

**NATIONAL CONSUMER DISPUTES REDRESSAL COMMISSION
NEW DELHI**

FIRST APPEAL NO. 733 OF 2017

(Against the Order dated 15/03/2017 in Complaint No. 34/2003 of the State Commission
Rajasthan)

1. VIKAS ARYA

S/O. SHRI SATYENDRA KUMAR ARYA, R/O. 347,
GAYATRI NAGAR-A, MAHARANI FARM,
DURGAPURA,
JAIPUR

.....Appellant(s)

Versus

1. SANTOKBA DURLABHJI MEMORIAL HOSPITAL &
MEDICAL RESEARCH INSTITUTE & ANR.

BHAWANI SINGH ROAD,
JAIPUR

RAJASTHAN

2. DR. SMT. PREETI SHARMA,

GYNACOLOGIST, SANTOKABA DURLABHJI MEMORIAL
HOSPITAL AND MEDICAL RESEARCH INSTITUTE,
BHAWANI SINGH ROAD,

JAIPUR

RAJASTHAN

.....Respondent(s)

FIRST APPEAL NO. 773 OF 2017

(Against the Order dated 15/03/2017 in Complaint No. 34/2003 of the State Commission
Rajasthan)

1. SANTOKBA DURLABHJI MEMORIAL HOSPITAL &
MEDICAL RESEARCH INSTITUTE & ANR.

BHAWANI SINGH MARG JAIPUR

2. DR. (MRS.) PREETI SHARMA

GYNECOLOGIST SANTOKBA DURLABHJI MEMORIAL
HOSPITAL AND MEDICAL RESEARCH INSTITUTE
BHAWANI SINGH MARG JAIPUR

.....Appellant(s)

Versus

1. VIKAS ARYA

S/O SHRI SATYENDRA KUMAR ARYA R/O 347 GAYARI
NAGAR "A" MAHARANI FARM DURGAPURA JAIPUR

.....Respondent(s)

BEFORE:

**HON'BLE AVM J. RAJENDRA, AVSM VSM (Retd.),PRESIDING
MEMBER**

FOR THE APPELLANT :

FOR SANTOKBA DURIABHJI

MEMORIAL HOSPITAL & ANR.: MR. PURUSHOTTAM
SHARMA TRIPATHI, ADV.

MR. AMIT, ADVOCATE

MR. ABHISHEK GUPTA, ADVOCATE

FOR THE RESPONDENT : FOR VIKAS ARYA : MR. UMESH NAGPAL, ADVOCATE
ALONG WITH
MS. SHWETA ARYA, ADVOCATE

Dated : 27 December 2023

ORDER

1. This Order shall decide both the Appeals arising from the impugned Order dated 15.03.2017 passed by the State Consumer Disputes Redressal Commission, Rajasthan ("State Commission") in Consumer Complaint No. 34 of 2003, wherein the State Commission partly allowed the complaint.
2. For Convenience, the parties are being referred to as mentioned in the Complaint before the learned State Commission. Mr. Vikas Arya is referred to as the Appellant/ Complainant in First Appeal No. 733/ 2017. While Santokba Durlabhji Memorial Hospital & Medical Research Institute is referred as the Opposite Party No. 1, (OP-1) and Dr. (Mrs) Preeti Sharma, Gynecologist is referred to as the Opposite Party No.2 (OP-2).
3. The initial Consumer Complaint No. 34 of 2003 was filed before the learned State Commission and the State Commission, vide Order dated 19.05.2011 partially allowed the complaint. However, both the parties appealed against the impugned Order by filing FA No. 294/ 2011 & FA No. 320/ 2011 before this Commission. This Commission, vide Order dated 15.11.2006 remanded the case for fresh adjudication after granting opportunity to OP's Hospital and treating Doctor to file additional documents.
4. The brief facts of the case, as per the Complainant, are that on 08.06.2001, Smt. Sweta Arya, the wife of the Complainant, who was pregnant, sought medical consultation with Dr Preeti Sharma (OP-2) and a Gynecologist at the Hospital of OP-1. Subsequently, she continued consulting OP-2. On 23.10.2001, she expressed concern as regards decreased fetal movements. However, OP-2 reassured her that this was within the normal spectrum. On 29.10.2001, she was admitted for delivery and was expected to have normal delivery. Yet, as the umbilical cord was wrapped around the child's neck during delivery, there was an impediment in receiving adequate oxygen, resulting in post-birth convulsions. The child received inadequate care at the hospital and was discharged. Following this, the Complainant sought additional medical attention, consulted a pediatrician and a physiotherapist. A subsequent CT scan revealed that the child was afflicted with 'Cerebral Palsy', as the OPs failed to take due care in the delivery and after the child suffered the disease. Being Aggrieved by the Medical Negligence and deficiency in service of the OPs, the Complainant filed a Complaint No. 34 of 2003, before the State Commission and sought Compensation of Rs.55,66,000/- from Opposite Parties on various heads.
5. The OPs in their reply before State Commission contended that the Complainant's wife initially consulted Dr. Preeti Sharma (PO-2) on 08.06.2001. Despite being advised

