

Date of Filing: 04.08.2021

Date of Order: 21.04.2026

BEFORE THE DISTRICT CONSUMER DISPUTES REDRESSAL
COMMISSION – II: HYDERABAD

P R E S E N T

SRI VAKKANTI NARASIMHA RAO ... PRESIDENT
SRI. P.V.T.R.JAWAHAR BABU MEMBER
SMT. D.SREEDEVI MEMBER

TUESDAY, THE 21ST DAY OF APRIL, 2026

Consumer Case No.429/2021

BETWEEN:

Mrs.Jhumanath, W/o.Sri Gautam Devnath, aged bout 44 years,
Occ:House Wife, R/o.UMC Ward No.16, Post Office -Rajarbagh,
Udaipur, Gomati, Tripura-799114. Mobile No.6305612442
...Complainant

AND

1. The Managing Director, YASHODA Group of Hospital,
Malakpet Hyderabad – 500 036.
2. Dr. Venkata Ramakrishna T., MS. (Ortho), FISS, FISD (Japan),
Minamally invasive Spine Surgeon, Consultant Spine Surgeon at
YASHODA Group of Hospital, Malakpet, Hyderabad -500 036.
- 3.The Senior Divisional Manager, The New India Assurance
Company Limited, Branch office at 6-3-862/A/B, II Floor, Lal
Bungalow, Green Lands, Ameerpet, Hyderabad.
(Amended as per order Dt:19.6.2023 in RP.No.5/2022 of the State
Consumer Disputes Redressal Commission of Telangana at
Hyderabad).
4. The Future General Insurance Company Ltd., #303-310, 3rd
Floor, Kailash Building, K.G.Marg, Connaught Place, Delhi-
110001. Opposite Parties
(Amended as per order Dt:30.6.2023 in RP.No.4/2022 of the State
Consumer Disputes Redressal Commission of Telangana at
Hyderabad).

....Opposite Parties

This complaint is coming before us on this the 4th day of March, 2026 in the presence of Learned Counsel M/s.Nandita Guha Advocate, appearing for the Complainant and Learned Counsel M/s.G.Venu Gopal Rao Advocate, appearing for the opposite parties No. 1 and 2, Sri Suri Sravan Kumar appearing for the Opposite Party.No.3, M/s.M.A.Madhumathi appearing for Opposite Party No.4 and on perusal of material papers available on record, having stood over for consideration till this day, the Commission passed the following:

O R D E R

(BY SMT D.SREEDEVI, HON'BLE MEMBER ON BEHALF OF
THE BENCH)

This complaint is filed on 04.08.2021 by the complainant under Section 35 of Consumer Protection Act, 2019 with a prayer to direct the opposite parties to:

1. Grant financial compensation to the tune of Rs.50,00,000/- with interest @24%p.a. till the date of realization.
2. Pay compensation to the Complainant suitably for the acute mental agony, constant physical distress and emotional turmoil suffered by her and also which she is constantly undergoing, in view of the acts of commission and omission by the Opposite Parties leading to post-operative major complications.
3. Pass any such other order or orders as the Commission deemed fit and proper in the circumstances of the case.

BRIEF FACTS OF THE COMPLAINT:

1. It is the case of the Complainant that, the Complainant had been diagnosed with L5-S1 Grade I Listhesis. On 16-05-2019 vide IP No. 254043 she had been admitted in the Opposite Party No. 1 Hospital wherein she had been under the care of Consultant Spine Surgeon who is the Opposite Party No. 2. On the very next day i.e., on 17-05-2019 the Opposite Party No. 2 had performed Spine Surgery L5-S1 Stabilization, Spine, TLIF upon the Complainant.

