

(2015) 02 NCDRC CK 0008

In the National Consumer Disputes Redressal Commission

USHA DEVI

APPELLANT

Vs

Sudama Fracture Clinic

RESPONDENT

Date of Decision : 13-02-2015

Acts Referred:

Citation : 2015 2 CPR 279

Hon'ble Judges : AJIT BHARIHOKE , VINAY KUMAR J.

Final Decision : Appeal dismissed

Judgement

1. SHRI Vikash Agarwal, Advocate has tendered his Vakalatnama on behalf of the appellants in FA/30/2012, which is taken on record.

2. BY this order, we propose to dispose of above -noted two cross appeals which arise out of the same judgment.

3. LEARNED counsel for the appellants in FA/30/2012 has contended that the complainant has been decided ex -parte because of non -appearance of the opposite parties pursuant to the notice issued by the State Commission for hearing dated 16.5.2011. It is contended that the absence of the opposite parties/appellants on the date of hearing was unintentional. Actually on the receipt of notice, the opposite parties engaged a law firm and they were under the impression that their counsel would appear before the State Commission. It is contended that the absence was due to no fault on the part of the opposite parties and, therefore, they should not be punished because of lapse of the part of the counsel engaged. Learned counsel for the complainants in all fairness has conceded that he has no objection if the impugned ex -parte order is set aside and matter is remanded back to the State Commission for disposal of the complaint on merits. He, however, has prayed for cost for delay and requested that the disposal of the complaint be made time bound.

4. LOOKING into the facts and circumstances of the case and the concession given at the Bar by learned counsel for the complainants, we allow FA/30/2012, set aside the impugned order and remand the matter back to the State

Commission for disposal of complaint on merits after obtaining written statement of the opposite parties. This, however, is subject to cost of Rs.50,000/- (rupees fifty thousand only) to be paid by the appellants/opposite parties to the complainants by way of a bank draft in the name of Mrs. Usha Devi on behalf of all the respondents. It is further directed that the opposite parties shall file their written statement before the State Commission within two weeks from today, failing which no opportunity to file the written statement shall be given. State Commission is also requested to make a serious endeavour to dispose of this complaint within one year.

5. SINCE we have set aside the impugned order, FA/118/2012 is dismissed as infructuous.