

Presented on : 26/03/2013
Registered on : 26/03/2013
Decided on : 26/09/2019
Duration : 06 Y, 6M, 0D.

IN THE COURT OF 19th Jt. CIVIL JUDGE JR. DN., PUNE.
(Presided over by S.M.A. Sayyed)

Special Civil Suit No. 497/2013

Exh.51

M/s. Aditya Birla Health Services Limited
A company registered under the
Companies Act 1956,
office at – S.No. 31, Thergaon Chinchwad,
Pune.

Through power of attorney holder
and Chief Operating Officer
Ms.Rekha Dubey
Age :- 40 yrs., Occ. :- service

Plaintiff.

V/s.

Tejendersingh Aluwalia
Age:- 36 yrs, Occ:- Business,
R/at 1002, Divya Height
Pimpale Saudagar,
Near Healing Hospital
Pune.

Defendant.

For Plaintiff :- Adv. Kirti Khetmalas.
For Defendant :- Ex-parte.

J U D G M E N T

(Delivered on 26th September 2019)

Present suit is filed against the defendant for recovery of amount of Rs.3,89,795/- towards the treatment charges and for damages of Rs.1,00,00,000/-.

The pleadings of plaintiff are as under ;

2] That the plaintiff is a registered limited company. Plaintiff has started hospital and has installed various machineries CT scan, MRI and other imaging equipments having advance technology for ascertaining and arriving at the accurate diagnosis. Plaintiff has gained esteem reputation in and around Pune for the services which are given to the patients. On 04/01/2013 at about 6.10 am the defendant was brought in the hospital of plaintiff by his own vehicle with a complaint of retrosternal chest pain, left arm pain and back pain with profuse sweating. At that time defendant was immediately taken to cardiac section in emergency department and he was examined by Dr.Sainath Tapsale. Thereafter, Dr.Kalia examined him and performed 2D Echo cardiography, on that report defendant was admitted in the hospital. The doctors had discussed with defendant's friend, relatives and decided to have Coronary Angiography Sos Coronary Angioplasty. Accordingly, Manish Deshpande friend of defendant accompanied the defendant and had signed document for consent and the defendant was shifted to Cathlab for Angiography. In the Angiography report, it was found there was 100% occluded proximal LAD artery and 50% stenosis of LCX artery. After going through angioplasty report wife of defendant and his friend were informed that angioplasty is required to be done. The wife of defendant agreed to carryout angioplasty and it was carried out on the 04/01/2013 at 12.30pm. The defendant was given all the medical attention in emergency with the belief and faith that he will make the payment i.e. hospital charges, doctors charges and other charges including that the stent. The defendant deposited sum of Rs.40,000/-. On 08/01/2013 the defendant was required to be discharged on payment of outstanding bill of Rs.4,29,794.91/-. After complete recovery and on receipt of bill the defendant started disputing bill as well as treatment. Defendant along with

other 25 persons without taking proper clinical discharge left the hospital without paying the bill. Moreover, the defendant circulated defamatory contents in newspaper. The reputation of Directors of plaintiff hospital was also damaged in their personal capacity and required to answer various clients. Due to the said act of the defendant they not only suffered mental agony but harm has been caused to their reputation. Therefore, plaintiff is entitled for damages to the extent of Rs.1,00,00,000/-. On 31/01/2013 the plaintiff issued notice through its advocate to which the defendant replied but, failed to repay the treatment charges. Hence, this suit.

3] The defendant inspite of service of suit summons failed to appear hence, the suit proceeded ex-parte against himS.

4] Following points arise for my determination to which I record my findings along with reasons as under : -

<u>POINTS</u>	<u>FINDINGS</u>
1) Whether the plaintiff proves that Rs.3,89,795/- is due and outstanding against the defendant ?	Yes
2) Whether the plaintiff is entitled for damages of Rs. 1,00,00,000 ?	Yes
3) Whether the plaintiff is entitled for interest @ 18% p.a. on amount of Rs.1,03,89,795/- ?	Yes
4) What order and decree ?	Suit is decreed with costs.

REASONS

5] The plaintiff to substantiate its claim examined Bawasraj Angada as PW-1 at Exh.25 and who proved following documents viz., power of

attorney Exh.30, certified copy of certificate of incorporation Exh. 31, receipt of amount deposited by defendant at Exh. 32, xerox copy of police complaint Exh. 33, Copy of newspaper daily Lokmat Exh. 34, notice dated 31/01/2013 Exh. 35, notice reply Exh. 36, office copy of notice dated 12/03/2012 Exh. 37. Also examined Dilipkumar Parida as PW-2 at Exh. 41 who proved medical bill Exh.43, treatment bill dated 08/01/2013 Exh.56. The plaintiff also examined Dr. Annapurna Ajit Kalia as PW-3 at Exh. 48 who proved 2D Eco report Exh.49, consent letter signed by friend of defendant Exh.50, coronary angiography report along with photographs Exh. 51 and 52. consent given by wife of defendant to perform angioplasty Exh.53, payment guarantee form Exh.54 and closed evidence by filing pursis at Exh.50 A.

