

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Civil) No(s).29577/2010

(From the judgement and order dated 10/08/2010 in RP No. 1384/2010 of The NATIONAL CONSUMER DISPUTES REDRESSAL COMMISSION, NEW DELHI)

RAJIV DHINGRA

Petitioner(s)

VERSUS

AKANSHA MALVIYA & ANR.

Respondent(s)

(With prayer for interim relief)

Date: 29/10/2010 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE G.S. SINGHVI
HON'BLE MR. JUSTICE ASOK KUMAR GANGULY

For Petitioner(s) Mr. Pradeep Kumar, Adv.

For Respondent(s)

UPON hearing counsel the Court made the following
O R D E R

The petitioner is the proprietor of Care Polyclinic. Respondent No.1 was taken for x-ray because she had suffered injuries in an accident which occurred on 2.10.2002. The x-ray of the left elbow of respondent No.1 was examined by respondent No.2 Dr. Anuradha Tuli, Radiologist who opined "Bones of the elbow joint are normal. Joint spaces are normal. No bony injury is evident." However, as the pain in the elbow of respondent No.1 did not subside, she was taken to Sir Ganga Ram Hospital, Ram Manohar Lohia Hospital and A.I.I.M.S. The Doctors at three places expressed the view that there was abnormality in the bone but the surgery was not possible because of her age.

Respondent No.1 filed complaint through her father and guardian. The District Forum, after considering the pleadings of the parties and evidence produced by them, held that respondent No.2 had committed medical negligence by wrongly reading the x-ray. It also held the petitioner responsible because Dr. Tuli was working in the Polyclinic. On the basis of this finding, the District Forum awarded compensation of Rs.1 lac. The State Commission partly allowed the appeal filed by the petitioner and reduced the amount of compensation to Rs.50,000/-. The National Commission allowed the revision filed by respondent No.1 and restored the order passed by the District Forum. Simultaneously, the revision filed by the petitioner was dismissed as barred by time.

We have heard Shri Pradeep Kumar, learned counsel for the petitioner and perused the record.

In our view, the concurrent finding recorded by the three consumer forums on the issue of liability of the petitioner where respondent No.2 was working as a Consultant does not suffer from any legal infirmity. awarded by the District Forum cannot be termed as excessive and there is no valid ground for interference by this Court under Article 136 of the Constitution.

The compensation

dismissed. The special leave petition is accordingly

(A.D. Sharma)
Court Master

(Phoolan Wati Arora)
Court Master