

**STATE CONSUMER DISPUTES REDRESSAL COMMISSION, UP
C-1 Vikrant Khand 1 (Near Shaheed Path), Gomti Nagar Lucknow-226010**

**First Appeal No. A/2008/713
(Date of Filing : 09 Apr 2008)
(Arisen out of Order Dated in Case No. of District State Commission)**

1. Ganga Charan Hospital

a

.....Appellant(s)

Versus

1. Ganpat Singh

a

.....Respondent(s)

BEFORE:

**HON'BLE MR. Rajendra Singh PRESIDING MEMBER
HON'BLE MR. SUSHIL KUMAR JUDICIAL MEMBER**

PRESENT:

Dated : 04 Jan 2021

Final Order / Judgement

Reserved

State Consumer Disputes Redressal Commission

U.P. Lucknow.

Appeal No.713 of 2008

**Managing Director (Ganga Charan Hospital) and Dr Anil Sharma (Physician) , Dr
Sumit Tandon (Radiologist) , Dr Neeta Goyal (Pathologist) , Ganga Charan Hospital , 2-
Rampur Garden , Opposite Gandhi Udyan , Bareilly.**

.....Appellant

Versus

1. Sri Ganpat Singh S/O Sri Kunwar Sen , aged 40 yrs, R/O Ganj Puraina Dhal ,
Near Jeep Stand , New Iffko Colony , Aonaw , Bareilly
2. United India Insurance Co , Branch Bareilly through Branch Manager.

....Respondents .

Present:-

1- Hon'ble Sri Rajendra Singh, Presiding Member.

2- Hon'ble Sri Sushil Kumar, Member

Sri Anil Kumar Mishra, Ld. counsel for the appellants.

Sri R.D. Kranti, Ld. Counsel for the respondent no.1.

None appeared for respondent no.2.

Date 11.01.2021

JUDGMENT

Sri Rajendra Singh, Member - Aggrieved by the Judgment and order passed by the Ld. DCDRF, Bareilly dated 01.02.2008 in complaint case No.227 of 2006, the appellant has preferred the instant appeal on the ground that the impugned judgment and order dated 01.02.2008 was passed in an illegal and arbitrary manner, against the provision of law and therefore the judgment should be set aside in the interest of justice.

The operative portion of the judgement and order dated 01.02.2008 is reproduced as follow :-

(2)

“ 15,000.00 () 08 2000.00 () ”

The brief facts of the case are that the complainant got her daughter aged 13 years Vaishali admitted in Ganga Charan Hospital on the complaint of omitting on 10 August 2006 at 5 PM. OP Dr Anil Sharma admitted her in women's general ward at bed number 1. The condition of the complainant's daughter was normal and she was vomiting. She was given medical treatment for two days and when the omitting did not stop, the opposite party has been asked for doing her ultrasound and blood test. On 12.08.2006 test of ultrasound and blood examination has been performed. The doctor told the opposite party that her daughter's liver became infected 80% and this information caused mental shock to the opposite party. The opposite party's daughter was admitted in the emergency ward for five hours. The complainant was told that as per report grave irregularities have been done and the proportion of blood urea and creatinine should not be so much and on such count of blood urea the person should have gone into coma. The opposite

parties intentionally and to recover more and more amount from the complainant, got her admitted first in general ward and then in emergency ward and again in general ward which shows the malafide intention of the opposite parties. On 14.08.2006 Dr Anil Sharma discharged her saying that the condition is critical. The Complainant took her daughter to K K Hospital , Rajendra Nagar , where Dr Sunil Katheria examined her and he was shocked to see her reports. He again advised for blood examination and told that the report of Ganga Charan Hospital is wrong. He examined the complainant's daughter in OPD and advised some medicines by which she recovered. The complainant showed the report of KK Hospital to Dr Anil Sharma , who reprimanded the complainant and turned him out.

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Therefore, the complainant has filed the complaint for getting the relief in terms of money regarding the treatment of her daughter in the hospital.

