



2024 INSC 67

NON-REPORTABLE
IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO(S). _____ OF 2024
(Arising out of SLP(Civil) No(s). 683-685 of 2023)

P.C. JAIN

....APPELLANT(S)

VERSUS

DR. R.P. SINGH

....RESPONDENT(S)

WITH

CIVIL APPEAL NO(S). _____ OF 2024
(Arising out of SLP(Civil) No(s). 13511-13512 of 2023)

J U D G M E N T

Mehta, J.

1. Leave granted.
2. Brief facts relevant and essential for disposal of these appeals which arise out of proceedings under the Consumer Protection Act, 1986 are noted hereinbelow:-

The appellant-complainant P.C. Jain, claims to have lost vision in his left eye due to the medical negligence committed by the respondent Dr. R.P. Singh in a surgical procedure whereupon he instituted a Consumer Complaint No. 115 of 2005 before the District Consumer Disputes Redressal Commission,

Faridabad(hereinafter being referred to as “DCDRC”). Vide order dated 4th April, 2008, the DCDRC, Faridabad allowed the complaint of the appellant-complainant P.C. Jain and granted him compensation to the tune of Rs. 2 Lakhs with interest @ 12% p.a. from the date of filing of complaint till the date of realization, holding the respondent Dr. R.P. Singh guilty of medical negligence in treatment of the appellant-complainant P.C. Jain.

3. The respondent Dr. R.P. Singh, challenged the order dated 4th April, 2008 of the DCDRC, Faridabad by way of filing First Appeal No. 1493 of 2008 before the State Consumer Disputes Redressal Commission, Haryana(hereinafter being referred to as “SCDRC”) which was allowed vide order dated 23rd May, 2011 observing that since the appellant-complainant P.C. Jain was operated at New Delhi, the DCDRC, Faridabad had no territorial jurisdiction to entertain and decide the complaint and direct that the amount of Rs. 2 Lakhs be refunded to the respondent Dr. R.P. Singh.

4. The appellant-complainant P.C. Jain challenged the order dated 23rd May, 2011 passed by the SCDRC by filing a revision before National Consumer Disputes Redressal Commission(hereinafter being referred to as the “NCDRC”), which

came to be allowed by order dated 29th July, 2016 and the matter was remanded back to SCDRC for fresh decision on merits.

5. The SCDRC, vide order dated 6th July, 2017 again allowed the appeal filed by respondent Dr. R.P. Singh and dismissed the Complaint No. 115 of 2005.

6. The appellant-complainant P.C. Jain challenged the order dated 6th July, 2017 passed by the SCDRC by filing fresh Revision Petition No. 3446 of 2017 before the NCDRC which accepted the same vide order dated 18th May, 2022. The judgment of SCDRC was reversed and it was held that the compensation awarded by the DCDRC to appellant-complainant P.C. Jain to the tune of Rs.2 Lakhs was just and proper. However, the interest @ 12% was held to be excessive and accordingly, the same was reduced to 6%. The order passed by SCDRC was set aside.

7. The respondent Dr. R.P. Singh filed a review petition seeking clarification of the order dated 18th May, 2022. The said review application was taken on board and allowed ex-parte vide order dated 22nd July, 2022 accepting the unilateral version of respondent Dr. R.P. Singh that he had deposited an amount of Rs.2 Lakhs on 5th September, 2008 before the SCDRC and thereafter, vide order dated 23rd May, 2011, the deposited amount

was released in favour of the appellant-complainant. A clarificatory order dated 22nd July, 2022 was accordingly issued observing that the respondent Dr. R.P. Singh was liable to pay interest from the date of filing of the complaint upto 5th September, 2008 only.

8. Being aggrieved by the aforesaid order, the appellant-complainant preferred a review application No. 207 of 2022, before the NCDRC, objecting to the ex-parte order dated 22nd July, 2022. However, the said review application was rejected by NCDRC vide order dated 26th September, 2022. The appellant-complainant P.C. Jain has assailed these three orders dated 18th May, 2022, 22nd July, 2022 and 26th September, 2022 in Civil Appeals @ SLP(Civil) Nos. 683-685 of 2023 whereas the respondent Dr. R.P. Singh has preferred Civil Appeals @ SLP(Civil) Nos.13511-13512 of 2023 challenging the orders dated 18th May, 2022 and 22nd July, 2022 passed by NCDRC.

