

Case Report

No Cure is Not Always Medical Negligence in Case of Cataract Operation: NCDRC

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Received: 24-05-2020; Accepted: 30-05-2020

ABSTRACT

Commonly and it is more often the presumption of the patient that after any medical or surgical treatment he should get cured completely. However, the result of treatment and prognosis of disease depend upon several factors in vivo and vitro. Catena of judgments has defined the elements of medical negligence. It should be borne in mind that **‘no cure is not always medical negligence’**. The complainant filed a complaint before the District Forum for alleged medical negligence from the OP- Dr. Deepak Kumar while conducting a left eye cataract operation on 30.09.2008 caused loss of vision in his left eye.

The OP Doctor denied any negligence during the cataract operation. Getting loss of vision due to vitreous inflammation and retinal detachment may occur due to trauma and other causes. Therefore, retinal detachment cannot be held as medical negligence of the doctor. The District Forum held the OP-doctor negligent and allowed the complaint. It directed the opposite party to pay Rs. 1 lakh as compensation for loss of eye sight, physical pain and financial loss with interest @ 9 % p.a. since 05.10.2008 till the date of payment. Rs. 1000/- was also awarded as litigation cost. SCDRC observed that in the facts **and circumstances of the present case**, we are of the view that the District Forum failed to consider these aspects of the case in correct perspective and passed the order holding the appellant doctor guilty for medical negligence, is not proper and justified, therefore, it is not sustainable. The impugned order is thus set aside. The appellant doctor is not liable to pay any compensation to the complainant. NCDRC while dismissing the revision petition and affirming the judgment of SCDRC concluded that based on the foregoing discussion and in the obtaining facts, it is not feasible to attribute negligence / deficiency on the respondent doctor. It is difficult to conclusively establish medical negligence / deficiency in service on the respondent doctor.

Keywords: Cataract, Compensation, Medical expert opinion, Medical negligence, Vitreous

Abbreviations: OP = Opposite Party; OT = Operation Theatre; NCDRC = National Consumer Dispute Redressal Commission; SCDRC = State Consumer Dispute Redressal Commission; DCDRC = District Consumer Dispute Redressal Commission; VH = Vitreal Hemorrhages; RD = Retinal Detachment; ECCE = Extra Capsular Cataract Encapsulation; PCIOL = Posterior Chamber Intra Ocular Lens

BACKGROUND OF THE CASE

This revision petition is from a decision of State Commission, Bihar, which allowed an appeal filed by the doctor – OP and dismissed the complaint. The decision of the District Forum, Bhojpur about alleged medical negligence during cataract surgery of the left eye was set aside [Para 1].

Complaint before DCDRC: Alleged Medical Negligence

The complainant filed a complaint before the District Forum for alleged medical negligence from the OP- Dr. Deepak Kumar while conducting left eye cataract operation on 30.09.2008 caused loss of vision in his left eye [Para 2].

Stand of Doctor

The OP Doctor denied any negligence during the cataract operation. Getting loss of vision due to vitreous inflammation and retinal detachment may occur due to trauma and other causes. Therefore, retinal detachment cannot be held as medical negligence of the doctor [Para 3].

Compensation Awarded by District Forum

On hearing both the sides, the District Forum held the OP- doctor negligent and allowed the complaint. It directed the opposite party to pay Rs. 1 lakh as compensation for loss of eyesight, physical pain and financial loss with interest @ 9 % p.a. since 05.10.2008 till the date of payment. Rs.1000/- was also awarded as litigation cost [Para 4].

Appeal before SCDRC

Being aggrieved by the above said order, the opposite party preferred an appeal in the State Commission. On appraisal of evidence and material on record the State Commission allowed the appeal and set aside the Order of the District Forum [Para 5].

“The State Commission stated its **reasons and observations** as below:

It is an admitted fact that the appellant doctor performed cataract surgery to the left eye of the complainant on 30.09.2008 after conducting necessary tests successfully. Now as far as retinal detachment to the complainant eye after Cataract operation is concerned, as per the **Medical Notes** annexed with memo of appeal, it is evident that there is a risk of person’s retinal detachment after having a cataract removal operation, but since now a day’s modern method extra capsular surgery is used exclusively for removal of cataract, the risk of retinal detachment became for less, but it may caused due to other unknown reasons such as trauma, family history, diabetic etc. Therefore, in light of the above medical position, we are of the opinion that in case of retinal detachment the doctor performing cataract surgery cannot be held for medical negligence. Moreover, in the present case, we do not find any **medical expert opinion** on the matter by way of evidence brought on record by the complainant to establish the fault during cataract operation to show the appellant not competent to handle the case or steps taken by appellant doctor in the procedure led to such damage to retina, the allegation of medical negligence leveled against the appellant doctor is not proved [Para 6].

In facts and circumstances of the present case, we are of the view that the District Forum failed to consider these aspects of the case in correct perspective and passed the order holding the appellant doctor guilty for medical negligence, is not proper and justified, therefore, it is not sustainable. The impugned order is thus set aside. The appellant doctor is not liable to pay any compensation to the complainant [Para 7].

In result, the order of the District Forum is set-aside. The appeal stands allowed [Para 8].

Revision Petition before NCDRC

On perusal of pleadings of complaint, admittedly the left eye cataract operation was performed by OP on 30.09.2008. Thereafter, for about 9 months till June 2009, the patient was under follow up by the OP doctor for minor ailments like redness and pain in the eye. Complaint suspected some wrong operation was performed by OP,

therefore on 13.07.2009 he approached Sadguru Seva Sangh Trust, but did not get relief. Therefore, he got his operated eye from famous eye specialist Dr. Mangtoo Ram and thereafter visited IGIMS at Patna on 28.08.2009. It was diagnosed as left eye vitreous hemorrhage/infective pathology with vitreo-retinal detachment.