sonography on 23.10.2001, she did not undergo the same. On 29.10.2001, she was admitted for delivery and successfully delivered a male child at 3.34 PM, receiving appropriate care throughout and supervised by OP-2 and resident doctors. They refuted the claim of a cord around the child's neck, stating that the child was cared for immediately, receiving oxygen when required. Post-delivery, the child was moved to the pediatric care unit for further treatment. The OPs denied any medical negligence. Attributing the child's condition, diagnosed with 'Cerebral Palsy,' to a genetic birth defect they highlighted that the child received care under the guidance of Dr. GC Bothra, the pediatrician, hence the claim should be dismissed.

6. The learned State Commission allowed the Complaint vide order dated 15.03.2019 & directed as follows:

***“Here in the present case the facts clearly shows that the new born has suffered cerebral palsy due to negligence of the non-applicants and for whole life he is in constant need of attendant. No money can compensate the suffering and helplessness of the child and trauma and mental agony of the parents. The quality of life of the family members have spoiled forever and the child has suffered permanent disability. For past medical expenses bills of about Rs. 35,000/- are being placed on record which should have been reimbursed by the non-applicants. Further looking at the facts that the child could not lead a normal life and parents have also suffer the pain and agony and constant trauma the child is not able to perform his daily chores.*”**

Hence, we order that an amount of Rs. 50 lakhs shall be paid to the complainant as compensation. Out of the above amount Rs. 40 lakhs shall be fixed deposit in the name of child and his mother and accrued interest of the same could be utilized for the care of the child. Medical expenses of Rs.35,000/- shall be paid to the complainant. We are also aware of the fact that the matter is lingering on since 29.4.2003 and on the instance of the non-applicants it was carried up to the National Commission. Hence, in view of the matter Rs. 50,000/- are awarded as cost of proceedings. The complainant is also entitled for 9% interest on the amount of Rs. 50 lakhs from the date of presentation of the complaint i.e. 29.10.2003. The order should be complied within one month. In above terms this complaint is allowed.”

7. Aggrieved by the Order of the State Commission, both the parties i.e., the Complainant and the OPs filed the present cross Appeals before this Commission with the following prayer:

FA/733/2017 – filed by the Complainant- Mr. Vikas Arya-

***“It is therefore prayed that this appeal petition be kindly allowed and order dated 15-03-2017 passed by State Commission, Jaipur, Be modification along with the award claimed by the petitioner in the petition modified on 15-03-2017 by*”**

reevaluating the award in the context of present circumstance and it is worth granting. The Hon'ble Commission may further be pleased to direct the respondents to pay Rs.15,00,000/- (towards Fifteen lac) cost of litigation and advocate's fees etc.

Any other order which the Hon'ble Commission deems fit may be passed in favour of the complainant/petitioner.

