

**DISTRICT CONSUMER DISPUTES REDRESSAL COMMISSION, GURDASPUR
DISTRICT ADMINISTRATIVE COMPLEX , B BLOCK ,2nd Floor Room No. 328**

**Complaint Case No. CC/168/2020
(Date of Filing : 14 Dec 2020)**

1. Jaswant Singh
S/o Karam Singh R/o vill Chhanni Nand Singh Tehsil Mukerian
Distt Hoshiarpur
Hoshiarpur
Punjab

.....Complainant(s)

Versus

1. Dr. K.D eye Hospital
A-18/19 Near Improvement Trust office Patel Chowk Pathankot
Tehsil and distt Pathankot through its Prop 145001
Pathankot
Punjab

.....Opp.Party(s)

BEFORE:

**Sh. Naveen Puri PRESIDENT
Sh.Bhagwan Singh Matharu. MEMBER**

**PRESENT: Sh.D.S.Saini Adv, Advocate for the Complainant 1
Sh.Rahul Puri, Adv., Advocate for the Opp. Party 1**

Dated : 02 Dec 2022

Final Order / Judgement

The complainant Jaswant Singh has filed the present complaint against the titled opposite party Hospital through its proprietor alleging medical-negligence coupled with unfair-trade practice on their part resulting into loss of sight in his injured left-eye and has claimed a compensation of Rs.20 Lac, thereof. The complainant has been Mukerian Based Diesel Engine Mechanic by profession and managed his small 1½ Acre Land, too to make both ends meet for his family that comprised of his ailing paralytic spouse besides other members. Somehow, the complainant Jaswant Singh suffered an eye-injury, while at work, and had approached the OP Hospital for medical-treatment on 21.08.2020. The OP Hospital got the injured left-eye radio-graphed (x-ray-ed) and noted a 'Tiny Radio Opacity' in the eye-orbit seemingly some foreign-particle and got deposited Rs.15,000/- as admission-fee and eye-operation etc conducted on 21.08.2020, itself.

2. The patient complainant was summoned the next day and was given an injection/medicinal-prick in his left eye. He was further called for follow-up treatment etc on 24.08.2020 again on 28/08, 29/08, 01/09, 15/09, 23/09 and 02/10 and was charged fee on every visit. On 01.10.2020 the affected left eye was got scanned and on 02.10.2020 the complainant was told to leave with one month medicines as his eye has recovered vide removal of the foreign-particle. However, the complainant's eye-injury got infected and it worsened/deteriorated fast and his eye had to be got operated at S.B. Dr Sohan Singh Eye Hospital, Amritsar on 18.10.2020 to remove the embedded foreign particle and was finally discharged from the ASR Hospital, on 20.10.2020. The complainant has alleged that he had lost sight in his left-eye on account of medical-negligence on the OP

Hospital's part and his right eye was saved from infection and 'sight-loss' by the timely 'surgery' at ASR Hospital.

3. Lastly, the complainant has expressed his inability to do his professional and other work to earn livelihood etc for his family and has held the OP Hospital responsible n liable for the same and has thus claimed compensation to the tune of Rs.20 Lac from the herein titled OP Hospital. The complainant, in the above backdrop, has filed the complaint along with his affidavit (Ex.CW1/A) and exhibits (Ex.C1 to Ex.C11), in evidence, seeking successful prosecution of his compliant, in the interest of justice.

4. The titled opposite party Hospital (the OP), in response to the commission's summons appeared through their counsel and filed the written reply stating therein preliminary as well as the other (on merits) objections as:

5. The complaint has been addressed as not maintainable in its present form as no cause of action did ever accrue against the opposite party and thus the complainant has no locus standee to file the present complaint that has been misconceived, frivolous and vexatious unsustainable in the eyes of law and has been filed to harass, defame and extort moneys from the Hospital/Doctor and thus need be dismissed. There are no specific, scientific and justified allegations in regard to being negligent or deficient in service.

6. That the complaint is bad for non-joining of necessary parties as the complainant has not enjoined S.B. Dr.Sohan Singh Eye Hospital, Amritsar, in his present complaint being a necessary party; And, the complainant had approached the OP Hospital 48 hours of the eye injury after having first got medical-aid at some local clinic and in the meantime, the injured-eye getting continuously swelled with the bacterial-infection. And, the succeeding hospital/doctor treating the complainant has not indicated/hinted of any negligence on the part of the OP Hospital, in their reports or otherwise.