2. The Complainant submitted that, prior to February 2019, the Complainant, for the past 6 months, she had been suffering from lower back pain radiating to left LL. The pain used to be insidious at the onset gradually progressive. On 28-02-2019 the Complainant had undergone MRI of the LUMBER SPINE and also MRI screening of the whole spine. The MRI report was delivered on 02-03-2019. Along with the MRI report dated 02-03-2019, on 29-03-2019 the Complainant had visited the old chamber of the Opposite Party No. 2 of Yashoda Hospital, which was situated exactly opposite to Mahilla Commission, Malarmath, Agartala, Tripura.
3. The Opposite Party No.2 on behalf of the Opposite Party No.1 used to visit Agartala, once in every month for a period 2/3 days and attended the patients of Tripura. On 29-03-2019, the Complainant with high hopes had consulted the Opposite Party No. 2. On seeing the MRI Report dated 02-03-2019, the Opposite Party No. 2 had advised surgery to the Complainant. He had stated that "surgery is the only option for her cure" and had assured the Complainant that she would be 100% alright after the surgery.
4. The Complainant was not left with any other option. The Opposite Party No. 2 had panicked the Complainant and made her believe that surgery is a must for her or else she will be paralyzed for life. She was neither asked nor was she informed about any choice. The further submits that the Opposite Party No. 2 had assured her that the entire surgery would be completed within the amount of Rs. 2 lakhs, but she would have to undergo the surgery only at Opposite Party No 1 Hospital, i.e., at Hyderabad.

5. On 14-05-2019, she came all the way to Hyderabad by flight along with her family for getting better medical treatment at Yashoda Hospital, Malakpet Branch, Hyderabad i.e., the Opposite Party No.1. On 16-05-2019 vide IP No. 254043 she had been admitted in the Opposite Party No. 1 hospital. On 15-05-2019 during the evening hours, she had gone out for shopping along with her family at Charminar and was there for 4 hours. Thereafter, on 17-05-2019 spinal surgery was conducted upon her by the Opposite Party No.2.
6. On 22-05-2019 the Complainant Hemodynamically stable was discharged with the advice that she was fit to travel by air with wheelchair assistance. The Complainant was unable to walk and stand even, but still she was discharged as because as per the contract agreement surgery has been completed upon her. On advice of the Opposite Party No.2, return tickets too had been purchased but as because the Complainant was unable to stand even, hence at the last moment those tickets had to be cancelled. The Complainant thereafter had to stay in the Guest House of Yashoda Hospital i.e., the Opposite Party No. 1, incurring huge expenditure. Thereafter, only on 26-05-2019 after purchasing air tickets at high rates, the Complainant along with her husband flew back to Agartala in wheelchair.
7. After the surgery the Complainant had been under the treatment and supervision of the Opposite Party No. 2 for 7 (seven) continuous months. However, subsequently the Complainant observed that the Opposite Party No. 2 was not much interested in rendering medical advice to the Complainant. Whenever the Complainant stated about her constant sufferings to the Opposite Party No. 2, he was reluctant to render any advice, instead advised her to consult another Doctor. After surgery from the Hospital bed to till date

she had been continuously suffering from post-operative major complications. After the surgery day by day her health condition has been deteriorating in a frightening manner. She is suffering from constant severe low backache and pain radiating through whole body from head to two legs, two arms along with numbness, followed with constant fever and also added problem of urine infection. Cervical pain is also present. For urine infection the Complainant had consulted an urologist, who told her that her suffering is due to her spinal problem.

8. The Complainant submits that the Opposite Party No.2 had not followed any non-surgical treatment or conservative treatment before surgery. After surgery the Complainant has been constantly under the Opposite Party No. 2's treatment for 7 (seven) long months. He used to adopt different stand at different point of time. The Opposite Party No.2 sometimes used to tell her that her bones are very weak. Sometimes he stated that he never wanted to go into surgery but as the Complainant had pressurized him so he has chosen the option. Again, sometimes he used to say that the entire surgery package has been done within the low cost of Rs. 2,25,000/- (Rupees Two lakhs twenty-five thousand only), henceforth the sufferings. Lastly, he had advised her to go for second surgery whereas as per his own words - spine surgery can be done only once in a lifetime.
9. The Complainant being frustrated with the conduct of the Opposite Party No. 2, she has been compelled to take the advice of other Doctors. But as because of the Opposite Party No. 1 had not provided her with any medical record or CD of the entire surgical procedure, hence, questions have been

raised by other Doctors. Other Doctors have opined that the surgery conducted by the Opposite Party No. 2 was a failed surgery. Further, she has also been informed that surgery was not at all required.

