

ITEM NO.29

COURT NO.4

SECTION XVII

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Civil Appeal No. (Dy.No.22272/2016)

ASIT BARAN MONDAL AND ANR.

Appellant(s)

VERSUS

RITA SINHA AND ANR.

Respondent(s)

(With appln. (s) for c/delay in re-filing appeal and condonation of delay in filing appeal)

Date : 17/08/2016 This appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE DIPAK MISRA
HON'BLE MR. JUSTICE UDAY UMESH LALIT

For Appellant(s)

Mr. Rabin Majumder, AOR

For Respondent(s)

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

Heard Mr. Rabin Majumder, learned counsel for the appellants.

Delay condoned.

It is submitted by him that the National Consumer Disputes Redressal Commission, New Delhi (for short, 'the National Commission') has not appositely appreciated the factum of medical negligence while adjudicating the consumer dispute. It is his further submission that there is a demarcating distinction between the medical negligence agitated in a consumer forum and the medical negligence in a

criminal proceeding. It is urged by him that it is a fit case where the treating physician should have been well advised to ask for a Liver Function Tests (LFT) as that was absolutely necessary. But the same was not done which exposit gross negligence.

Learned counsel would further submit that the medical negligence is writ large in number of private hospitals and there is no check on it. He would urge that neither the Union of India nor the Medical Council of India nor the State Governments are prescribing any guidelines for treatment of the patients in the Intensive Care Units (ICU) or Critical Care Units (CCU). That apart, there is no proper care at the stage of operation or post-operational stage.

In view of the aforesaid submission, we are inclined to issue notice to the Union of India, the Medical Council of India and to all the State Governments represented by the Health Secretaries. Notice be issued forthwith to the newly added parties, fixing a returnable date within six weeks.

Notice in the present civil appeal be issued fixing a returnable date within six weeks.

Learned counsel for the appellant shall file an amended cause title in course of day and the cause title be rectified accordingly.

List in the first week of October, 2016.

(Chetan Kumar)
Court Master

(H.S. Parasher)
Court Master