

(2007) 09 NCDRC CK 0033

In the National Consumer Disputes Redressal Commission

SANTAKSHI DENTAL CLINIC

APPELLANT

Vs

KRISHNA KUMAR DUBEY

RESPONDENT

Date of Decision : 13-09-2007

Acts Referred:

Citation : 2008 1 CPJ 203

Hon'ble Judges : N.K.Jain , Neerja Singh J.

Final Decision : Appeal partly allowed

Judgement

1. -THIS appeal arises from the order dated 27. 3. 2006, passed by District Consumer Disputes Redressal Forum, Hoshangabad, directing the Dentist, Dr. V. K. Saxena, to pay Rs. 9,000 as cost of teeth, Rs. 5,000 as compensation and Rs. 1,000 as cost, on the ground of negligence allegedly committed by him in the dental treatment of the complainant.

2. THE undisputed facts are that the respondent-complainant consulted the appellant Dentist, Dr. V. K. Saxena, on 1. 6. 2004. He was informed that 7 upper and 6 lower teeth required to be changed. This was done on 8. 6. 2004. The respondent has alleged that the appellant took Rs. 18,000 and assured him that he would have no problem with the teeth for 10 years. When he consulted the appellant again on 8. 8. 2004, he informed him that one filling had come out and the teeth were shaking. The appellant told him that the quality of fillings available these days in the market was poor. He also told him that the teeth would set with time and stop shaking. However, within 2 months all the 7 upper teeth came out. He met the appellant, on 24. 8. 2004, who told him that all the 7 teeth would have to be replaced and it would cost Rs. 11,000, which led to a dispute. Alleging deficiency in treatment the respondent sought compensation of Rs. 81,678.

The appellant has resisted the complaint on the ground that there is no expert evidence that the material of the teeth was not good. He states that the respondent's teeth were in very bad shape there was pus in the gums and teeth. He advised dentures, which was refused by the patient. He then suggested crown

and bridge work, to which the respondent agreed. When the respondent came on 20. 8. 2004, he made no complaint other than that of pain. He denies demanding Rs. 11,000 for replacement of the teeth. He further states that the teeth were made of good material. Had there been any fault in the material, the lower teeth would also have come out. The appellant states that the cost of the procedure was Rs. 8,000 but the respondent gave Rs. 5,000 only and said that he would give rest later.

3. THE District Forum held the doctor negligent on the ground of incorrect treatment. The respondent is represented by a registered consumer association. Argument of both the parties were heard and documents perused.

4. THE short point in the instant case is whether the filling was of poor quality causing all 7 teeth to come out. The complainant has not led any evidence to this effect, but neither has the appellant-Dentist been able to explain why all the 7 upper teeth came out. It is reasonable to accept that 1 or 2 fillings may come out, but for all the 7 to come out, within 2 months of the procedure leads us to the conclusion that there was some defect, either in the procedure adopted or in the quality of material used. It is significant to note that the appellant Dentist, in his reply, has stated that unless they are interfered with, there is no reason for the teeth to come out. There was no reason for the respondent to interfere with the teeth. In the absence of any plausible explanation from the appellant, as to why the teeth fell out, it is apparent that either the crown and bridge work was incorrectly done or that it was a procedure which should not have been adopted in the respondent's case. No document or receipt has been filed by the respondent in support of the payment of Rs. 18,000, as alleged by him. The appellant has stated that the total cost of the treatment was Rs. 8,000 but he received only Rs. 5,000. We find this contention difficult to accept. Had he received only part of the fees, he would not have continued to treat the respondent on later dates. Considering the facts and circumstances of the case, we are of the view, that as half the teeth implanted by the appellant have come out, he should return half the payment. However, we see no reason to award any further compensation. In the result, the appeal succeeds in part and to the extent indicated above. The appellant is directed to pay Rs. 4,000 to the respondent. The payment of compensation Rs. 5,000 is set aside. Rest of the order of the Forum below shall remain unaltered. We make no order as to cost. Appeal partly allowed.