9. We have heard learned counsel for the parties and gone through the material available on record.

10. It is relevant to note here that the Ethics Committee of Medical Council of India(hereinafter being referred to as 'MCI') conducted an enquiry and passed an order dated 20th December,

2012 holding Dr. R.P. Singh to be in violation of Professional Misconduct, Etiquette and Ethics Regulation, 2002.

11. The competent authority, i.e., the MCI vide order dated 20th April, 2015 held the respondent Dr. R.P. Singh guilty of medical negligence in the treatment of the appellant-complainant P.C. Jain and affirmed the recommendation of the Ethics Committee removing his name from the Indian Medical Register for a period of six months.

12. On going through the pleadings of civil appeals preferred by the respondent Dr. R.P. Singh, it becomes clear that the said order issued by MCI was not challenged by the respondent Dr. R.P. Singh and thus, has attained finality.

13. In the background of the aforesaid facts, the issue regarding the respondent Dr. R.P. Singh having committed medical negligence in treating the appellant-complainant P.C. Jain is no longer res integra. Consequently, the order dated 18th May, 2022 whereby the revision preferred by the appellant-complainant P.C. Jain was accepted, the order of SCDRC was reversed and the order of the DCDRC was affirmed, does not warrant any interference in the appeals preferred by Dr. R.P. Singh.

14. Now, we propose to consider the prayers made in Civil Appeals @ SLP(Civil) No(s). 683-685 of 2023 filed by appellant-complainant P.C. Jain.

15. The appellant-complainant P.C. Jain who is 84 years of age as on date claims to have suffered loss of vision in the left eye owing to the gross medical negligence committed by respondent-Dr. R.P. Singh in a surgical procedure which was undertaken way back in the year 2002-2003. He has been contesting this long drawn out litigation for a rightful claim of compensation for more than 20 years. The NCDRC, while accepting the revision of the appellant-complainant P.C. Jain, reduced the interest awarded by the DCDRC from 12% to 6%, with a bald unreasoned observation that the rate of interest so applied was on the higher side and, therefore, the same was reduced to 6%.

16. The respondent Dr. R.P. Singh misrepresented to the NCDRC that he had deposited an amount of Rs. 2 Lakhs only, which had been paid to the appellant-complainant P.C. Jain in the year 2011. As a matter of fact, it is the specific plea of the appellant P.C. Jain that he has not received a single penny towards compensation for the loss of vision suffered by him owing to the medical negligence committed by the respondent Dr. R.P. Singh. The review petition

filed by Dr. R.P. Singh was allowed ex-parte by the NCDRC in a totally cavalier fashion without putting the complainant to notice.

17. In wake of the discussion made hereinabove, we modify the orders passed by the NCDRC and direct that the appellant P.C. Jain shall be entitled to receive compensation of Rs. 2 Lakhs only with interest @ 12% per annum from the respondent Dr. R.P. Singh with effect from the date of filing of the complaint till actual payment is made.

18. The respondent Dr. R.P. Singh shall pay the compensation as directed above to the appellant-complainant within two months from today failing which the interest shall stand enhanced to 15% per annum.

19. As the respondent Dr. R.P. Singh procured the order under review dated 22nd July, 2022 by making a false representation that the amount of compensation had been paid to the appellant-complainant P.C. Jain, we impose a cost of Rs. 50,000/- upon the respondent Dr. R.P. Singh which upon realisation, shall be paid to the appellant-complainant P.C. Jain.

20. As a consequence of the above discussion, the Civil Appeals @ SLP(Civil) Nos. 683-685 of 2023 filed by the appellant-

complainant P.C. Jain stand allowed and the Civil Appeals @ SLP(Civil) Nos. 13511-13512 of 2023 filed by the respondent Dr. R.P. Singh stand rejected.

21. Pending application(s), if any, shall stand disposed of.

.....J.
(B.R. GAVAI)

.....J.
(SANDEEP MEHTA)

**New Delhi;
January 29, 2024.**