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

+ W.P.(C) 9894/2015

UNION OF INDIA

..... Petitioner

Through: Mr Roshan Lal Goel and Ms Anju
Gupta, Advocates.

versus

SHRI HARSH & ORS

..... Respondents

Through

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

% **21.07.2017**

1. The petitioner has challenged the order dated 29.01.2015 which was communicated to the petitioner by a letter dated 03.02.2015/06.02.2015.
2. The National Human Rights Commission has concluded that there was medical negligence in treatment of Janvi (a four and a half year old child who succumbed to her ailments at the petitioner hospital) and has consequently awarded damages of ₹3 lacs to the parents of the deceased minor.
3. A bare perusal of the letter dated 03.02.2015 does not indicate the grounds that persuaded the commission to hold that there was medical negligence. Further, any finding of this nature could be returned only after affording the petitioner hospital a sufficient opportunity to meet the

allegations. The learned counsel for the petitioner contends that it was not confronted with any particular material justifying such a finding. The learned counsel for the petitioner states that although a report is placed on record but the petitioner had no opportunity to contest the same as that was not put to the petitioner at the material time.

4. It is relevant to note that the petitioner does not contest the jurisdiction of the Commission to award compensation and the contention that the compensation is excessive is also unpersuasive.

5. In the aforesaid circumstances, the only issue that remains is whether the Commission had followed the principles of natural justice, which require that the party against whom an adverse order is proposed to be passed is given sufficient opportunity to counter the material on the basis of which such order is proposed.

6. In this case, the impugned order does not refer to any material or evidence which persuaded the Commission to accept that there was medical negligence on the part of the petitioner hospital; however, the learned counsel for the petitioner states that such opinion was formed on basis of reports that were not provided to the petitioner at the material time and this contention remains uncontroverted as none appears for the respondents.

7. In the circumstances, the impugned order is set aside and the matter is remanded to the Commission to decide afresh as to whether there is any medical negligence and return a finding after hearing the petitioner within a period of eight weeks from today.

8. The petition is disposed of.
9. Order *dasti* under the signatures of the Court Master.

VIBHU BAKHRU, J

JULY 21, 2017
MK