainant approached the Forum alleging negligence on the part of the doctor and the hospital, No paper has been produced to show that she had visited the doctor or the hospital after the operation was done. Nor has she produced any paper to establish that the operation has been faulty or wrong. In the circumstances, we think that the Forum was perfectly justified in dismissing the complaint petition. We find no merit in the appeal which is hereby dismissed on contest. Appeal dismissed.