As To Point No.1 :-

6] The PW-1 deposed on affidavit which is nothing but a reiteration of contents of plaint. He specifically deposed that the defendant was brought to their hospital by his friend Manish Deshpande and was admitted in the hospital regarding chest pain and heart ailment. The plaintiff treated the defendant for cardiac ailment by carrying out all the tests. In the Angiography report, it was found there was 100% occluded proximal LAD artery and 50% stenosis of LCX artery. After going through angioplasty report wife of defendant and his friend were informed that angioplasty is required to be done. The wife of defendant agreed to carryout angioplasty and it was carried out on the 04/01/2013 at 12.30pm. The defendant was given all the medical attention in emergency with the belief and faith that he will make the payment i.e. hospital charges, doctors charges and other charges including that of stent. The defendant deposited sum of Rs.40,000/-. On 08/01/2013 the defendant was required to be discharged

on payment of outstanding bill of Rs.3,89,794.91/- (Rs.4,29,794.91 – Rs.40,000/- = Rs.3,89,794.91). After complete recovery and on receipt of bill the defendant started disputing bill as well as treatment. Defendant along with other 25 persons without taking proper clinical discharge left the hospital without paying the bill.

7] It is pertinent to note that the perusal of notice issued by the plaintiff and the reply notice of defendant are considered then it is clear that the plaintiff has performed operation relating to cardiac ailment of defendant. All the witnesses of the plaintiff (PW-1 to PW-3) had categorically deposed about treatment of defendant and medical charges. Even, all the reports along with photographs of treatment of defendant has been proved by the plaintiff's witnesses. The record reflects that the defendant has paid only Rs.40,000/- out of treatment charges of Rs.4,29,794.91/- and still an amount of Rs.3,89,794.91/- is outstanding against him. The entire testimonies of PW-1 to PW-3 remained unchallenged. Moreover, the documents filed on record clearly reveals that the doctors of plaintiff has performed operation and the defendant without paying the entire treatment charges left the hospital. Therefore, considering the unchallenged testimonies of witnesses and documents placed on record I hold that the plaintiff proved that an amount of Rs.3,89,795/- is due and outstanding against the defendant. Hence, I answer point No.1 in affirmative.

As To Point No.2 :-

8] The PW-1 deposed that the defendant was treated for cardiac ailment but instead of payment of treatment charges had circulated defamatory contents in newspaper. It is further deposed that reputation of

Directors is also damaged in their personal capacity and they were required to answer various clients. The act of defendant not only cause mental agony but also harm the reputation of plaintiff hospital in the public at large. Therefore, the plaintiff is entitled for damages against the defendant to the extent of Rs.1,00,00,000/-.

9] The perusal of documents especially the police complaint filed by the plaintiff and articles published in the newspaper with respect to the plaintiff hospital I hold that the articles published in different newspapers are defamatory per se. These articles un-disputedly caused mental agony and harm to the reputation of plaintiff and its office bearers. It is an admitted fact that the plaintiff hospital is a reputed hospital all over the India as well as International. If really, the defendant had any grievance about medical treatment or medical bill charged then he has many recourses available to purforth his grievance and prayed for justice, but he failed to do so. Moreover, instead of choosing a legal way the defendant became self proclaimed judge and passed judgment against the plaintiff hospital by defaming it. As mentioned above, the plaintiff hospital has reputation in the society of large and a defamation without any formal proof will definitely harm its reputation and will also cause mental agony to its Directors and all other staff members who are providing services for a good cause. Therefore, considering the above mentioned reasons and documents placed on record, I hold that the defendant is liable to pay damages of Rs.1,00,00,000/- to the plaintiff towards defamation, damage to reputation of plaintiff hospital and causing harassment and mental agony to its office bearers. Therefore, considering the unchallenged testimonies of plaintiff's witnesses and documents placed on record I hold that the plaintiff is entitled for damages of Rs.1,00,00,000/- from the

defendant. Hence, I answer point No.2 in affirmative.

As To Point Nos.3 and 4 :-

10] In view of my findings recorded to point No.1 and 2 I hold that the plaintiff hospital being a public institute needs to maintained standard regarding its equipments to provide better services to the public at large. Therefore, if the defendant had paid entire medical treatment charges within time then the plaintiff hospital would have invested said amount to develop the hospital as well as to provide better facilities to its patient. Therefore, I hold that the interest @ 18% over the amount of Rs.1,03,89,795/- claimed by the plaintiff is not exorbitant. Hence, I answer point No.3 in affirmative. Thus, point No.4 is answer accordingly.

ORDER

- 1) The suit is decreed with cost.
- 2) The defendant is hereby directed to pay Rs.3,89,795/- towards treatment charges to the plaintiff hospital within one month from the date of judgment.
- 3) The defendant is further directed to pay Rs.1,00,00,000/- towards damages caused to the plaintiff hospital.
- 4) The defendant is also directed to pay an interest at the rate 18% p.a. on Rs.1,03,89,795/- from the date of filing of suit till its realization.
- 5) Decree be drawn up accordingly.

Date:- 26/09/2019
Pune.

Sd/xxx
(S.M.A. Sayyed)
18Th Jt. C.J.S.D., Pune.

C E R T I F I C A T E

“I affirm that the contents of this P.D.F. File are same word for word as per original order.”

Name of Steno :
Court Name : S.M.A. Sayyed,
19th Jt. C.J.S.D. Pune.
Date : 26/09/2019
Order signed by
presiding officer on : 10/10/2019
Order uploaded on : 10/10/2019