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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of decision: 9th November, 2021

+ **W.P.(C) 12490/2021 & CM APPL. 39317/2021**

MOHAN PRASAD (SINCE DECEASED) THROUGH: HIS LRS
SH. YOGESH & ORS. Petitioners

Through: Mr. F.K. Jha, Advocate
(M: 9810055432).

versus

EMPLOYEES STATE INSURANCE CORPORATION
& ANR. Respondents

Through: Mr. Abhik, Advocate.

CORAM:
JUSTICE PRATHIBA M. SINGH

Prathiba M. Singh, J. (Oral)

1. This hearing has been done through video conferencing.
2. The grievance of the Petitioners is that the District Consumer Dispute Redressal Forum (West), Janakpuri, Delhi (*hereinafter* “Consumer Forum”) has, till date, not disposed of their consumer complaint, which was filed way back in 2007. The Petitioner-father had lost his son who was just 13 years of age and had filed a consumer complaint against the Employees State Insurance Corporation/Respondent No.1 (*hereinafter* “ESIC”) and the Employees State Insurance Hospital/Respondent No.2. The case of the Petitioners is that there was medical negligence, which led to the demise of his young son.
3. Mr. Jha, Id. Counsel for the Petitioners, submits that there has been enormous delay in the adjudication of this matter. Mr. Abhik, Id. Counsel for the Respondents, also submits that he has no objection if direction is

passed by this Court for expeditious disposal of this case, before the Consumer Forum. The parties submit that the matter before the Consumer Forum has proceeded as under:

- (i) Petitioner-father filed Consumer Complaint No.892/2007 before the Consumer Forum on 17th October, 2007.
- (ii) Reply and rejoinder were filed by the Respondents and Petitioners respectively, in February-April, 2008.
- (iii) Evidence was concluded on 4th November, 2008, and the matter was fixed for arguments. Accordingly, various written submissions were filed by both parties between 2007 and 2009.
- (iv) It was only on 3rd December, 2010, that the Consumer Forum directed constitution of a Medical Board for expert opinion and the same was constituted after a delay of almost 2 years.
- (v) The opinion of the Medical Board was submitted in 2012, but even then, the matter has been listed for final arguments on multiple dates since August, 2013 till today, and the next date before the Consumer Forum is 28th February, 2022.

Therefore, though nine years have passed and the matter has not been finally heard.

4. Besides addressing this Court on the delay in this specific case, Id. Counsels appearing for both parties have also raised various grievances about the manner in which the Consumer Forum is functioning. It is their submission that the Consumer Forum does not assemble on time and on several occasions, Presiding Officers do not hold court. It is further submitted by Id. Counsels that on most occasions, proceedings are not held for the entire duration of the working hours.

5. On a perusal of the record and on the basis of submissions of the parties, it is clear that the demise of the son took place on 28th June, 2007 and the consumer complaint was filed by the Petitioner-father on 17th October, 2007. Evidence was concluded in the matter in 2008 and the matter has been fixed for arguments since then repeatedly. The orders of the Consumer Forum show that the matter is being repeatedly adjourned from time to time and the reasons given are as under:

- (i) Complete records of the Medical Board not being put up;
- (ii) Quorum of the Consumer Forum not being complete;
- (iii) Presiding Officer of the Consumer Forum being on leave; and
- (iv) File of the matter not being traceable.

6. The proceedings of this case including the case history as downloaded from the website, shows that evidence had concluded way back in 2008, and arguments have not been heard for the last 13-14 years. In fact, even the constitution of the Medical Board was directed after conclusion of evidence.

7. It is especially important to note that the case relates to a minor who was 13 years old, who passed away, for which the father sought compensation. Such cases ought to be adjudicated expeditiously and with alacrity. This delay of 14 years has taken place, despite the parties having concluded evidence within one year of the filing of the complaint, because the forum has not finally heard the matter and passed the final judgment. There can be no justification for such a long delay in finally hearing the matter.

8. Both counsels have informed the Court that the vacancies in the Consumer Forum have now been filled and the requisite quorum is available for hearing the matter.

9. Accordingly, considering the protracted delay in hearing this matter, it is directed that the case shall be listed before the said Consumer Forum on 22nd November, 2021. The matter shall then be heard and final judgment shall be passed by 20th December, 2021.

10. As to the submissions made by ld. counsels appearing today, concerning the manner of functioning of the Consumer Forum, this is a cause for consternation. In light of these submissions, this Court find it appropriate to ascertain whether there are other similar cases pending before the Consumer Forum, and their status. Accordingly, the worthy Registrar General of this Court, shall obtain a report from the Registrar or Secretary, District Consumer Dispute Redressal Forum (West), Janakpuri, Delhi, containing the following details:

- a. List of cases/complaints pending for final hearing;
- b. Date of institution of the said complaints;
- c. Date when evidence was concluded in the said complaints;
- d. Any infrastructural requirements in the said forum; and
- e. Status of vacancies of presiding officers including Chairperson and members.

A proper breakup of these details, in the form of a chart, shall be placed before this Court by the next date of hearing.

11. This matter shall be treated as a part-heard matter.

12. With these observations, this petition and all pending applications are disposed of.

13. List on 6th January, 2022, for the purposes of receiving status report and compliance.

14. The digitally signed copy of this order, duly uploaded on the official

website of the Delhi High Court, www.delhihighcourt.nic.in, shall be treated as the certified copy of the order for the purpose of ensuring compliance. No physical copy of orders shall be insisted upon by any authority/entity or litigant.

PRATHIBA M. SINGH
JUDGE

NOVEMBER 9, 2021

dj/ms