10. The Opposite Party No. 1 had not provided the Complainant medical report. After the surgery, MRI and Bone Scan reflects major injury of the spine. The screw which has been fixed on her spine carries a different amount in the medical bill whereas the Doctor's WhatsApp message reflects a different amount. There is no parity and there is no clarity. The Opposite Party No. 2 sometimes he stated that he had used bone dust, sometime he stated that he had used her bone and in other times he stated that he had used chemical bone. Whereas the Complainant emphatically states that no bone has been taken from her body, and in absence of any medical record of CD the other Doctors are facing problem in giving proper treatment to the Complainant. Lastly, in the month of April 2021, the Complainant had visited NIMHANS, Bangalore. On 06-04-2021, she had undergone CT-LS SPINE, wherein a specific finding has been given --Post-operative defect seen in the posterior element of L5 vertebra.....?.

11. The Complainant, presently she is unable to sit constantly even for 10 minutes. She is unable to take her food with her own hands. She cannot write. She cannot walk. She cannot cook. She is unable to even comb her hair. She is unable to perform even the minimum tasks which are required to take care of herself, leave aside taking care of others. She cannot even lie down on bed on her own. While in sleeping position she cannot turn from one side to another. She is suffering from constant unbearable pain throughout her entire body. With great

difficulty she walks for 10 minutes, sits for 10 minutes and stands for 10 minutes.

12. Before surgery though the Complainant had been suffering from back pain for the past 6 months, but still she was physically strong. She could stand, walk 3 to 4 KMs every day, run and also perform all her day-to-day chores. She could also attend to her office as and when required and also took tuition classes starting from Pre-Primary onwards up to Class XI and XII, in batches every day continuously for 4 hours together without fail, excluding Sundays and other Government holidays. But now post-surgery, the Complainant's physical activity has been reduced to nil.

13. Post-surgery the Complainant had to employ 2 house maids one for cleaning, dusting, mopping and one for cooking, whereas prior to the surgery she had been attending to all these chores on her own, besides her daily evening tuition classes, along with her job as Casual Announcer in AIR. The Complainant submits that prior to her surgery, the Complainant was engaged with a casual job as "Casual Announcer" in the All India Radio since 2003 up to 11.05.2019. The Office of the All India Radio Bilonia was 50 KMs away from her house. After the surgery she has been in rest for 3 (three) months, thereafter on 20th August 2019 she had joined to her duties. But with great difficulty she could attend to her duties only for 6(six) days in August, 4 (four) days in September and in the month of October 2019 she could attend office only for 6 days. Thereafter again she had to discontinue her work as her work required sitting constantly for 5 to 6 hours. She also had to dis-continue her tuition batches which she had been taking during the evening hours, prior to surgery.

14. The Complainant submits that she has her own aged parents besides her parents-in-law who all are dependent upon her. She is also the mother of one son. But at present she is unable to take care of the education of her only son too. Now she had to employ seven private tutors for her son, which amounts to Rs. 15,000/- per month. Her husband is a school teacher. With his meager income it has become very difficult to run the family of seven members in these days of escalating prices. Further, for the last one and a half year, she is completely detached from her job due to her illness. Doctors have specifically advised her not to travel.
15. Post-surgery the Complainant has been regularly taking medicines as prescribed by the Opposite Party No. 2 herein amounting to Rs. 6,000/- to Rs. 8,000/- every month. But there has been no improvement. Further, every month at least twice she has to book a vehicle at the cost of Rs. 3,000/- for to and for journey from Udaipur to Agartala for follow-up and treatment. Then again post-surgery she had to employ 2(two) house maids. There she has to pay Rs. 5000/- every month. Further there has been loss of her income too. Prior to surgery every month the Complainant was earning Rs. 70,000/- per month, but now it has completely stopped. Hence, there has been complete loss of her income, whereas there has been an added expenditure amounting to Rs. 50,000/- every month.
16. The surgery conducted by the Opposite Party No. 2 was a failed surgery and post-surgery from the Hospital bed to till date the Complainant has been, continuously suffering from post-operative major complications. Surgery was not at all required. Lastly, the Opposite Party No.2 had advised the Complainant to go for second surgery whereas as per his own words - spine

surgery can be done only once in a lifetime. In such a situation, the Complainant is passing through a stage of acute mental, physical and emotional stress. Her life has been reduced to a useless vegetable.