7. The OP Hospital/Doctor in the paragraph-wise reply on merits have repeated/responded on similar lines as have denied the contents of the complaint praying for its dismissal with costs. The OP Doctor has also filed the mandatory affidavit deposing the contents of the reply and the authenticity of the other documents produced, in prosecution of defense. It has been revealed during the course of the pleadings that the complainant came to the OP Hospital on 21.08.2020 for medical-treatment of his injured left eye with a cornea-cut and interior chamber filled with blood and swelled with infection and the eye was never fit to withstand surgery/operation etc as the swelling and infection were to be manged first and thus the eye was carefully repaired and dressed only; and medicines were prescribed for overcoming swelling and infection so as to undertake 'foreign-particle removal-surgery' at the appropriate time.

8. Further, as per the records, the complainant was never admitted in the OP Hospital and he was given the OPD (Out Patient Department) medical treatment only to control infection/swelling in his injured eye and by the time i.e. as on 02.10.2020 the injured eye got fit for surgery for removal of foreign-particle, the complainant had not turned up again and got the requisite surgery at the Amritsar Hospital. The OP has also denied all other contents and allegations as put forth in the complaint and has produced his defense affidavit of Dr.K.D.Singh Ex.OP1/A with documents (Ex.OP1 to Ex.OP4) the consent-letter & the OPD treatment chart etc.

9. We have examined the documents/evidence as available on the records so as to statutorily interpret the meaning and purpose of each document and also the scope of adverse inference on account of some of the documents ignored to be produced by the contesting litigants against the back-drop of the arguments as put forth by the learned counsels for their respective litigants.
10. We observe that the present dispute has arisen on account of the different/varying versions of the complainant and the OP Hospital on the conduct of the impugned 'surgery/procedure' upon his injured left-eye for removal of the struck-in foreign-particle.
11. As per the complainant, he was operated at the OP Hospital on his admission there on 21.08.2020 for removal-surgery of the foreign-particle from his injured left-eye and was charged Rs.15,000/- and called for follow-up treatment on the very next day and many a times thereafter till 02.10.2020 when he was prescribed medicines for a month and finally told that his eye injury has recovered and will soon be normal, shortly. However, the injured eye did not heal-up and the complainant had to get it operated at the Amritsar Hospital for removal-surgery etc. We find that the complainant has produced documents in evidence of the indoor treatment/surgery at the Amritsar Hospital and the Clinical/X-ray Reports and the OPD reports of the OP Hospital but no evidence of surgery/operation/fees paid etc., at the OP Hospital and as such he has failed to prove his allegations through some cogent, primary or even secondary evidence.
12. On the other hand, the OP Hospital/Doctor has claimed the complainant's injured left-eye was only repaired/dressed on his arrival on 21.08.2020 as part of OPD medical- treatment and surgical operation was neither done nor it was possible as the injured eye was swelled with bacterial-infected/filled with blood and puss so recovery treatment was initiated as has been necessary at that point of time. No exorbitant fee/expenses etc were charged from the complainant and he himself had not turned up for the removal-surgery. The OP Hospital has produced sufficient evidence by way of OPD chart to prove its claim.
13. We have minutely examined the versions/documents produced in evidence by the complainant, the OP Hospital/ Doctor, the Amritsar Hospital and other X-ray/Pathological Labs during the course of the present complaint proceedings and find that there's neither any chance nor scope of any doubt pertaining to the truth of the OP Hospital/Doctor Claim of genuine medical-treatment provided to the complainant during the course of his visits to the OP Hospital w.e.f. 21.08.2020 to 02.10.2020.
14. We are indeed sad for the complainant at the loss of sight (of his injured eye) and the consequential loss etc. suffered by him and his family at the cruel hands of destiny but at the same time we are of the considered opinion that the OP Hospital/Doctor have been viciously and unnecessarily accused by the complainant seemingly for an ulterior purpose. Rather, we observe that the OP Hospital/Doctor have religiously performed their Good Angel-like Duty as has always been expected of the most-noble medical-profession and its practitioners. However, we are not inclined to penalize the complainant (in his this hour of grief) for having filed the present ill-advised frivolous complaint and thus ORDER for its dismissal with no orders as to its costs.
15. The complaint could not be decided within the stipulated period due to heavy pendency of Court Cases, vacancies in the office and due to pandemic of Covid-19.

16. Copy of the order be communicated to the parties free of charges. After compliance, file be consigned to record.

(Naveen Puri)

President.

ANNOUNCED:

(B.S.Matharu)

DEC. 02, 2022.

Member.

YP.

[Sh. Naveen Puri]
PRESIDENT

[Sh.Bhagwan Singh Matharu.]
MEMBER