Delayed Complications

Thus, it is clear that the complainant came to know the retinal detachment almost one year after the cataract operation. **In our [NCDRC's] view such retinal detachment or any infective pathology was not due to any negligence during operation which was performed one year back** [Para 8].

NCDRC [We] have perused the medical record, the OT notes and the post-operative treatment advised by the OP (page 56 to 60 of paper book). The Cataract surgery ECCE with PCIOL was performed on 30.09.2008 under peribulbar anesthesia. Postoperatively OP doctor advised antibiotics, pain killer and topical eye drops and called the complainant on 11.10.2008. The complainant was advised spectacles after examination on 15.11.2008 [Para 9].

NCDRC [We] have also perused the **three prescriptions**. One dated 13.07.2009 of Sri Sadguru Seva Sangh Trust shows treatment advised as eye drop and steroid tablets. The second prescription dated 10.08.2009 of BILAS Netralaya revealed Dr. Mantgoo

Ram ophthalmologist examined the complainant's left eye and detected the retinal detachment and inflammation. The third OPD prescription of IGIMS- Regional Institute of Ophthalmology detected the same. The ultrasonography eyes showed Right eye cataract and left side vitreous hemorrhage /infective pathology with vitreo-retinal hemorrhage.

Thus, collectively in our view the retinal detachment and the vitreal hemorrhages occurred at delayed stage i.e. after about one year of cataract surgery. It cannot be construed due to any medical negligence or deficiency in treatment procedure. There are several possibilities to cause such detachment and hemorrhages Table 1.

No cure is not always Medical Negligence [Para 10]

Commonly and it is more often the presumption of the patient that after any medical or surgical treatment he should get cured completely. However, the result of treatment and prognosis of disease depend upon several factors in vivo and vitro. Catena of judgments have defined the elements of medical negligence. It should be borne in mind that **'no cure is not always negligence'**.

NCDRC observed that in the instant case we note the doctor OP is qualified, performed cataract surgery as per the standard procedure. Proper antibiotic, eye drops advised post-operatively and kept follow up of the patient. The patient developed symptoms of RD/VH after about one yea. [Para 11].

Table 1: Chronology of Events

S.No.	Event	Date	Remarks
1	Left eye cataract operation was performed by OP	30.09.2008	
2	First Follow-up	11.10.2008	
3	Sri Sadguru Seva Snagh Trust shows treatment advised	13.07.2009	
4	BILAS Netralaya revealed Dr. Mantgoo Ram ophthalmologist examined	10.08.2009	
6	IGIMS Prescription: 28.08.2008	28.08.2009	
7	Complaint filed before DCDRC		
8	Date of Judgment DCDRC		
9	Date of Judgment SCDRC	03.03.2017	
10	Date of Judgment NCDRC	12.03.2020	

NCDRC concluded that based on the foregoing discussion and in the obtaining facts, it is not feasible to attribute negligence / deficiency on the respondent doctor. It is difficult to conclusively establish medical negligence / deficiency in service on the respondent doctor [Para 12].

NCDRC approved the SCDRC Judgment and further added that we find no grave error in appreciating the evidence by the State Commission, in passing its reasoned Order which has been impugned herein before us [Para 13]. The Order dated 03.03.2017 of the State Commission is affirmed. The revision petition is dismissed [Para 14].

SUMMARY AND CONCLUSION

Complainant has to prove charges of medical negligence, but he was not able to produce any expert medical opinion in favour of his allegation of medical negligence. Competency of doctor and followed standard protocol for operation in such cases along with medical records gone in favour of doctor in winning the case of medical negligence.

There is force in view of NCDRC the retinal detachment and the vitreal hemorrhages occurred at delayed stage i.e. after about one year of cataract surgery. It cannot be construed due to any medical negligence or deficiency in treatment procedure. There are several possibilities to cause such detachment and hemorrhages ^[1].

The cumulative probability of retinal detachment after extra capsular cataract surgery (ECCE) & Phacoemulsification was 0.27%; 0.71%; 1.23%; 1.58% and 1.79% at 1,5,10,15 & 20 years after surgery. There was no significant difference in the probability of retinal detachment after ECCE when compared to phacoemulsification ^[2].

Retinal detachment is a well recognized complication of cataract surgery occurring in 0.2%-3.6% of person after ECCE. Incidence of retinal detachment increases five folds when an intra capsular procedure is performed ^[3].

Retinal detachment although uncommon following uneventful ECCE or Phaco and may be associated with post operative laser capsulotomy if performed within a year of cataract surgery ^[4].

Incidence of retinal detachment is higher in aphakic patient as compared to phakic and more common after intracapsular cataract surgery than after ECCE and IOL implantation other risk factor for pseudophakic retinal detachment includes vitreous loss during surgery associated myopia and lattice degeneration of retina ^[5].

There is need to educate the patient community about all possible complications especially if any systemic or ocular comorbidity is suspected or present and also that 'no cure is not a case of medical negligence' to avoid filing of unnecessary cases and precious time and efforts of consumer courts can be saved and lost trust between doctor and patients can be restored.

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How to cite this article: Mukesh Yadav, Akash Srivastava and Mukesh Kumar Bansal. No Cure is Not Always Medical Negligence in Case of Cataract Operation: NCDRC. Indian Internet Journal of Forensic Medicine & Toxicology. 2020;18(1):19-22.