

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL No(s). 1569/2020

DAISY N. BHARUCHA (DEAD) THROUGH LR. ...Appellant(s)

VERSUS

M/S JOHNSON AND JOHNSON LTD. ...Respondent(s)

O R D E R

This appeal challenges the interim order dated 16.12.2019 passed by the National Consumer Disputes Redressal Commission ('National Commission', for short), New Delhi in I.A. No.18603/2019 in Consumer Case No.89 of 2013.

Consumer Case No.89 of 2013 was preferred by Daisy N. Bharucha submitting *inter alia* that 'ASR Hip' manufactured by opposite parties was defective resulting into loss of health and comfort of the complainant. Said Daisy N. Bharucha passed away on 29.04.2019 leaving behind Ms. Jennifer Bharucha and Mr. Ruzbeh Nari Bharucha as her only heirs. After her death, Jennifer Bharucha stands substituted in place of the original complainant.

It may be mentioned here that in proceedings initiated in Delhi High Court in Writ Petition No. 13395 of 2018, Johnson & Johnson Ltd. ('the Company', for short) had agreed to pay a sum of Rs.25 lakhs by way of compensation to those who had undergone similar revision surgery.

Soon after the death of Daisy N. Bharucha, due intimation was sent to the Company intimating about the factum of death. In response, the Company intimated Ms. Jennifer Bharucha as under:-

“Dear Ms. Jennifer Bharucha

We write further to our discussions on 19th September, 2019. As per your request and for the purposes of obtaining a succession certificate, please see attached the scanned copy of the letter acknowledging the eligibility of the Late Smt. Daisy N. Bharucha to receive the voluntary payment of Rs. 25 lakhs in respect of claims pertaining to the ASR Hip Implant Surgery and the subsequent revision Surgery undergoing by her.”

I.A.No. 18603 of 2019 was thereafter filed by Ms. Jennifer Bharucha submitting *inter alia* that the Company be directed to pay interim compensation as volunteered by it to her.

While dealing with application, the National Commission observed as under:-

“In respect of letter dated 25th September 2019 from Johnsons & Johnsons Pvt. Ltd., addressed to Mrs. Jennifer Bharucha, filed with I.A. No.18603 of 2019, it is noted that the said letter has been issued after offer made before Hon’ble High Court in Writ Petition (Civil) Nos. 13395 of 2018, 3523 of 2019 and 4691 of 2019 and in compliance of Orders dated May 2, 2019, May 30, 2019 passed by the Hon’ble Court. Learned counsel for the complainant is advised to file appropriate application before Hon’ble High Court in relation to any matter connected therewith.”

Said order is presently under challenge.

Heard Ms. Gokhale, learned advocate for the appellant and Mr. Ashwin Sapra, learned advocate for the Company. Mr. Sapra fairly accepts that his client shall make over the money in terms of what it had volunteered before the High Court without insisting upon any succession certificate provided, the letter of

relinquishment in favour of Ms. Jennifer Bharucha is executed by her brother – Ruzbeh Nari Barucha or an indemnity Bond is issued by Ms. Jennifer Bharucha indemnifying the Company against any future liability on this score.

Ms. Gokhale, learned advocate submits that her client shall execute the necessary documentation within next two weeks.

Let the money be made over to Ms. Jennifer Bharucha within four weeks of the receipt of such documents by the respondent-company.

With these observations, Civil Appeal is disposed of without any order as to costs.

.....J.
[UDAY UMESH LALIT]

.....J.
[S. RAVINDRA BHAT]

.....J.
[BELA M. TRIVEDI]

New Delhi;
September 9, 2021.

