

Rishi Vs. Pushpa

Rishi Vs. Pushpa

SooperKanoon Citation : sooperkanoon.com/1112458

Court : Delhi State Consumer Disputes Redressal Commission SCDRC New Delhi

Decided On : Mar-28-2005

Judge : J.D. Kapoor, President; Mr. Mahesh Chandra Member & Ms. Rumnita Mittal, Member

Appeal No. : Revision Petition No. 338 of 1998

Appellant : Rishi

Respondent : Pushpa

Judgement :

J.D. Kapoor, President:

1. The complainant on account of deficiency in service claimed compensation of Rs. 5,00,000/- on account of medical negligence on the part of the respondent inasmuch as that during the termination of pregnancy, her uterus was removed and also small intestine was cut. It was dismissed merely on the ground that the case of criminal negligence has been registered against the respondent and the matter is pending trial under IPC before the Criminal Court.
2. We have taken a view that proceedings for criminal negligence are independent proceedings. Proceedings under the Consumer Protection Act, 1986 are on account of deficiency in service or medical negligence. Criminal negligence is distinguishable from deficiency in service as defined under Section 2(1)(g) of the

Consumer Protection Act, 1986. Criminal negligence involves element of rashness. It is a penal offence and attracts sentence of imprisonment and fine. On the other hand deficiency as defined under Section 2(1)(g) of the Act, means any fault, imperfection, shortcoming or inadequacy in the quality, nature and manner of performance which is required to be maintained by or under any law for the time being in force or has been undertaken to be performed by a person in pursuance of a contract or otherwise in relation to any service. It is on account of loss, injury suffered by the consumer that a consumer is entitled for a compensation. In view of the aforesaid reasons, the petition is allowed, impugned order is set aside. Complaint is sent back to the District Forum with directions to decide the complaint on merits. The parties shall appear before the concerned District Forum for the aforesaid purpose on 2.5.2005.

3. A copy of this order, as per the statutory requirements, be forwarded to the parties, free of charge and also to the concerned District Forum and thereafter the file be consigned to the Record Room.

R.P. allowed.

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com