

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 2514 OF 2021
(Arising out of S.L.P.(C) No. 1860 of 2018)

KUM. AKSHATHAAppellant(s)

Vs.

THE SECRETARY B.N.M. EDUCATION
INSTITUTIONS & ANR.Respondent(s)

O R D E R

Leave granted.

The complainant is in appeal aggrieved by the order of the National Consumer Redressal Commission (hereinafter referred to as the 'National Commission') reducing the compensation awarded to her from Rs.88,73,798/- to 50 lakhs in an appeal preferred by the respondents.

We have heard learned counsel for the parties at length.

The complainant was a child aged 14 years at the relevant point of time studying in class 9 in an educational institution in Bangalore. In December, 2006, she went on an educational tour with other students to several places in North India, accompanied by teachers of the school. She was taken ill during the tour by viral fever, diagnosed as Meningo Encephalitis. The doctors opined that

had she been given timely medical aid and attention, she could easily have been cured. Ultimately she had to be airlifted in an air ambulance to Bangalore. Consequentially the complainant has become bed ridden *inter alia* affecting her memory and speech with no prospects for recovery. She stands deprived of a normal life and marriage prospects despite being of marriageable age.

The State Commission and the National Commission have arrived at concurrent findings of gross negligence by the respondents opining that the teachers accompanying the complainant and the other children, were negligent in performance of their duty.

We have been taken through the judgements of the State Commission and the National Commission. The National Commission, on its own reasoning and examination of facts and evidence affirmed the findings of the State Commission. The National Commission found no merit in the appeal warranting its interference. However, the National Commission opined that a compensation of Rs.50 lacs would suffice.

There is no doubt that an appellate authority has the jurisdiction to reduce the compensation.

The jurisdiction draws its source from the power of judicial discretion to be exercised in the given facts of a case. The power to exercise judicial discretion is indeed wide but is inherently limited by the requirement of a judicious exercise of the discretionary jurisdiction. The order must reflect due application of mind to the facts of the case, followed by a brief discussion why the appellate authority was of the opinion that exercise of

judicial discretion was called for including the discussion why it opined the compensation to be excessive requiring reduction. Judicial discretion is not arbitrary to be exercised *sans* reason to the prejudice of another. There is no discussion by the National Commission or any reasons spelt out for the formation of this opinion by it to reduce the compensation. The National Commission did not opine that the compensation awarded under any particular head was excessive, yet it simply opined to reduce the compensation. In absence of any such material, discussion or reasoning, the reduction of the compensation patently becomes arbitrary and therefore, unsustainable.

We do not find merit in the contention of the respondents that in the execution proceedings, no objection has been raised by the appellant to the reduction of compensation as ordered by the National Commission.

In the result, the appeal is allowed. The compensation, as awarded by the State Commission is restored.

Pending application (s), if any, shall stand (s) disposed of.

.....J.
(NAVIN SINHA)

.....J.
(R. SUBHASH REDDY)

New Delhi;
14th July, 2021.

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

Petition(s) for Special Leave to Appeal (C) No(s). 1860/2018

(Arising out of impugned final judgment and order dated 14-09-2016 in FA No. 655/2016 passed by the National Consumers Disputes Redressal Commission, New Delhi)

KUM. AKSHATHA Petitioner(s)

VERSUS

THE SECRETARY B.N.M. EDUCATION
INSTITUTIONS & ANR. Respondent(s)

(FOR ADMISSION and I.R. and IA No.1498/2018-IA ON BEHALF OF
PETITIONER SEEKING APPOINTMENT OF FATHER OF PETITIONER
IA No. 1498/2018 - IA ON BEHALF OF PETITIONER SEEKING
APPOINTMENT OF FATHER OF PETITIONER)

Date : 14-07-2021 These matters were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE NAVIN SINHA
HON'BLE MR. JUSTICE R. SUBHASH REDDY

For Petitioner(s) Mr. Anand Mishra-1, AOR

For Respondent(s) Ms. S. Radha Pyari, Adv.
Dr. S.V. Joga Rao, Adv.
Mr. S. Yashwant, Adv.
Mr. Shivam Bajaj, Adv.
Mr. Ashish Choudhury, Adv.
Mr. Dhruv Surana, Adv.
Mr. Akash Tandon, Adv.
Mr. Rohit Amit Sthalekar, AOR

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

Leave granted.

We do not find merit in the contention of the respondents that in the execution proceedings, no objection has been raised by the appellant to the reduction of compensation as ordered by the National Commission.

In the result, the appeal is allowed. The compensation, as awarded by the State Commission is restored.

Pending application (s), if any, shall stand (s) disposed of.

(NEETA SAPRA)
COURT MASTER

(DIPTI KHURANA)
COURT MASTER

(Signed order is placed on the file)