

(2004) 08 NCDRC CK 0063

In the National Consumer Disputes Redressal Commission

SURAJ BHAN

APPELLANT

Vs

Krishan Lal

RESPONDENT

Date of Decision : 25-08-2004

Acts Referred:

Citation : 2004 4 CPJ 335 : 2005 1 CLT 48

Hon'ble Judges : J.D.Kapoor , Rumnita Mittal , Mahesh Chandra J.

Final Decision : Appeal allowed

Judgement

1. GRIEVANCES of the appellant against order dated 15.5.1998 passed by District Forum-III, Janak Puri, New Delhi in Complaint Case No. 629/1997 entitled Shri Suraj Bhan v. Dr. Krishan Lal, whereby his complaint seeking compensation from the respondent on account of negligence of the respondent in performing the operation of cataract of his left eye was dismissed, can be remedied by allowing the appeal and setting aside the impugned order with the direction to the District Forum to get the left eye of the appellant physically examined from Ophthalmologist of All India Institute of Medical Sciences as the complaint was dismissed merely on the opinion of the Head of the Department of Ophthalmology of Deen Dayal Upadhyay Hospital which was based upon the line of treatment and the prescription as well as other papers prepared by the respondent during the course of the treatment. District Forum has placed reliance upon the following observation of the said Head of the Department while dismissing the complaint and rejecting the claim of the appellant. "I have gone through the enclosed relevant papers. In my opinion there does not seem to be any lapse on the part of Dr. Krishan Lal (Operating Surgeon)."

2. AS is apparent from the aforesaid observation that the said Head of Department did not examine the appellant physically and based his opinion on the papers prepared by the respondent. We are passing this order mainly in view of the contention of Counsel of the appellant that Vitreous Huma was punctured at the time of conducting operation and, therefore, the lens was not fitted at the proper place and this be ascertained only by way of physical examination of the

eye.

In view of the foregoing reasons the appeal is allowed. The parties shall appear before the concerned District Forum on 8.9.2004 and the District Forum shall decide the matter afresh preferably within three months.

3. THE appeal is disposed of in aforesaid terms. A copy of this order as per statutory requirement be forwarded to the parties free of charge and also to the concerned District Forum. THE record received from the concerned District Forum may also be returned to the District Forum and thereafter the file be consigned to record room. It is directed that the FDR deposited by the appellant be returned to the appellant after completing the necessary formalities. Appeal allowed.