

**NATIONAL CONSUMER DISPUTES REDRESSAL COMMISSION
NEW DELHI**

REVISION PETITION NO. 3446 OF 2017

(Against the Order dated 06/07/2017 in Appeal No. 1493/2008 of the State Commission Haryana)

1. P.C. JAIN

B-504 Golf Enclave, Sector 21-C,

Faridabad - 121 003

.....Petitioner(s)

Versus

1. DR. R.P. SINGH

Visitech Eye Centre, Plot-2, Pocket-1, Jasola Vihar,

New Delhi - 110 025

.....Respondent(s)

BEFORE:

HON'BLE DR. S.M. KANTIKAR, PRESIDING MEMBER

For the Petitioner : Mr. Abhishek Krishna, Advocate
With Petitioner In-person

For the Respondent : Mr. Sandeep Kapoor, Advocate

Dated : 18 May 2022

ORDER

1. The instant Revision Petition is filed by the Petitioner (Original Complainant) against Order dated 06.07.2017 passed by the State Consumer Disputes Redressal Commission, (hereinafter referred to as, 'State Commission) Haryana in First Appeal No. 1493 of 2008, whereby the State Commission allowed the Appeal filed by the Opposite Party and dismissed the Complaint vide Order dated 04.04.2008 in Consumer Complaint No. 115 of 2005 filed before the District Consumer Disputes Redressal Forum, (hereinafter referred to as, 'District Forum') Faridabad.

2. This case pertains to alleged medical negligence against the Opposite Party wherein it was alleged that the Complainant lost his left eye after the Cataract surgery.

3. The District Forum held it was a medical negligence case and awarded compensation of Rs.2,00,000/- along with 12% interest from the date of filing of the Complaint.

4. The Order of the District Forum was appealed by the OP before the State Commission. The Appeal was allowed and consequently the Complaint was dismissed.

5. Being aggrieved the Complainant filed the instant Revision Petition.

6. I have heard the arguments from the learned Counsel for the parties. The Complainant was also present in-person. Perused the material on record, the prescriptions of different hospitals including AIIMS, New Delhi and inter-alia the MCI Order dated 20.04.2015.

7. The main grievance of the Complainant that on 01.02.2003 the Complainant underwent left eye cataract surgery +IOL implantation at the Opposite Party's Sarvodaya Hospital, affiliated to Visitech Eye Hospital, Delhi. He alleged that there was negligence of Dr. R.P. Singh, while

conducting the cataract operation which caused reduction of his vision. Thereafter, he took treatment at Kolkata and at Eye Centre, AIIMS, New Delhi, but did not get relief. Therefore, the Complainant filed Consumer Complaint before the District Forum.

8. The Opposite Party in its Written Version denied any negligence and the operation was conducted in accordance with the standards on 01.02.2003. It was successful and the complainant was discharged from the hospital on the same day. The complainant was seen in the OPD on 21.03.2003 and his corrected vision was 6/12. On fundal examination there was elevation of interior portion of retina with fluid collection. Therefore, re-surgery with silicon eye injection was advised to ascertain the advice the Complainant took second opinion from HOD vitreo retina at R.P. Centre, AIIMS who also advised the same. The Complainant had visited several hospitals in Kolkata wherein the doctors followed the same treatment as given by the Respondent (OP) and his best corrected vision was improved to 6/18. The complainant had returned for follow up after a week. On examination his retina was well attached and intraocular pressure (IOP) were within normal limits. Therefore, there was neither any negligence nor any deficiency in service on the part of the doctor.

9. The Ethics Committee & MCI in its meeting held on 20.12.2012 upheld its earlier decision that during the cataract surgery of P.C. Jain the complication of posterior capsule rent occurred. Subsequently retinal detachment occurred and the patient had to undergo a number of surgeries including laser procedures, but did not get complete cure. The Committee in its Order dated 20.04.2015, made following observations;

“Following phaco-surgery of Sh. P. C. Jain for cataract on his left eye by R. P. Singh there was posterior capsular rupture with lens matter falling in vitreous and prolapse of vitreous in anterior chamber. The patient was not informed by Dr. R. P. Singh about the complication happened during the surgery. There was lack of communication on the part of the doctor after cataract surgery. The patient came to know about the complainant from the other eye surgeons. In the light of above, the Ethics Committee observed that Dr. R. P. Singh has violated professional misconduct, Etiquette and Ethics Regulation, 2002 and decided that the name of the doctor be removed from the IMR for a period of six months.”

