
(1991) 03 NCDRC CK 0026

In the National Consumer Disputes Redressal Commission

SH. HARESH KUMAR

APPELLANT

Vs

SUNIL BLOOD BANK And OTHERS

RESPONDENT

Date of Decision : 27-03-1991

Acts Referred:

Citation : 1991 0 CPC 249 : 1991 1 CPJ 645

Hon'ble Judges : R.N.Mittal , B.L.Anand , Avtar Pennathur J.

Final Decision : Ordered accordingly

Judgement

1. THE complainant Sh. Naresh Kumar has stated that his wife Mrs. Indu Rahl was admitted in Safderjung Clinic, C-4/144, Safderjung Develop- ment Area, New Delhi on 17.8.89 for delivery of a child. She delivered a male child on 17.8.89 at 6.52 P.M. weighing 2.8 Kg. (Exhibit 1). She was discharged on 23.8.89. On 17.8.89 Dr. (Mrs.) Indira Kohli, the doctor who runs the clinic, informed the complainant that she would need to perform a caesarian operation upon the complainant's wife. She asked him to procure one unit of blood Group "A" positive for the operation and gave the complainant a written blood requisition form. THE complainant further stated that Dr. Kohli had asked the complainant to procure blood from Sunil Blood-Bank & Transfusion Centre, 806 Arjun Nagar, Kotla Mubarakpur, Opposite Defence Colony, New Delhi. THE complainant purchased blood from Sunil Blood Bank and paid an amount of Rs. 200/- vide Cash Memo No. 1846 dated 17.8.89 (Exhibit 2). THE blood was administered to the complain- ant's wife on 17.8.89 and she was discharged from Safderjung Clinic on 23.8.89.

2. COMPLAINANT's wife started having fever, vomiting etc. on 26.8.89, three days after she was discharged from the clinic. She was taken to the CGHS Dispensary No. 43, R.K. Puram on 28.11.89 and remained under the treatment till 15.12.89 (Exhibit 3) where the doctor on duty was of the view that she might be suffering from Hepatitis B. She was advised to have her blood tested from Safderjung Hospital laboratory vide his report dated 5.12.89 at S.No. A-I 19346 intimated that the complainant's wife was HBs Ag positive patient. After this she

remained under treatment of Dr. Y.K. Joshi, Gastroenterology and Human Nutrition Unit of All India Institute of Medical Sciences (AIIMS), New Delhi. The complainant further stated that his wife suffered acutely from Hepatitis B for more than two months. She had fever, vomiting, loss of appetite and loss of five Kgs. weight. The virus of Hepatitis B was also transmitted to the complainant by his wife who suffered from acute viral Hepatitis B and also remained under treatment of Dr. Y.K. Joshi of Gastroenterology and Human Nutrition Unit, AIIMS New Delhi vide O.P.D. No. 17862/ 90 dated 12.4.90 and had to remain on medical rest from 12.4.90 to 6.6.90. He suffered from fever, headache, loss of appetite, skin allergy, weight loss, extreme weakness. Dr. Y.K. Joshi was of the opinion that the blood purchased from Sunil Blood Bank had Hepatitis B virus in it. The transfusion of this blood to the complainant's wife, Mrs. Indu Rahl resulted in her suffering from Hepatitis B which was later communicated to the complainant by his wife. The complainant has sought a relief of Rs. 5 lacs. from Sunil Blood Bank which supplied of which the complainant's wife and the complainant had to undergo acute physical and mental suffering for a period of more than 4 months.

The complainant requested vide his application dated 18.12.90 that Dr. (Mrs.) Indira Kohli of Safderjung Clinic and Dr. Y.K. Joshi of A.I.I.M.S. be summoned as witnesses. Dr. Joshi sent an affidavit dated 2.1.91 in which he had stated that "Mrs. Indu Rahl W/o Mr. Naresh Kumar was seen by me in Gastroenterology O.P.D. of AIIMS on 28.12.89 vide O.P.D. No. 15231/89 with complaints suggestive of acute viral hepatitis. She was symptomatic for a month. She gave a definitive history of blood transfusion on 17.8.89 that is almost two months prior to the onset of the symptoms suggestive of viral hepatitis. Examination revealed that she was mildly jaundiced. A report from outside showed that she was positive for hepatitis B surface antigen which is a test for hepatitis virus B, the etiological agent of hepatitis B. This was confirmed later by a more sensitive test in our laboratory. In view of a definite blood transfusion and surgery two months prior to the onset of illness and positive virus B marker, she was diagnosed as a case of Acute Viral Hepatitis B, which is the most important cause of post transfusion hepatitis in India."