It is therefore prayed that this appeal petition be kindly allowed and order dated 19-05-2011 passed by State Commission, Jaipur, Be modification along with the award claimed by the petitioner in the petition on 19-05-2011 by reevaluating the award in the context of present circumstance and it is worth granting. The Hon'ble Commission may further be pleased to direct the respondents to pay Rs. 15,00,000/- (towards Fifteen lac) cost of litigation and advocate's fees etc.

Any other order which the Hon'ble Commission deems fit may be passed in favour of the complainant/ petitioner.”

FA/773/2017 – filed by the Opposite Parties- Santokaba Durlabhji Memorial Hospital and Medical Research Institute.

Set aside the impugned judgment and order dated 15.03.2017 passed by the Hon'ble State Commission in Complaint No. 34 of 2003;

Declare that the Appellants were not guilty of deficiency in service vis-a-vis the birth of the baby of Respondent/Complainant (c) Pass any other or further orders as may be deemed fit and proper in the circumstances of the case.

8. In ***Appeal No. 733 of 2019***, the Appellant/Complainant has contended that the impugned order failed to encompass the complete factual details of the case, leading to a partial calculation of damages by the State Commission. The profound challenges faced by his son, who, though physically a teen, possesses the mental faculties of a toddler and entirely reliant on the Complainant and his family for daily activities, unable to sit or stand unaided and requires continuous care for feeding and toileting. For his future needs, he anticipates essential speech therapy, occupational and physiotherapy to facilitate his development to lead a dignified life. Special education and an attendant are imperative. Thus, his wife had to abandon her pursuit of LLB to tend to their son. As the child grows, the strain on his mother intensifies, necessitating a full-time caretaker. These exceptional children need specialized attention, including orthotic shoes, wheelchairs, and extensive care. Finally, the

Appellant seeks an augmented compensation amount across various aspects to accommodate these pressing requirements.

9. On the other hand, in Appeal No.773 of 2017, the Appellant/ OPs contended that the learned State Commission failed to appreciate that Appellants herein were not guilty of any deficiency in service neither were they guilty of medical negligence during the said delivery Smt. Shweta Arya, the wife of the Complainant. They asserted that the baby delivered by Smt. Shweta Arya at their Hospital suffered from Cerebral/Cortical Atrophy undeveloped cortex, which is a genetic defect/birth defect. In addition, the baby was found to be suffering from Optic atrophy, congenital dislocation of hip, static encephalopathy with spastic quadriplegia. These issued cannot develop due to birth asphyxia. These are nature born defects and cannot be attributed to the any act on part of the Appellants during delivery of the child. The State Commission failed to appreciate that the wife of the Complainant was not under their continuous medical treatment and the OP-2, during her pregnancy. She consulted them only on two isolated occasions. She was under the treatment of her family physician Dr. Manjushree Boob whose medical prescription is on record. Hence the OP-1 Hospital and the OP-2 Doctor have no knowledge wrt her medical condition during pregnancy as well as the condition of the unborn child. The State Commission failed to appreciate that when she complained of less movement of the unborn baby during her last visit on 23.10.2001, she was specifically advised to undertake Colored Doppler Sonography to diagnose the cause for the restricted movement of the unborn baby, as the said facility was not available with the OP-1 Hospital. Despite OP-2's written advice, she failed to take the test. This lends strong credence to the fact that the baby suffered prenatal/ genetic disorder during pregnancy, much before its actual birth, which was deliberately not disclosed to the OPs during the delivery. The State Commission erred in concluding that the cause of "Cerebral Palsy" and "Birth Asphyxia" were directly attributable to lack of oxygen supply to the newborn immediately after delivery at the OPs hospital and OP-2 and failed to appreciate this case in its true medical perspective which attributes 90% of all cases of Cerebral Palsy/Birth Asphyxia to perinatal causes (arising during pregnancy before delivery) and the extreme difficulty faced in determining the exact cause for the same and diagnosis, thereby prejudging the case against the OPs. The State Commission failed to take judicial notice of the findings of the Medical Board comprising of five Senior Doctors of Sawai Man Singh (SMS) Hospital, Jaipur constituted vide the State Commission's order dated 13.04.2010 to opine as to the reason for cerebral atrophy suffered by the child. The Medical Board did not find any evidence of medical negligence on part of the Appellants (Hospital and Doctor) and opined as under:

"The Medical Board is of the opinion that Master Vishrut is suffering from spastic quadriplegia-global development delay-impaired vision-secondary epilepsy with under-weight On the basis of history, examination and investigations it is possible that Vishrut's condition may be due to birth asphyxia related cerebral damage, but the available information is inadequate to conclusively rule out an underlying genetic pre disposition to birth asphyxia or cortical atrophy or congenital viral infection resulting in such a condition."

10. To the query that an investigation like colored Doppler could have prevented this condition, the Board felt that experience and literature reveal that though colored Doppler

would provide additional information, it would still be inadequate to predict and preempt any adverse outcome. The test is required to screen "at risk" pregnancies but is usually the discretion of the attending doctor to order such investigation after physical examination of the patient, and if he/she feels the additional information is required. The OPs contended that the opinion of the Medical Board was disregarded by the State Commission in wrongly determining Medical Negligence of the Appellants. The State Commission failed to take judicial notice of the established medical journals, textbooks, and research papers across the globe wherein it has been clinically established that majority of newborn brain injury does not occur during labour and delivery, and most of the instances of neonatal encephalopathy and cerebral palsy are attributed to events which occur prior to the onset of labour (up to 90%). The Medical Board dated 09.09.2010 did not make any observation with respect to medical negligence on part of the OPs during the delivery and immediately after delivery as the cause for birth asphyxia related to cerebral damage.

11. The learned Counsel for the Complainant reiterated the issues raised in the Complaint and affidavit of evidence before the State Commission and contended that the impugned order was passed without analysing facts presented by him. The impugned order does not reflect the complete factual position of the case and the State Commission determined the award by partially calculating the damage caused. The order needs to be modified to include the present claim. The State Commission has held OPs responsible for carelessness in treatment as well as in the daily medical procedure wherein the OPs indulged in overwriting and tampering with records. The hospital staff tempered with doses of Syntocinon. Overwriting and cutting was there at various places where syntocinon related advice is given. The reason of giving the said drug is not stated. Whether this dose was clinically required or not was left ambiguous or suspicious. This arises out overwriting and should have been justified by the OPs. There was no CTG tracing done after starting the dose of oxytocin, as stated it was done at 12 PM and after 2 PM. No contractions were measured. As stated in Williams Obstetrics Pg. 529, "Synthetic oxytocin is one of the most frequently used medication in US. Oxytocin may be used for labour induction or augmentation. For oxytocin use, the American College of Obstetricians & Gynaecologists recommended FHR and contraction monitoring similar to that of high risk pregnancy." As stated in Indu Sharma Vs. Indraprastha Apollo Hospital, in Para 19 with reference to Williams Obsterics 24 edition "The induction of labour by means of Oxytocin/Syntoeinon should be attempted only when strictly indicated for medical reasons rather than for convenience. Administration should only be under hospital conditions and qualified medical supervision". He asserted that the OPs exhibited contrarian attitude towards medical ethos wherein the OPs displayed utmost disregard toward medical ethos as the doctors knew the child suffered at the time of birth but have kept the information with themselves. The discharge slip also has shown the child as 'normal'. This proves that either the doctors were not proficient or there was malafide intention to suppress the information. In either case, the hospital has shown contrarian attitude and indulged in practices of business, much against medical ethos. As years passed, the Complainant realized the enormity of the problem. Now, his son is physically grown to be a young teen, but his mental age is only of months toddler. He is wholly dependent on Complainant and his wife for his day today daily chores and cannot be left unattended at all. He cannot sit or stand on his own and he and his family have to feed Him and take care of his toileting etc.