10. I have drawn the sequence of events from medical record and the written arguments filed by the Complainant as mentioned in the table:

Date	Diagnosis	Examination	Surgery
1.2.2003	B/E PSC I>R	R/E 6/18, L/E 6/24 with glass	L/E Phaco + foldable IOL under LA
17.2.2003	R/E IMSC, 1/E Pseudophakia with nasal detachment	R/E 6/18, L/E 6/24 with glass & ph	L/E VR Surgery under LA (PPV + Air – fluid exchange Endolaser + Silicone oil injection)
1.4.2003	R/E IMSC, L/E Pseudophakia with Operated VR with Inferior detachment	R/E 6/18, L/E 6/60	L/E buckle with silicon oil exchange with endolaser Surgery under LA on 1.4.2003

14.6.2003	R/E IMSC, L/E Pseudophakia with Operated VR with silicon oil	R/E 6/18, L/E 6/60	L/E SOR + Endolaser + ERM Peeling + SF6 injection Surgery under CM
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11. It is evident from the record that the after the cataract surgery, on the next day the Complainant experienced severe pain in left eye and he consulted nearby doctor who after examination informed that the lens matter was still retained in vitreous area. Those findings were confirmed by Dr. Bharti Gupta at Eye Care Centre, at Faridabad on 13.02.2003 and by Dr. A. K. Grover on 14.02.2003. The observations of Ethics Committee of MCI are consistent that after Phaco-surgery there was posterior capsular rupture with lens matter falling in the vitreous and some vitreous seen in anterior chamber. Dr. R.P. Singh did not inform the patient about the said complication occurred during the surgery; which the Complainant came to know from the other eye surgeons.

12. I have gone through the standard text books of ophthalmology and cataract surgery. Some excerpts from Johns Hopkins Medical Encyclopaedia revealed that during phaco-aspiration due to deeper incision made to break the nucleus, there is possibility of retinal detachment. If it remains untreated which may consequently cause development of black floaters in vision and allowing vitreous fluid to leak between retina and RPE within 24 hours after 1st surgery. The restoration of vision depends on whether the part of retina containing the macula was detached, if so the duration of detachment. In the event the macula was not detached, the outcomes-restoration of vision-are very good otherwise despite reattachment, proliferative vireo- retinopathy or scarring develops and outcomes are remote. The frequent laser therapy administered by the respondent have destroyed the blood vessel growing in the choroid below, and sealed leaky areas, as well as destroyed the overlying retinal tissues creating a blind spot in the area of treatment and deteriorated the photo receptive cells, leading to loss of central & peripheral vision completely.

13. Moreover, the submission of the Opposite Party is not acceptable that the Complainant had fall from the staircase which was the cause for retinal detachment. It is pertinent to note that the Opposite Party has not mentioned it in the history recorded by him on 14.06.2003. But it was mentioned in the discharge summary which creates doubt on the genuinity of the document. As per medical texts, it is not possible displacement of normal retina with such fall unless there is any penetrating/piercing injury to the eyes.

14. Based on the foregoing discussion, I find negligence of the Opposite Party, which resulted into diminution of vision of left eye of the Complainant. The State Commission erred which did not properly consider the medical record, the literature on subject and the observation of Ethical Committee of MCI. The Revision Petition is allowed and the order of the State Commission is set aside. In my view, the award of the District Forum, the compensation is just and proper, however the interest of 12% is on higher side. Therefore, in the ends of justice, the interest rate is modified to 6%. The Opposite Party shall pay Rs.2,00,000/- with interest @ 6% p.a., from the date of filing of the complaint, till the date of realization.

The Revision Petition is allowed. There shall be no order as to cost.

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DR. S.M. KANTIKAR
PRESIDING MEMBER