3. DR. (Mrs.) Indira Kohli, owner of Safderjung Clinic in her statement on oath on 20.11.91 stated that Mrs. Rahl got herself admitted on 17.8.89 in the Nursing Home run by her and stayed there upto 23.8.89 when she gave birth to a male child by caesarian operation. She requested the relations of the patient to donate a unit of blood which was required for the patient. The relations refused to donate the blood and they stated that they will purchase blood from the market and asked her to give the address of some blood bank. She gave the address of Sunil Blood Bank situated in Arjun Nagar, New Delhi. She told the relatives that they should get blood Group A positive and also gave a sample of the blood of the patient as per the procedure. During the cross-examination DR. Kohli stated that when the blood is brought for a patient it is not tested because there is no doubt that the blood would not be of proper standard and therefore the question

of getting the same tested again did not arise. She also confirmed that if there are germs of Hepatitis B in blood this could be dangerous to the patient. Respondent No. 1 did not appear on 8.11.90 and was thus proceeded against ex-parte. The intimation regarding ex-parte proceedings were to be sent to the respondents under registered cover and also by dasti notice. In the meanwhile somebody on behalf of the respondent No. 1, who signed as "Sudhir" received a copy of the complaint and noted the next date of hearing i.e. 29.11.90. However, respondent No. 1 did not appear on that date.

4. DR. (Mrs.) Indira Kohli of Safderjung Clinic and DR. Y.K. Joshi of AIIMS were directed to give affidavits to the complainant when they were approached by him. The complainant stated that both the doctors were reluctant to give the affidavits and hence they should be summoned alongwith relevant record in the court or be directed to give affidavits by way of evidence. Affidavit of DR. Joshi was submitted on 3.1.91 and DR. Kohli appeared personally as a witness on 29.1.1991. We have heard the arguments at length and perused the available record. Respondent No. 1, Sunil Blood Bank, did not appear inspite of the fact that their representative had collected a copy of the complaint after the hearing on 8.11.90 and noted the next date of hearing i.e. 29.11.90 hence they are proceeded against ex-parte. From the record available with us and arguments put forth alongwith affidavit of Dr. Joshi of AIIMS and statement of Dr. Kohli, owner of Safderjung Clinic it is clear beyond any doubt that a unit of blood purchased by the complainant for his wife, Ms. Indu Rahl, on 17.8.89 from Sunil Blood Bank was contaminated and had virus of Hepatitis B. Sunil Blood Bank had supplied contaminated blood to the complainant and failed to observe the fundamental requirement of ensuring that the blood supplied to the complainant was free from any contaminated blood the complainant's wife suffered from viral Hepatitis B which was later communicated by her to her husband, Sh. Naresh Kumar, the complainant. Both the complainant and his wife suffered for a few months due to defective and contaminated blood supplied by Sunil Blood Bank.

5. IT is clear from the statement of Dr. (Mrs.) Indira Kohli that she had initially suggested that blood be donated by the relations of the patient. On their refusal to do so and on their insistence that they be supplied the name of a blood bank from where they could purchase a unit of blood she had suggested the name of Sunil Blood Bank. This in no way makes her responsible for the contaminated blood received from Sunil Blood Bank by the complainant. Dr. Kohli had further clarified that when blood is provided for transfusion by the patient's relative it is always understood that the blood is as per specifications given and free from any contamination. There is no procedure for testing the blood at the time of transfusion before the operation. IT is the duty of the blood bank to ensure that they do not stock contaminated blood and cause hardship and physical discomfort to patients who have to purchase blood for transfusion from these centres.

6. IN view of afore mentioned facts and discussions we hold Sunil Blood Bank &

Transfusion Centre guilty of supplying contaminated blood to the complainant and award a sum of Rs. 20,000/- as damages to the complainant for ill-health and discomfort caused to him and to his wife. The amount of Rs. 20,000/- should be paid within a period of six weeks from the issue of this order failing which action will be taken in accordance with Consumer Protection Act, 1986. We also award Rs. 1,000/- as costs to the complainant. Ordered accordingly.