17. The Complainant had approached the Opposite Party No.2 based on the reputation of the Opposite Party No. 1. Her expectations were two-fold -

- A) Firstly, she believed that the Opposite Parties would render medical treatment with all the Knowledge and skills at their command;
- B) Secondly, she firmly believed that they will not cause any harm to her.

18. In the month of Sept. 2019, the Complainant along with her family flew over to National Neuro Sciences Centre, at Calcutta for her treatment. In Nov. 2019 she had consulted Doctors at Regional Cancer Centre at Agartala, wherein they specified increased concentration of tracer which suggested degenerative changes. After consultation with other Doctors the Complainant's belief was completely shaken and she understood that she had been visited with a grave wrong as surgery was not at all required. The Opposite Party No.2 failed in rendering the standard of reasonable medical care that was expected from him. He was negligent. He ought to have adopted other non-surgical or conservative methods of treatment, but he hastily advised surgery. Negligence is the breach of a legal duty to care. Breach of this duty has given the Complainant a right to initiate action against such negligence.

19. The acts of Commission and omission on the part of the Opposite Parties while rendering medical treatment by way of 'failed surgery' to the Complainant herein squarely falls within

the term "medical negligence". Hence this Complaint is filed against the Opposite Parties.

WRITTEN VERSION OF THE OPPOSITE PARTIES NO.1 AND 2:-

20. It is the Version of Opposite Parties 1 and 2 that, the complainant had been diagnosed with "L5-S1 Grade II Listhesis", and she was under the care of consultant Spine Surgeon i.e. Opposite Party No.2 herein. The Complainant / Patient with her husband and son came to Hyderabad and visited the hospital on 14-05-2019. The Complainant / Patient was advised to undergo major surgical profile and pre-anesthetic (PAC) check-up to know the fitness of the patient for surgery. PAC was done and the patient's thyroid stimulating hormone was raised as she is a hypothyroid Complainant / Patient despite being under medication, anesthesiologist advised to defer the surgery, the same was conveyed by the Opposite Parties 1 and 2 and the co-ordinator to her husband for which he has replied that they have spent a lot on flight and other expenses and have come for surgery and have requested to not postpone the surgery for another trip. In that situation has decided to take the endocrinologist's opinion and only upon obtaining the fitness for surgery decided to go ahead with the procedure. Endocrinologist has given fitness for surgery with mild peri-operative risk. Review PAC was done on 16-05-2019 and the surgery was posted on 17-05-2019.

21. The opposite party No.2 submits that the Complainant Mrs.Jhumanath, 42 yrs/female, is the resident of Tripura - Agartala. The Opposite Party No.2 had seen the Complainant / Patient with her husband in Agartala during his monthly visit on 28-02-2019. She came with chief complaints of pain

in lower back which was radiating to left lower limb. In view of decrease in quality of her daily life, and her complaints of low back ache and left lower limb radiation, for which she was already on medication. The opposite No.2 had suspected nerve compression and hence asked for MRI of lumbosacral spine. As he suspected visits Yashoda hospital medical Centre situated in Agartala once in a month, the patient's husband along with local co-ordinator, came to the opposite party No.2 with MRI reports. MRI showed slipping of L5 vertebra over S1 (L5-S1 grade 2 listhesis). With the history of 6 months of above said complaints, and on conservative management by other doctors, who they have already seen, the Complainant / Patient had persisting symptoms. As there was failure of relief from conservative management for a period of 6 months. The opposite party No.2 had suggested them to undergo spinal stabilisation surgery on 29-3-2019, in given situation was a better option for the Complainant/Patient and it is not true to say that the opposite party No.2 had assured the complainant that she would be 100% alright after surgery.

22. When the Complainant and her attendants enquired about the cost for the said surgery, the opposite party No.2 consulted the management and stated that the charges towards the surgery, would be Rs.2 Lakhs, and also stated that the procedure would be performed in Yashoda Hospital, Malakpet, Hyderabad.

