
(1992) 01 NCDRC CK 0006

In the National Consumer Disputes Redressal Commission

SUNIL BLOOD BANK AND TRANSFUSION CENTRE	APPELLANT
Vs	
NARESH KUMAR	RESPONDENT

Date of Decision : 19-01-1992

Acts Referred:

Citation : 1992 0 CPC 334 : 1992 0 NCDRC 89 : 1992 1 CPR 430 : 1992 2 CPJ 485 : 1993 1 CLT 248 : 1995 1 CPJ 57

Hon'ble Judges : V.BALAKRISHNA ERADI , A.S.VIJAYAKAR , Y.KRISHAN , B.S.YADAV J.

Advocate : S.PATTJOSHI

Judgement

1. THIS appeal arises out of an order passed by the State Commission, Delhi, directing the appellant herein, to pay a sum of Rs. 20,000/- by way of compensation, to the Complainant in the case, on the ground that the blood supplied to Complainant by the appellant herein was contaminated by Virus Hepatitis B. The impugned order was passed by the State Commission ex-parte without permitting the appellant herein, who was the Opposite Party before it, to file its written statement in opposition to the complaint petition. The justification given by the State Commission for adopting the said procedure is that on an earlier date when the case had stood posted, the appellant herein had failed to appear before the State Commission and it had consequently been "set ex-parte, and hence though it appeared before the State. Commission on the next day of posting of the case viz., 29th January, 1990 and requested for an opportunity to file his written statement and adduce evidence in support of its contention the said request was not liable to be granted inasmuch as the appellant herein had already been "set Ex-parte". We are unable to approve of the said Procedure adopted by the State Commission. All the provisions of the Code of Civil Procedure are not applicable to the proceedings before the redressal forums constituted under the Consumer Protection Act and only certain specific provisions enumerated in Sec. 13(4) of the Act are made applicable to such proceedings. Hence the State Commission should not have imported the Hypotechnical procedure of debarring a party from filing his written statement

and adducing his evidence in opposition to the complaint petition on the ground that he was absent on an earlier date of posting and had been set ex-parte. To adopt such a procedure in the absence of any compelling provision in the statute would constitute denial of natural justice. Inasmuch as the impugned order has been passed without giving the appellant a fair opportunity to place its defence before the State Commission, we are constrained to allow this appeal, set aside the order passed by the State Commission and remand Complaint No. C-91/90 to the State Commission for being disposed of afresh on the merits in accordance with law after affording an opportunity to the appellant herein, to file its written statement and also an adequate opportunity to both sides to adduce oral and documentary evidence in support of their contentions. It is ordered accordingly. The parties will bear their respective costs.