The appellant denied the allegations of complainant and said that she was admitted on 10.08.2006 for the treatment and some tests were conducted for proper diagnosis. He never informed the complainant that her daughter's liver has been infected up to 80% but he said that by the proper treatment her daughter will recover. The complaint case was fixed for hearing on 15.10.2007 but appellant/OP has given adjournment application and the case was fixed for 25.10.2007 but this date was not communicated to appellant's counsel and therefore on the date fixed the appellant counsel could not appear and the case was heard in part. The case was fixed for 07.12.2007 and the district forum passed order to send notice to the appellant's counsel but that order has not been complied with therefore the appellant's counsel could not appear on the date fixed and the case was adjourned for 30.01.2008 . The appellant's counsel could not be informed and the District Forum heard the argument ex parte on 30.01.2008 and passed the judgement/order on 01.02.2008 . The appellant did not inform about this order and thereafter he went to the court for perusing the file but the file could not be traced. He got the notice in the execution case on 12.03.2008 and thereafter he got a copy of the judgement/order on 17.03.2008 and filed the appeal.

The grounds of appeal are that the appellant has not been given an opportunity for his defence which is against the principle of natural justice and the appeal is liable to be accepted. The District Forum did not evaluate the evidence properly and his finding of deficiency by the appellant is wrong . As per report of ultrasound and radiologist, both the kidneys are normal in size and shape. The complainant's version that he was told that the liver is infected 80% is wrong. Hon'ble District Forum erred in holding the correct meaning of the report. The report says that Pelvicaclycal system appears compact which means that there is deposition of amal which was causing obstruction in the purification of blood. She was omitting which shows that the kidney was not

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purifying the blood properly. She was treated according to the medical norms and treatment was started after getting the report of pathology. As she was vomiting continuously and she was suffering from dehydration, therefore she was admitted to the emergency ward . As soon as the

vomiting stopped she was again transfer to the general ward. She became fit within two days after the treatment and she was discharged on 14.08.2006 . Due to this reason that she became fit, there was no deposition of amal when examined in KK Hospital . The allegation of extorting money is false and baseless and the judgement of the forum is wrong. The complainant has expended only 4000 for the treatment of a daughter. The allegation of the complainant that on the basis of pathology report she should have been put on dialysis but dialysis is a costly affair and complainant was a poor person so she was not put on dialysis and by treatment she became fit.

The respondent had said that her daughter was vomiting and she was admitted in the appellant's Hospital . When the vomiting was not controlled, he was asked to get some tests and thereafter he was told that her kidney has become infected 80% which caused great mental shock to the complainant. The respondent's daughter was admitted to the emergency ward for 4 to 5 hours which caused a doubt and the respondent consulted some other doctors who told him that on account of such report the patient would have been in a state of coma but there was nothing with her daughter. It was done to harass him and to extort more money from him. When he took her daughter to other hospital they told that the report of first hospital was wrong which shows that the appellant's submitted a false report for the purpose of extorting money from the respondent.

I have heard both the parties councils and went through the documents and records filed.

The Council of respondent told that in Ganga Charan's Hospital the total bill of treatment is 4000 only . He also told that her daughter is perfect healthy at present. She was discharged from Ganga Charan's Hospital after proper treatment and when found fit. Now it is

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hypothetical argument that she should have been put on dialysis. If it is so , why KK Hospital did not put her on dialysis? The simple reason is that that she was perfect okay and this is the reason that KK Hospital did not put her on dialysis. There is nothing on record to show the bench that she suffered any after treatment affect so it can't be imagined that she was not given proper treatment by Ganga Charan's Hospital. No hospital or doctor will do such negligence which will lower down his or his hospital's reputation. Everybody knows that there is rivalry amongst private nursing homes and every nursing home shows that he is the best. In this particular case this bench finds no deficiency on the part of appellant's. No report filed which can show that the kidneys are 80% infected. She was given treatment and admitted to the emergency ward for the treatment of dehydration and it is clear from the respondent's version that she was vomiting and vomiting may cause dehydration. There is nothing abnormal in the treatment.

The appellant has showed that his hospital treated the complainant's daughter properly and she recovered and thereafter she had been discharged. So the bench is of the view that there is no deficiency on the part of the hospital and the judgement/order of the District Forum Bareilly is liable to be set aside.

ORDER

Appeal is allowed. The judgment/order of the District Forum Bareilly dated 01.02.2008 passed in the complaint case 227/2006 is hereby set aside. Cost on parties.

(Sushil Kumar)

(Rajendra Singh)

Member

Presiding Member

The judgment/order dictated, typed and pronounced in the open court. Let the records be consigned.

(Sushil Kumar)

(Rajendra Singh)

Member

Presiding Member

**[HON'BLE MR. Rajendra Singh]
PRESIDING MEMBER**

**[HON'BLE MR. SUSHIL KUMAR]
JUDICIAL MEMBER**