23. The Complainant / Patient with her husband and son came to Hyderabad and visited the hospital on 14-05-2019. The Complainant / Patient was advised to undergo major surgical profile and pre-anesthetic (PAC) check-up to know the fitness of the patient for surgery. We have decided to take the

endocrinologist's opinion and only upon obtaining the fitness for surgery we have decided to go ahead with the procedure. Endocrinologist has given fitness for surgery with mild peri-operative risk. Review PAC was done on 16-05-2019 and to the Complainant / Patient was posted for surgery on 17.05.2019. The Complainant / Patient and their attenders were explained in their own understandable language about the surgical procedure and the possible risks and complications associated with the same such as neurological deficits, cerebrospinal fluid leak, infection, intra-operative bleeding, anesthetic complications and need for prolonged ICU stay. Informed written consent was taken about the same and video counselling was done, it was clearly explained to the patient's husband about the grave risk associated with the surgery, as the Complainant / Patient was suffering from hypothyroidism. The grave risks which includes ventilator support and prolonged ventilation and prolonged ICU stay and indirect cause of death though rare was clearly explained, only after obtaining the consent for surgery the Complainant / Patient was taken up for surgery. Intra-operative findings showed hypertrophied facet joints and lysis (breakage) of pars on both sides. L4-S1 stabilization and L5-S1 TLIF with local bone graft was done. None of the above said complications were encountered during the procedure. Patient's husband was counselled about the intraoperative procedure and was informed that the Complainant / Patient has tolerated the procedure well and immediate post-operative period was uneventful and Complainant / Patient was shifted to ICU. On 18-05-2019 Complainant / Patient was stable with only operative site pain. and there was no associated radiating pain to the lower limbs hence was shifted to ward. Post operative physiotherapist was engaged and physiotherapy was given to the Complainant / Patient as and when required and the

Patient was comfortable without any further Complaints. The Complainant was discharged on 22-05-2019 in Hemodynamically stable condition. After discharge from the Opposite Party No.1 hospital, on the request of the attendants of the Complainant, the patient was given accommodation in Guest house of the opposite party No.1 hospital. The opposite parties have not compromised on the quality of treatment including the implants used. In fact the husband of the complainant came to the opposite party No.2 and stated that they had to cancel their return flight due to the extended stay and started crying and stated that he did not have sufficient money to meet the basic needs for the stay in Hyderabad and for the return flight tickets, out of humanity the opposite party No.2 had personally given ten thousand rupees to the husband of the complainant.

24. The opposite party No.2 states that, he has been reviewing the Complainant / Patient, during his regular visits to Agartala and the Complainant / Patient always came walking to the OPD and on some occasions she complained of back pain. However, on examination, the motor power in her limbs were found to be normal. Follow-up X rays were taken at regular intervals which showed no abnormality. Bone supplements along with spinal strengthening exercises were advised. On every visit the Complainant / Patient had non-specific complaints like headache, neck pain, whole body pain including upper and lower limbs which do not have any relation to the surgery. The opposite party No.2 submits that he had continuously for 7 months and more had attended on the Complainant / Patient with utmost care with necessary advice and treatment. The Complainant and her husband started to blame the opposite party No.2 for the unrelated complaints of the patient and on number of occasions accused the opposite party No.2 of

performing a non-indicated surgery. As the Complainant /Patient did not trust the opposite party No.2 anymore, then the opposite party No.2 had advised the patient and her husband to take a second opinion from any other doctor along with all the reports of the procedure enclosed. Though it was very disturbing the opposite party No.2 was always in constant contact with the patient and her husband regarding any doubts or queries. Complainant / Patient and their attendants have started harassing the opposite party No.2 by stating that after consulting the other doctors for their advice and second opinion and apparently the other doctors have stated that the procedure performed by the opposite party No.2 was a failure and in fact the surgery was not at all necessary, the opposite party No.2 should have opted for conservative treatment on the Complainant /Patient. The opposite party No.2 was shocked to hear this and had made many attempts to talk to the said doctors but the Complainant /Patient and her husband refused to arrange a talk with the other doctors. The allegation by the other doctors that the surgery conducted by the opposite party No.2 is a failure is baseless and without any documentary evidence or any expert opinion hence denied by the opposite parties.

