(2003) 09 NCDRC CK 0094

In the National Consumer Disputes Redressal Commission

VADLAMUDI NAGESWARA RAO — APPELLANT

Vs

KONERU GANGADHARA RAO — RESPONDENT

Date of Decision : 10-09-2003

Acts Referred:

Citation : 2004 2 CPC 67 : 2004 2 CPJ 639

Hon'ble Judges : P.Ramakrishnam Raju , Mamata Lakshmanna , C.P.Suresh J.

Final Decision : Appeal dismissed

Judgement

1. THIS appeal has been filed by the unsuccessful complainants in C.D. No. 72/1998 on the file of District Forum, West Godavari at Eluru.

2. THOUGH the appeal underwent number of adjournments neither party was present. On 13.6.2003 both sides were not present, hence it was posted for dismissal on 16.7.2003. Even on 16.7.2003 neither party was present, hence it was reserved for orders. Since 16.7.2003 till today we have waited in the hope that the appellants will come forward to argue but in vain. The complaint was filed with a request to direct the opposite party doctor to pay Rs. 5,00,000/- along with interest at 12 per cent and costs for the negligence and deficiency in service. The wife of the first complainant and mother of the second complainant, Smt. V. Durga Kumari, aged 34 years was admitted in the opposite party nursing home on 13.8.1997. It is alleged that the doctor had started a branch hospital in Bapulapadu Village and as such he was busy and the patient was looked after by a nurse on the instructions of the opposite party doctor. At the time of admission the doctor referred the patient for certain tests and the result was negative for both Malaria and Typhoid, in spite of that the patient was given drugs for Malaria and Typhoid which resulted in kidney failure and she died on 18.8.1997. It is also alleged that the opposite party doctor collected Rs. 2,000/- on 15.8.1997 and 17.8.1997 respectively and total expenses came to Rs. 50,000/-.

The opposite party in its version denied the allegations and stated that the patient was admitted on 13.8.1997 as an out-patient when she came with high fever, cough and chest pain. On clinical examination, the opposite party doctor

diagnosed the problem as urinary tract infection or Malaria and, therefore, chloroquin and cifron were given and though the doctor advised the patient should be admitted, the deceased did not get admitted. She was only admitted on 14.8.1997. It is also stated that no fee was paid by the complainant as he was known to opposite party. The opposite party worked in Central Health Service in National Malaria Eradication Programme, as such he got adequate knowledge for treating Malaria. In fact, though Primaquin was prescribed, the complainant never brought it and hence it was not administered. On 14th and 15th October, 1997, the patient was given I.V. Cifron tablet, Calpol, I.V. Fluids with Canula. The first complainant himself never came to the nursing home except on 18.8.1997 when his wife died. The deceased died while coming from a clinical lab. at Hanuman Junction but not due to renal failure in the nursing home. The opposite party had also consulted and taken advice of Dr. Ammanna, a reputed Nephrologist of Vijayawada over telephone, hence there was no deficiency of service.

3. THE District Forum after examining the evidence on record and also C.W. 1, Retired Superintendent, District Headquarters Hospital, Eluru came to the conclusion that the complainant could not prove that the death was due to renal failure because of medical negligence and, therefore, dismissed the complaint. Aggrieved by the said order, this appeal is filed.

4. GOING through the records, we find that there is no dispute that Smt. Durga Kumari was under the treatment of the respondent from 13.8.1997 to 18.8.1997 and was admitted in the nursing home run by the respondent. There is also no dispute about the tests conducted to confirm the disease and that the results for both Malaria and Typhoid were negative. The only point to be considered is whether the patient died of kidney failure or due to some other reason including unrinary tract infection and whether treatment given to the patient was correct since tests for both Malaria and Typhoid were negative? As per Ex. B 2 while Blood Sugar and total Serum Bilirubin were within normal limits, blood urea was high at 86 mg% as the normal is between 20 and 40 mg%. Similarly Serum Creatinin was slightly high i.e., 1.5 mg% while the normal is 0.8 to 1.2 mg. As per Ex. B 6 dated 13.8.1997 Urine Examination report under Microscopy Examination shows pus cells: Plenty and Epithelial cells 6-8/HPF. Ex. B 7 dated 13.8.1997 shows negative for Malarial and widal tests. Ex. B 8 dated 16.8.1997 is Urine Culture Sensitivity showing the patient was sensitive to certain drugs. Ex. B 9 is the notice given by the appellant No. 1 to the respondent. Ex. B10 is the case-sheet dated 14.8.1997 under complaint it is written as Fever, cough for 3 days, pain in the chest 2 days, headache 2 days. Under general examination it is noted pyrixia of unknown origin. Malaria?UTI? further diagnosis as UTI with septicemia, plenty of pus cells, widal negative.

5. SINCE the patient came with high fever, chill and rigour the doctor initially suspected the patient to be suffering from Malaria or Typhoid and suggested the required tests and in the meantime started with appropriate drugs as per the

clinical finding. Subsequently though the tests showed negative for Malaria, he continued with the treatment as clinically he felt that symptoms were those of Malaria. The Court witness, Dr. Ravi Gopala Krishnaiah, Retired Superintendent, District Head Quarters Hospital, Eluru, confirmed that primaquin is a drug prescribed for Malaria and cifron was prescribed for Typhoid. In his opinion during the course of treatment the final diagnosis was not made and hence without any post-mortem, it is difficult to say as to the cause of death and whether it was due to kidney failure. The respondent doctor asserted that he consulted Dr. Nalamati Ammanna, Nephrologist of Arun Kidney Centre over telephone. The said doctor gave evidence as R.W. 2 and stated that administration of primaquin has no effect on kidneys and can cause Haemolysis in certain cases, further on his advice, urine sensitivity test was conducted.

6. APPEAL dismissed.