12. As stated at Para-67 of Indu Sharma Vs Indraprastha Apollo Hospital, for all parents and grandparents, birth is a joy, a wonder, and a renewal of hope. But one of the most devastating, life changing events for parents is finding out their child suffered cerebral palsy. Parents often go through stages of grief similar to those they would have if they had lost the child. Caring for a child with a Cerebral Palsy can negatively impact the physical and mental health of parents. Many parents experience significant depression, fear and anxiety, which may have a devastating effect on the whole family. These feelings are often suppressed due to embarrassment, shame or guilt. Many families suffer a financial burden when they have a child who has a birth defect due to a variety of factors. If the child needs regular physical, occupational, or speech therapy, this can create debilitating financial strain. This can cause significant anxiety in social settings and even lead distressed parents to further isolate themselves". The State Commission directed the OPs to pay compensation of Rs 50,00,000 (Fifty Lakh), against Complainants request for Rs. 56 Lakhs, at the time of filing of initial case. While no amount of compensation can alleviate their sufferings, his plea is that he was ignorant about the enormity of problem his son was suffering at that time and the basis of calculation for of award compensation and sought it to be relooked. This is the case of medical negligence, and the cause of action remains continuous till the patient, or the Complainant comes to know about the real injury.

13. The learned counsel for the OPs reiterated the grounds which in already outlined in their Appeal No. 773 of 2017 and asserted that The OP-1 hospital and OP-2 doctor were not responsible for cerebral palsy and other defects of the Respondent's child. They argued that the child was not under their continuous medical treatment during the mother's pregnancy. They were not provided with the complete medical history of the mother and the foetus. They rendered standard medical care and treatment to the mother and the child during and after the delivery, and that they were not guilty of any deficiency or negligence in service. He cited various medical literature and experts to support the arguments. He referred to various books, articles, research papers, and affidavits that explain the causes, diagnosis, and prevention of cerebral palsy and birth asphyxia. He asserted that most cases of cerebral palsy are attributed to perinatal causes (occurring during pregnancy before delivery) and not to intrapartum asphyxia (occurring during labour and delivery). He urged that the child's brain damage and other defects were likely to be due to some genetic or developmental disorder, and not to any lack of oxygen supply during or after birth. He challenged the State Commission's findings and conclusions and asserted that it had erred in quoting Williams, 24th Edition, and in disregarding the medical tests and prescriptions by independent centres and experts. The State Commission failed to consider the medical evidence and documents submitted, made erroneous presumptions and assumptions based on their non-availability. It ignored or misinterpreted various medical reports, documents, and affidavits that supported their case and contradicted the claim of the Complainant for medical negligence. He alleged that the State Commission prejudged the case and violated the principles of natural justice and Article 14 of the Constitution. The OPs asserted that they provided the best possible care to the Respondent's wife and child, and that the child's condition was not caused by post-delivery lack of oxygen supply, but due to complex multifactorial processes involving genetic, physiological, environmental, and obstetrical factors. They did not follow their advice to undergo certain tests and did not have faith in the hospital and its staff.

14. As regards Medical Board, the OPs contended that the Medical Board's opinion that the child's condition may be due to birth asphyxia related cerebral damage was inconclusive and based on inadequate information. He pointed that the Medical Board did not find any evidence of medical negligence on their part and did not rule out other possible causes of the child's condition. Further, the order of the learned State Commission has several inconsistencies and errors such as wrongly quoting the medical textbook of Williams, misquoting the affidavits of the appellants, disregarding the hospital records and the CT scan report of the child, and adopting a hyper-technical approach in comparing the affidavits of the OPs and pediatrician etc. The learned Counsel for the OPs relied on the following citations to support his arguments: -

(a) Kusum Shamra v. Batra Hospital (2010) 3 SCC 480 at Para 47, 72, 78.

