

(2013) 04 NCDRC CK 0106

NATIONAL CONSUMER DISPUTES REDRESSAL COMMISSION

Case No: None

ALL INDIA INSTITUTE OF
MEDICAL SCIENCES

APPELLANT

Vs

Swarn Bedi

RESPONDENT

Date of Decision: April 9, 2013

Citation: 2013 0 NCDRC 253 : 2013 3 CPJ 401

Hon'ble Judges: ASHOK BHAN , VINEETA RAI J.

Final Decision: allow the present First Appeal

Judgement

1. THIS First Appeal has been filed by All India Institute of Medical Sciences, Appellant herein and Opposite Party before the Delhi State Consumer Disputes Redressal Commission (hereinafter referred to as the State Commission) being aggrieved by the order of that Commission which while partly accepting the complaint of Smt. Swarn Bedi, Respondent herein and Original Complainant before the State Commission, had concluded that Appellant-Medical Institute was guilty of limited deficiency in not making arrangements for a bed in that Institute, which she had visited as a Patient.

2. IN the complaint, it was contended that on 30.05.1996 when the Respondent and her daughter Ms. Ginni Bedi were sleeping at night, they were attacked by 6 to 7 intruders with axes, blunt rods etc. and were injured with bleeding from the head. Early next morning at 5.45 a.m. their neighbours came to know about the incident and with their help and that of the Police they were taken to Appellant-Medical Institute for treatment, where they were admitted in the casualty ward. Appellant-Medical Institute carried out various medical tests and also got the

Patients examined in the concerned departments. Respondent 's daughter was diagnosed with blood clots in the head due to the head injury, for which she was operated and remained admitted in the Appellant-Medical Institute. However, Appellant-Medical Institute discharged the Respondent without keeping her under observation and only casually attending to her despite her respect complaints of headache, nausea etc. apparently because a bed was not available in that Medical Institute. On her way from Appellant-Medical Institute, Respondent became unconscious and was shifted to Aashlok Hospital, where she was advised head surgery and underwent the same, for which she had to incur a total expenditure of Rs.95,490/-. Being aggrieved by the deficiency in service and medical negligence on the part of Appellant-Medical Institute, who, despite her serious medical complaints and condition, discharged her, Respondent filed a complaint before the State Commission and requested that Appellant-Medical Institute be directed to reimburse her medical expenses of Rs.95,490/-, Rs.50,000/- for medicines and other post-operative treatment at Aashlok Hospital and compensation of Rs.4,00,000/- for mental agony and harassment.

Appellant-Medical Institute on being served filed a written rejoinder denying that there was any medical negligence or deficiency in service on their part. It was inter alia stated that in the first instance the case was not maintainable against it as Appellant-Medical Institute does not levy any charges in regard to service and treatment provided to the patients and in this case also no payment was taken from the Respondent and, therefore, she was not a "consumer " as defined under Consumer Protection Act, 1986. Further, it is not a fact that she was discharged even though she had serious medical complaints merely because there was no bed available. As admitted by the Respondent herself, as soon as she was brought to Appellant-Medical Institute she was admitted there and was immediately examined by Doctors in the emergency department and other departments. On examination, it was found that there was a laceration wound in the skull of the Respondent but there was no history of loss of consciousness or vomiting. She was treated with conservative method and procedure and was given necessary injections and laceration wound was sutured. Respondent was further examined in the ENT and Dental Departments, where she was treated for a laceration in the right ear and antibiotics were administered. The Dental Surgeon also examined her. The overall finding was that there was no loss of consciousness, vomiting and bleeding and no evidence of fracture of maxilla and zygoma. The Respondent was, therefore, discharged and asked to attend OPD. On the other hand, her daughter, who had more serious injuries was admitted in the Appellant-Medical Institute and was discharged after she was medically fit for the same. Under these circumstances, there was no question of discharging the Respondent without duly attending to her and because no bed was available. It was further contended that in case Respondent felt uneasiness after being discharged, she could have always approached the Appellant-Medical Institute and the fact that she went to Aashlok

Hospital was her decision for which Appellant-Medical Institute cannot be held liable to pay for the medical expenses incurred by her in that hospital.

3. THE State Commission after hearing the parties and on the basis of evidence produced before it concluded that there was no medical negligence in the treatment of the Respondent and proper emergency treatment had been provided to her. However, there was some administrative deficiency in discharging the Respondent apparently due to non-availability of the bed and for this limited deficiency, the State Commission held that a token compensation of Rs.25,000/- would meet the ends of justice.

4. BEING aggrieved by the above order, the present first appeal has been filed.

Learned Counsel for the Appellant-Medical Institute was present. None was present on behalf of the Respondent. Since service was complete, the case was heard ex-parte.

5. LEARNED counsel for the Appellant-Medical Institute reiterated the contentions as made by the Appellant-Medical Institute before the State Commission and pointed out that from the evidence on record it is clear that both the Respondent and her daughter were given the best possible medical treatment. The Respondent underwent several tests in the Emergency, ENT and Dental Departments and based on these she was given the necessary medical treatment. She was discharged only after the Doctors were satisfied that there was no need for her to be admitted in the Appellant-Medical Institute and she was advised to attend the OPD for review check-ups. The allegation of the Respondent as also the finding of the State Commission that she was discharged because of non-availability of the bed is a conjecture and not factually correct. She was discharged after the Doctors using their best professional judgment and after treating her were of the considered view that her injuries were not such that required her to be admitted in the

6. WE have considered the submissions made by learned Counsel for the Appellant-Medical Institute and have also gone through the evidence on record. It is not in dispute that the Respondent and her daughter on reaching the Appellant-Medical Institute were admitted to the Emergency Department and were seen by Doctors on duty in that and other Departments. On the basis of the diagnosis made, it is an admitted fact that Respondent 's daughter who required surgery was admitted for the same. So far as the Respondent is concerned, it is not disputed that the injuries which she suffered were attended to and after the wounds were sutured and necessary injections and antibiotics were given, she was discharged. No evidence has been produced by the Respondent to support her allegation that she was discharged because of non-availability of the bed even though she was medically unfit to be discharged. The State Commission relying purely on the statement of the Respondent had also reached the conclusion that the Respondent was discharged because of the non-availability of the bed while at the same time stating that there was no deficiency or medical negligence in her medical treatment. We are unable to accept the finding of the State Commission that Respondent was discharged because of non-availability of the bed since it is purely conjectural in the absence of any evidence to support the same.

We, therefore, set aside the order of the State Commission concluding that there was limited administrative deficiency on the part of the Appellant-Medical Institute and allow the present First Appeal. No costs.