

APR.

STATE CONSUMER DISPUTES REDRESSAL COMMISSION,  
UTTAR PRADESH, LUCKNOW.

APPEAL NO.983 OF 2001

(Against the judgment/order dated 28.03.2001 in Complaint Case  
No.181/99 of the District Consumer Forum, Unnao)

Dr. Ravindra Singh .....Appellant  
Versus  
Lalji Pal alias Raju Pal .....Respondent

BEFORE:-

HON'BLE MR. JUSTICE BHANWAR SINGH, PRESIDENT.  
HON'BLE MR. SYED ALI AZHAR RIZVI, MEMBER.  
HON'BLE MR. RAMPAL SINGH, MEMBER.

For the Appellant : None.  
For the Respondent : Mr. A.K. Misra, Advocate.  
Dated : 2.12.2010

JUDGMENT

HON'BLE MR. JUSTICE BHANWAR SINGH, PRESIDENT (ORAL)

The case called out. None is present on behalf of the appellant. His counsel is not available. Mr. A.K. Misra, learned counsel for the respondent is present and he requests for disposal of this appeal on merit.

In the circumstances we proceed to decide it on merit.

The appellant Dr. Ravindra Singh, Private Medical Practitioner has filed this appeal against the judgment dated 28.3.2001 of the District Consumer Forum, Unnao whereby the respondent/complainant's complaint No.181 of 1999 was allowed and a compensation of Rs.2,68,374.00 was awarded.

It was alleged by Sri Lalji Pal alias Raju Pal in his complaint that on 1.4.1999 he experienced an unbearable pain in his back whereafter he contacted his neighbour Sri Mani Ram who had taken him to the clinic of Dr. Ravindra Singh. Dr. Singh examined him and administered an intra venus injection which caused severe pain in his left hand. In order to subside the pain doctor injected a few more vials but the pain being felt by the complainant could not be brought under control. Dr. Singh also prescribed certain medicines and when the complainant could not get any relief Dr. Singh advised him to contact some better hospital.

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The complainant went to Nigam Nursing Home, from where he was taken to Kulwanti Hospital, Kanpur. The doctors in the said hospital made an endeavour to open the vein in which Dr. Ravindra Singh had given an injection but the vein which had by then totally blocked could not be opened for usual flow of blood and eventually, the problem being diagnosed as pre-gangrene changes, his left hand was amputated.

Dr. Ravindra Singh responded to the notice of the District Consumer Forum and sought time to file his written statement but he preferred not to file any nor contested the complaint. The Forum proceeded to decide the complaint ex-parte and as said above the award of Rs.2,68,374.00 as compensation and other expenditures incurred by the complainant was granted by the Forum. The appellant filed a restoration application but it was dismissed on 3.5.2001.

Dr. Ravindra Singh then filed his appeal on 21.5.2001 i.e. within 30 days from the last order passed on his restoration application. Also, he has offered an explanation for condonation of delay. He stated that it was on the advice of his counsel that he had filed the restoration application instead of filing an appeal against the judgment dated 28.3.2001. An affidavit has also been filed in support of the application. Having regard to the said averment made by him, we hold that there was a satisfactory explanation offered by the appellant to file his appeal with delay. Accordingly, the delay in filing the appeal calculating it from the date of judgment with intervening period of the restoration application, is condoned.

Adverting to the merit of the appeal, it may be observed that the appellant Dr. Ravindra Singh has in the title of the memorandum of appeal referred to himself as a Private Medical Practitioner, although he denied that he had either examined the complainant or prescribed any medicines or administered any injection. On the other hand, Mr. A.K. Misra, learned counsel for the respondent has referred to various papers filed by the respondent/complainant alongwith his affidavit. There are two prescriptions of medicines at page 7 which were allegedly written and prepared by Dr. Ravindra Singh. The respondent has asserted in his

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affidavit that both these medical prescriptions were issued by Dr. Ravindra Singh. Dr. Ravindra Singh has not controverted these prescriptions. It is significant to note that both these prescriptions were filed before the Forum below but Dr. Ravindra Singh having availed an opportunity of hearing failed to rebut the testimony of the complainant. Further, it is important to observe in the "admission note" dated 2.4.1999 of Kulwanti Hospital and Research Center, Kanpur that the respondent/ complainant was brought to the hospital and prior to his being admitted there, he was examined by Dr. Ravindra Singh of Unnao. Also, it is recited in this "admission note" that Dr. Ravindra Singh had given some injections for subsiding the pain and when the said doctor was unable to control the pain, the patient was initially shifted to Nigam Nursing Home and then brought to Kulwanti Hospital. It is also clearly recited in this note that Sri Raju Pal had developed pre-gangrene changes in his left hand. Then there is a certificate of Kulwanti Hospital at page 9 which appears to indicate that Sri Raju Pal was admitted in this hospital on 2.4.1999 with pre-gangrene changes but despite treatment it eventually led to amputation of his left upper arm.

The complainant was aggrieved of the medical negligence of Dr. Ravindra Singh who despite being not a degree holder was carrying on medical practice and dealing with the patient in a reckless manner. He then sent two complaints- one to the police and the other to the Chief Medical Officer. There is nothing on record to indicate as to what happened in the police investigation or the administrative inquiry by the Chief Medical Officer. The complainant proved his case by filing his affidavit and the documents referred to above before the District Consumer Forum. Here also he has submitted his affidavit and reiterated his version that the appellant Dr. Ravindra Singh who was running a medical store without obtaining any degree indulged in mal-practice of the medicines. The respondent has asserted in para 3 of his affidavit that Dr. Ravindra Singh collected three different injections in a single syringe and injected it into his left hand. Soon after the injection he started feeling severe pain. Then doctor prescribed for him certain

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medicines but as advised by him he had been shifted initially to Nigam Nursing Home at Unnao and then to Kulwanti Hospital, Kanpur. In para 5 of his affidavit the respondent had asseverated that unsterilised syringe having been injected to him resulted in gangrene, as a consequence his left arm was amputated and it was in this way that he had undergone lot of pain and sufferings. Out of his anguish he despatched two complaints as noted above one to the police and the other to the Chief Medical Officer. Dr. Ravindra Singh though filed his affidavit in support of the memorandum of appeal yet did not mention that he is a qualified doctor or was the holder of a valid medical degree. On the face of this unrebutted testimony of the respondent, we hold that Dr. Ravindra Singh was guilty of medical negligence while administering injections to the complainant. Mere denial by him is not enough to thwart the claim of the complainant that despite being not a qualified doctor he carried on medical practice, wrote prescriptions, dispensed drugs through injection which eventually resulted in gangrene and amputation of his left hand. Since he was not a qualified doctor and indulged in unfair trade practice, he is liable to compensate the complainant for his mental and physical sufferings.


The respondent has not preferred any appeal, he seems to be contended with the award granted by the Forum below.

In view of the discussions made above, we do not find any merit in the present appeal which is liable to be dismissed with costs.

In the result, this appeal fails and is hereby dismissed with Rs.7,500.00 as costs. The impugned judgment is hereby affirmed.

  
(JUSTICE BHANWAR SINGH)  
PRESIDENT

  
(SYED ALI AZHAR RIZVI)  
MEMBER

  
02.12.10  
(RAMPAL SINGH)  
MEMBER