(b) Malay Kumar Ganguly v. Dr. Sukumar Mukherjee (2009) 9 SCC 221 at Para 157.

(c) Dr. C.P Sreekumar v. S. Ramanajum (2009) 7 SCC 130 at Para 27,29,32,33,34,37,40 and 41.

(d) Martin F. D'Souza v. Md. Ishfaq (2009) 3 SCC 1 at Para 40.

(e) Jacob Mathew v. State of Punjab (2005) 6 SCC 1, Para 48.

(f) Vinod Jain v. Santokba Durlabhji Memorial Hospital (2019) 12 SCC 229.

(g) Santokba Durlabhji Memorial Hospital v. Vinod Jain (2017) SCCOnline 1989[NCDRC].

(h) Bombay Hospital and Medical Centre v. Asha Jaiswal & Ors. AIR 2022 SC 204

(I) Indian Medical Association v. V.P Shantha (1995) 6 SCC 651.

15. I have examined the pleadings and associated documents placed on record and rendered thoughtful consideration to the arguments advanced by the learned Counsel of both the parties.

16. The primary contentions raised in these two Appeals are whether the OPs were correctly held liable for medical negligence by the learned State Commission. And whether the State Commission in its order, awarded just and fair compensation to the complainant, which involves assessing whether the compensation granted to the complainant adequately reflects the extent of their disability and the suffering endured because of the alleged medical negligence.

17. The main contention of the Complainant is that the OPs have not taken due care of the child and thus he has developed cerebral palsy. OP-2 is the Doctor who conducted the delivery of the spouse of the Complainant on 29.10.2001 and clarified that the wife of the

Complainant was given due care from admission till the delivery. When she was prepared for delivery and heartbeat of the child was also normal. Doppler test was also conducted. CTG of child was also stated to be normal and thus there was no negligence on the part of OPs. However, despite sought permission and was granted by this Commission to file additional documents, nothing substantial has been brought on record to show that what happened after 3.15 PM on 29.10.2001 till the birth of the child and thereafter. It is an admitted position that the OPs, especially OP-2, that the child was suffering from cerebral palsy, which, as per OPs was due to genetic defect. At a subsequent stage, it was stated by OP-2 Dr. Preeti Sharma that in addition to genetic defect the baby was also found to be suffering from optic atrophy, congenital dislocation of hip, static encephalopathy with spastic quadriplegia. This was an improvement, which was not stated in the earlier affidavit and thus was considered as an afterthought.

18. The learned State Commission considered it appropriate to refer the matter for specialist medical opinion. Medical Board comprising of five Senior Doctors of Sawai Man Singh (SMS) Hospital, Jaipur constituted vide the Commission's order dated 13.04.2010 to opine as to the reason for cerebral atrophy suffered by the child of the Complainant. The Medical Board did not find any evidence of medical negligence on part of the Appellants (Hospital and Doctor) and opined as under:

"The Medical Board is of the opinion that Master Vishrut is suffering from spastic quadriplegia-global development delay-impaired vision-secondary epilepsy with under-weight On the basis of history, examination and investigations it is possible that Vishrut's condition may be due to birth asphyxia related cerebral damage, but the available information is inadequate to conclusively rule out an underlying genetic pre disposition to birth asphyxia or cortical atrophy or congenital viral infection resulting in such a condition."

19. Thus, the Medical Board states that the child is suffering from birth asphyxia and related to cerebral damage. The contention of the OPs is that cerebral palsy is caused by a combination of genetic, physiological, environmental and obstetrical factors. In the present case, the specific contention of the OPs is that the child was suffering from cerebral palsy as it was genetic/ birth defect. The context of Cerebral Palsy has been brought out by the Complainant by relying upon medical textbooks referring it as a group of non-progressive disorder of movement or posture caused by abnormal development or damage to brain and it has also been noted that it is common in premature or low birth weight infants which is not the case here as delivery was normal after maturity of fetus and weight of the child on birth was also 2.83 KG, which is normal in Indian conditions. At the same time, the OPs have not brought out anything substantial to say that the cerebral palsy caused to the child was due to genetic or birth defect. While OP-2 has stated that after CT scan it was found that cartex of the child is not developed. However, no CT Scan report was produced to support the stand. However, the evidence submitted by OP-2 before the State Commission was very limited and no further evidence was led even after necessary permission was granted for producing additional evidence. Admittedly, while all documents in relation to treatment of the child

