

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION
CIVIL APPEAL NO.4602 OF 2008
(Arising out of S.L.P. (C) No.8752 of 2007)

M.M. Agrawal

... Appellant(s)

Versus

Rekha V. Kamble & Ors.

... Respondent(s)

ORDER

Heard learned counsel for the parties.

Leave granted.

The respondents filed a complaint before the State Consumer Disputes Redressal Commission, Mumbai, [For short, “State Commission”] for award of compensation by alleging that their father Narayanrao Kamble died due to negligence of respondent no.1, Dr. M.M. Agrawal and Dr. Krishna Rao, who died during the pendency of appeal before the National Consumer Disputes Redressal Commission, [for short, “National Commission”]. The complaint was dismissed by the State Commission vide order dated 14.7.1999. The appeal preferred by the respondents remained pending before the National Commission for eight years. By the impugned order, the National Commission allowed the appeal and remanded the matter to the State Commission for fresh decision in accordance with law after giving opportunity to the parties to lead affidavit evidence and expert evidence.

...2/-

We have heard learned counsel for the parties and carefully scrutinized the record. In our opinion, the State Commission did not give adequate opportunity to the parties to adduce oral and documentary evidence and, therefore, the National Commission was justified in remitting the matter.

In view of the above, we do not find any ground to interfere with the impugned order. Accordingly the appeal is dismissed.

As the complaint was filed 12 years ago, we direct the State Commission to dispose of the same within the period of nine months from the date of receipt/production of copy of the this order. Both the parties shall cooperate with the State Commission in disposing of the complaint within the aforesaid time. They are directed to appear before the State Commission on 18.8.2008. Thereafter, the State Commission shall fix the date for adducing evidence by the parties.

.....J.
[B.N. AGRAWAL]

.....J.
[G.S. SINGHVI]

New Delhi,
July 21, 2008.