

MUHAMAMD ANWAR VS DOCTOR ASAD ALI ASIM

Case No. 985/DCC/SWL

Dated. 07-07-2012.

Present. Claimant alongwith his counsel.

Order.

1. Briefly stated facts of the case are that respondent Dr. Asad Ali conducted cataract operation of right eye of the claimant on 17-12-2007 in lieu of his operation fee. Later, on 07-04-2008, the claimant suffered from glaucoma of the same eye and again he was operated upon on 13-04-2008. The claimant continuously used eye drops as per prescription of the respondent but without any positive results. The claimant felt pain in his right eye. He again contacted to the same doctor. The respondent conducted operation of right eye on 29-06-2008. Allegedly the claimant suffered a lot and lost his eye sight because of negligence, inefficiency of the respondent doctor. The claimant contacted the doctor Sajid Latif eye specialist for treatment who apprised him that he had to suffer due to bad medical facilities furnished by the respondent. The claimant issued a legal notice to the respondent on 18-06-12 but the respondent again furnished unsatisfactory explanation for the poor treatment. The claimant filed the claim with prayer that he was entitled to damages to the tune of Rs. 50,00,000/-

2. Before issuance of notice to the respondent, it was deemed appropriate to hear the learned counsel for the claimant on the point of limitation. Today i.e 21-07-12, the learned counsel for the claimant appeared before the Court and delivered his arguments and submitted that the claim was within time because the claimant had come to know finally about loss to his both eyes after consultation with Dr. Sajid Latif eye specialist.

3. Sub Section 04 of Section 28 of the Punjab Consumer Protection Act 2005 deals with the point of limitation. According to the said provision of law, a consumer may approach the court with claim within 30 days of the arising of cause of action. However, this limitation may be extended in appropriate cases but not beyond 60 days in any case.

4. Admittedly, the claimant was operated upon twice by the respondent in the year 2007 and 2008 for his left eye, firstly for cataract and secondly for glaucoma disease. In the year 2008, the claimant feel pain in his right eye. He was again operated upon on 29-06-08. The respondent advised him application of drops. The claimant used it but, as per his assertion, his eye was not cured. Lastly, he contacted with Dr. Sajid Latif who appraised him that he had to suffer due to negligence and inefficiency of the respondent.

5. The fact to be taken into account was that the claimant was operated upon by the respondent in the year 2007 and 2008. The good or bad results of operation had come in the light soon thereafter, at least within reasonable time. The two operations were conducted in the year 2007-2008. The claimant had filed the claim on 07-07-12 whereas the same was liable to be filed within 30 days from accrual of cause of action and that cause of action had started in the year 2008. It appears that claimant was persuaded to approach this court for his time barred claim on ill advice of Dr. Sajid Latif eye specialist. The claimant has not been able to furnish any satisfactory reason to extend the period of limitation. The claim is hopelessly barred by time. Therefore, same is hereby dismissed leaving the parties to bear their own costs.

6. File be consigned after its due completion.

Announced

21-07-2012

Sd/-

**District & Sessions Judge/District Judge
Consumer Court Sahiwal**