from his birth till the discharge are with the OPs, no significant records were produced to assert their contentions. Therefore, the allegation of negligence in the treatment subsists. Further, Dr. GC Bothra has brought out that he was not aware of the facts till the child shifted to Neonatal Unit and OP-2 has also corroborated stated that in labour room the child was taken care by resident and, thereafter, he was shifted to Pediatric Care Unit under Dr. GC Bothra. Dr. Bothra has not brought out how the child was treated in Neonatal Unit, other than stating that baby was appropriately managed, without basic details as to how such child with diagnosis as "High risk baby" was attended. Further, the discharge summary stated that heartbeat of the child was below 100, child is gasping respiration at birth and that bag and mask ventilation was given. But no record was submitted. It was also noted in the discharge ticket that the child had seizures after birth. At the same time, as per OP-2 till delivery there were no complications. The heartbeat of child was normal, CTG was normal hence. Subsequently, the child was stated to be suffering from birth asphyxia. While it was the duty of the OPs, the medical records were not maintained as per the standards and guidelines of Medical Council. This constitutes negligence and deficiency in service.

20. It is also the contention of the OP-2 that up to 3.15 PM on 29.10.2001, there was no fetal distress. However, if there was no fetal distress as per her own admission and everything was normal, it certainly cannot be the diagnosis of OP-2 that fetus is suffering from any abnormality. On the other hand, the Complainant has led evidence that, at the time of the birth, if heartbeat of a child is 100 and he is gasping (which was the case), it shows the lack of oxygen and fetal distress. In cases of severe birth asphyxia, it is an emergency and if oxygen supply is not proper for seconds, it can damage the brain. Evidently, what happened thereafter caused the child cerebral palsy and this aspect was unrebutted adequately by the OPs by contentions and medical records. Therefore, I find no reason to interfere with the finding of the learned State Commission in this regard.

21. As regards compensation, in the original complaint the Complainant had claimed for the medical expenditure, cost of attendant, mental agony and cost of proceedings. In the Appeal, the Complainant has contended that the learned State Commission failed to encompass the complete factual details of the case leading to partial calculation of damages. He could not evaluate the profound challenges faced by his son, who, though physically a teen, possesses the mental faculties of a toddler and is entirely reliant on the Complainant and his family for daily activities and basic needs. For his future, he anticipates expenditures towards essential speech therapy, occupational and physiotherapy to facilitate his development to lead a dignified and self-sustained life. As the child grows, the strain on his parents to provide sole care intensifies, necessitating a full-time caretaker. These exceptional children necessitate specialized attention, including orthotic shoes, wheelchairs, and extensive care. He, therefore, sought augmented compensation to meet the stated expenses.

22. The learned State Commission has already gone into the depth of the contentions and the claims and awarded necessary compensation. There is limited scope to make additional

claims and seek enhanced compensation. The compensation awarded by the learned State Commission is considered adequate and no modification is considered necessary.

23. Based on the above discussions, the Order of the learned State Commission dated 15.03.2017 in Complaint No. 34 of 2003 does not suffer any irregularity or illegality. Therefore, both the First Appeals No. 733 and 773 of 2017 are dismissed.

24. All the pending Applications, if any, are disposed of accordingly.

25. The Registry is directed to release the Statutory deposit amount, if any due, in favour of Appellant as per law, after the compliance of the order of the learned State Commission.

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AVM J. RAJENDRA, AVSM VSM (Retd.)
PRESIDING MEMBER