

**HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT JAMMU**

OWP No.983/2008

M/s Safnofia India Limited

....Petitioner(s)

Through :- Mr. Rahul Pant, Sr. Advocate with
M/s Rahil Raja & Arjun Mahajan, Advocates

V/s

Anju Anand and another

....Respondent(s)

Through :- Mr. Aseem Sawhney, Advocate with
Ms/ Sarfraz Ahmed and Kartik Upadhaya,
Advocates

**Coram: HON'BLE MR. JUSTICE ATUL SHREEDHARAN, JUDGE
HON'BLE MR. JUSTICE JAVED IQBAL WANI, JUDGE**

ORDER
15.06.2023

1. The present petition has been filed by the petitioner, who is aggrieved by the impugned order passed by the learned State Consumer Protection Commission at Jammu ("State Commission" for short) in application No.M-111 of 2008 dated 11.03.2008. The said appeal was preferred by the complainant-respondent No.1 herein against the petitioner before us, who was aggrieved by order dated 27.08.2004 passed by the learned Divisional Consumer Forum, Jammu, who had accepted the complaint of the respondent No.1 herein and awarded a compensation of Rs.1,500/-, aggrieved by which the appeal was filed for enhancement of compensation.

2. The brief facts are as follows:-

The respondent No.1 herein had purchased a strip of Allegra manufactured and marketed by the petitioner before us which is an anti-allergic drug. The

packet was supposed to contain six doses of the drug whereas it had only three. Aggrieved by the same, she approached the pharmacist from where she had purchased the drug, but the pharmacist failed to cooperate and replace the strip of Allegra. Aggrieved, she filed a complaint before the learned Divisional Consumer Forum, Jammu, which awarded a compensation of Rs.1,500/-.

The State Commission allowed the appeal and enhanced the compensation to Rs.50,000/- but at the same time made certain observations, which, according to the learned counsel for the petitioner, was not borne on record of the trial Court and was not the case of the respondent before the Divisional Forum. Those observations are in paragraph Nos.4 and 6 of the impugned judgment. Learned State Commission had on its own observed that the medicines were spurious and had also made disparaging remarks with regard to the quality and quantity of the drug and alleged collusion between the petitioner and the Drug Controller, which, according to the learned counsel for the petitioner was not borne out by the record.

3. Learned counsel for respondent No.1, to a question put by this Court, that if the respondent was satisfied with the enhanced compensation amount of Rs.50,000/- had any objection to the disparaging remarks in paragraph Nos. 4 and 6 of the impugned order being expunged, has stated that the respondent No. 1 shall have no objection to the said remarks being expunged by this Court as long as the enhanced compensation amount is being maintained. It is also relevant to mention here that compensation amount has been deposited before this Court after filing of this petition.

4. Under the circumstances, this Court does not find it essential to delve into the merits of the case any further in view of the submission made by the learned counsel for the respective parties. While maintaining the enhanced compensation

of Rs. 50,000/-, Rs. 20,000/- is also imposed as litigation expenses on account of the difficulty to which respondent No. 1 is exposed to in pursuing the appeal and defending the same before this Court.

5. Under the circumstances, the observations in paragraph Nos. 4 and 6 of the impugned order, which are in bold, shall stand expunged from the impugned order. The amount deposited before this court alongwith interest accrued thereon shall be released in favour of respondent No. 1. The cost of Rs. 20,000/- imposed towards litigation expenses shall be paid by the petitioner to respondent No. 1 within a period of two weeks from today.

6. This petition shall stand **disposed of** accordingly.

(Javed Iqbal Wani)
Judge

(Atul Shreedharan)
Judge

Jammu:
15.06.2023
Vinod, PS

