
(2000) 02 GAU CK 0002

Gauhati High Court

Case No: Complaint Petition No. 135 of 1993

Kandarpa Sarma

APPELLANT

Vs

Skylab (Assam)
Pvt.Ltd.

RESPONDENT

Date of Decision: Feb. 5, 2000

Acts Referred:

- Consumer Protection Act, 1986 - Section 2(g), 2(g)

Citation: (2000) 1 GLJ 628

Hon'ble Judges: J.N.Sarma, J and D.Dutta, J

Bench: Full Bench

Advocate: A.K.Goswami, G.Uzir , R.K.Jain, Advocates appearing for Parties

Judgement

1. This application has been filed for an amount of Rs. 2,50,000 to be paid as Compensation with further sum of Rs. 3,00,000 for mental agony along with cost of proceeding.

2. The admitted position in this case is that the daughter of the complainant was suffering from certain disease, problem in the bone structures of her leg. She was taken to Dr. A. Mahanta, a Neurologist and the said Doctor prescribed for a Pathological test of the blood of daughter of the complainant. The daughter was taken to Skylab Diagnostic Centre, Ulubari, Guwahati 7, opposite party No. 1 and that was on 25.8.93. The test was done on 25.8.93 itself and an amount of Rs. 265 was realised from the complainant for such blood test. On the next date the complainant was asked to collect the blood report and that was done and that blood report is Annexure C to the complaint petition. Along with the blood report, the complainant went to the Doctor and on seeing the report the Doctor asked for a repeat of the test and that was also done on the very next day itself i.e. on 26.8.93. This time it was done at free of cost. The next report was collected by the complainant on 27.8.93 with that report the Doctor was not satisfied and the Doctor asked the complainant to go for another test in different laboratory and on 28.8.93 the complainant

took the daughter to another laboratory namely, East India Haematological Laboratory and Research Centre at Rajgarh and the report was collected on 29.8.93 from that laboratory and on seeing the report Doctor opined that the report was correct report and some medicine was prescribed to the daughter and the daughter is now pulling well.

3. This complaint has been filed for alleged deficiency in service on the part of the opposite party No. 1 and the damage claimed on account of mental agony stated to be suffered by the claimant.

4. We have heard Sri RK Jain, learned Advocate for the petitioner assisted by Mr. G. Uzir, learned Advocate and Mr. AK Goswami, learned Advocate for the opposite party No. 1. No doubt we find that there is some amount of deficiency in service on the part of the Laboratory. On the other hand Sri AK Goswami, learned Advocate for the opposite party submits that, that is not the position of case in hand as different methods and procedure has been adopted by the two laboratories. We do not want to go to that aspect of the matter for the decision of this particular case. We are satisfied that even assuming that the report, given by the opposite party No. 1 was absolutely wrong but in spite of it was complainant has not suffered any loss and/or damage and we are not satisfied that he is entitled to any compensation as claimed. Accordingly, this complaint petition shall "stand rejected. However, we make it clear that the even now he may approach the Skylab authority for refund of the money paid by him and on such approach being made the amount shall be refunded.