

(2009) 01 NCDRC CK 0011

NATIONAL CONSUMER DISPUTES REDRESSAL COMMISSION**Case No:** None

Birji And Anr.

APPELLANT

Vs

Dr. Neeru Tiwari And Anr.

RESPONDENT

Date of Decision: Jan. 13, 2009**Citation:** 2009 2 CPJ 42**Hon'ble Judges:** R.K.BATTA , P.D.SHENOY J.**Advocate:** S.K.SHARMA , NAROTTAM VYAS , D.M.MATHUR

Judgement

1. THE complainant, Smt. Birji (hereinafter referred to as complainant) got herself checked up on 3.2.1996 from Dr. Neeru Tiwari, Respondent No. 1 for severe abdomen pain, fever and vomiting. She was admitted in Tiwari Hospital and Research Centre, Dausa vide Sl. No. 20074 as per register maintained by respondents. According to the complainant, after medical examination, she was advised Medical Termination of Pregnancy (M.T.P.). On same day, M.T.P. was done and she was discharged. She was advised to come on 8.2.1996. However, she complained of excessive discharge of blood and fluid and when she reported to the respondents, she was referred to Jaipur along with one of the nurses of Tiwari Hospital. She was admitted at Mahila Chikitsalaya, Jaipur on 11.2.1996 where sonography was done as also other medical tests were conducted and thereafter some operation was done on 23.2.1996. Sonography was again done on 3.3.1996. However, she became serious and Dr. K.C. Gupta referred her to S.M.S. Hospital, Jaipur where she was admitted in surgical unit till 4.3.1996. According to the complainant, she became serious and critical because of M.T.P. done by respondent No. 1 on 3.2.1996. The complainant, therefore, approached District Consumer Forum and claimed compensation of more than 4 lakh.

2. THE District Consumer Forum found major discrepancy in the version of the complainant; that affidavit of nurse, Madhu who was present at the time of alleged operation and was sent along with complainant to Mahila Chikitsalaya, Jaipur was not filed; letter of reference of respondent No. 1 to Mahila Chikitsalaya, Jaipur was not produced; that it was not proved that M.T.P. was conducted by respondent No. 1 and the Mahila Chikitsalaya, Jaipur as also S.M.S. Hospital had put a question mark against M.T.P.; that the sonography report had indicated that the position of the uterus and its size was normal and that if the vein of uterus had been cut, it would have resulted in instantaneous death. The District Consumer Forum also came to the conclusion that the complainant had not examined any expert to prove that M.T.P. of the complainant had been done since it was denied by respondent No. 1 that no M.T.P. had been conducted by her on the complainant. The District Consumer Forum found that the complainant had filed an application for summoning doctors from Mahila Chikitsalaya, Jaipur as also Dr. R.S. Dutta from Jaipur but all of them were dropped. Thus, the District Consumer Forum came to the conclusion that the complainant had failed to prove that M.T.P. was done by Dr. Neeru Tiwari, respondent No. 1. The District Consumer Forum also found that there were overwriting on the registration document which was produced by the complainant and doubts were also raised about the production of the same as also overwriting thereon.

3. THE State Commission examined the matter and concurred with the findings of the District Consumer Forum that it could not be concluded on the basis of evidence produced that M.T.P. of the complainant was done on 3.2.1996 and that too by Dr. Neeru Tiwari, respondent No. 1. It was also held that there was no expert opinion filed by the complainant to prove negligence on the part of Dr. Neeru Tiwari, respondent No. 1. The State Commission also noted that the complainant failed to produce affidavit of nurse who was said to have accompanied the complainant to Jaipur and that in the relevant documents there is question mark against M.T.P.

We have heard learned Counsel appearing on both sides who have pressed the same points which were raised before two Fora below. In our opinion, the matter was thoroughly examined threadbare by the District Consumer Forum as also by the State Commission. We are in complete agreement with the concurrent findings recorded by two Fora below and have no reason whatsoever to take a different view of the matter. The reasonings given by the District Consumer Forum as also State Commission are based upon material on record and well founded. We do not find any illegality, material irregularity or jurisdictional error in order to justify any interference whatsoever.

4. FOR the aforesaid reasons, we do not find any merit in this revision petition and the revision is hereby dismissed with no order as to costs. R.P. dismissed.