25.The details of the performed procedure is in discharge summary and the same is given to the Complainant / Patient at the time of discharge, wherein all the surgical details were clearly mentioned. Complainant / Patient was given titanium screws which are known to be a superior quality screws compared to other cheaper available option like stainless steel. The CT scan clearly shows bone graft was placed in L5-S1 disc space which was taken from L5 lamina CT scan also shows proper placement of the screws and no abnormality for the patient. The Complainant /Patient visiting NIMHANS in

Bangalore and the CT-LS Spine dated 06-04-2021, wherein the finding has been given as post operative defect seen in the posterior element of L5 Vertebra, it is false to state that no bone was taken from Complainant/Patient body. In fact the L5 lamina has been taken as a bone graft to place in the disk space for fusion. Post operative complications have been well explained to the patient and her attendants and only after they understanding the risks and complications they have agreed for the surgery and signed the consent form for surgery. Post-operative complications are problems that can happen after the surgery but which are not intended. Patient had no fever and the follow up X-ray should no intraoperative complications. The CT scan which was done later also showed no proof of implant failure and MRI showed no proof of infection. The patient was advised analgesics and bone strengthening medications and exercises which were demonstrated to her personally during her visits and asked her to strictly follow the same.

26. The opposite parties have rendered medical treatment with all the knowledge and skills at their command and secondly they have not caused any harm to the Complainant /Patient. It is further submitted that the content in the above said para that the complainant visited Neuro Sciences Centre in 2019 she consulted Regional Cancer centre in Agarthala the findings in the reports are increased concentration of tracer which suggested Degenerative changes is denied by the opposite parties. The opposite parties submit that Degeneration changes occur because of age-related wear-and-tear on Spinal disc. The surgery was suggested on thorough examination only after history of 6 months of failed conservative management.
27. The opposite parties have given the best possible treatment to the complainant as per the medical jurisprudence with utmost care

and precautions. There is no negligence on part of the opposite parties in rendering medical services to the complainant/patient, and the opposite parties are not liable to pay any amount to the complainant.

28. Hence for the reasons stated above, the Opposite Parties prays this Commission be pleased to dismiss the complaint with costs and pass such other orders in the interest of justice.

OPPOSITE PARTY.NO.3

29. None appears for Opposite Party No.3 despite service of notices. Written Version of Opposite Party.No.3 not filed despite completion of 45 days. Right to filing Written Version of Opposite Party No.3 forfeited.

WRITTEN VERSION OF THE OPPOSITE PARTY NO.4:-

30. The Opposite Party No.4 is wrongly impleaded as a party in the present Complaint because the Policy was issued in the name of Yashodha Group of Hospitals, whereas the dispute lies between the Complainant and other Opposite Parties. There is no insurable interest of the Opposite Party with the Complainant. As a result, the Opposite Party is being wrongfully impleaded in the present case; thus, the name of the Opposite Party should be deleted as this is an attempt to waste the precious time of this Hon'ble Commission in order to gain an unfair advantage.

31. The Complainant in their Complaint did not impose any allegation of deficiency in service on the part of the Opposite Party and did not claim any relief against the Opposite Party. Hence, the present Complaint is liable to be dismissed against the Answering Opposite Party as no relief is claimed against them.

32. The Opposite Party has been impleaded as Proforma Opposite Party in the present Consumer Complaint. The Complainant has filed the present Complaint seeking damages amounting to Rs. 50,00,000/- from the other Opposite Parties claiming negligence, deficiency of service, and mental harassment on their part only. The Opposite Party is an Insurance Company and that the Opposite Party issued the Policy bearing No. L0201786, from 13.02.2022 to 12.02.2023 in the name of Venkata Rama Krishna Tukkaruram i.e., Opposite Party No. 2 and no liability has arisen in such matter wherein the contractual relations between opposite party No. 4 and Opposite Party No. 2 shall need to be recognized.
33. That based on the contents of the Complainant, it is clear from a bare reading of the Complaint that all the Complainant's allegations are solely against the other Opposite Parties and that the Complainant is seeking damages in the amount of Rs.50,00,000/-from the other Opposite Parties based on negligence, deficiency of service and mental harassment on their part only. Thus, the averments in the complaint are solely directed towards the Yashodha Group of Hospitals i.e., the other Opposite Parties for their wrongdoings. Therefore, the Opposite Party in no manner is the necessary party in the present complaint and the same is liable to be deleted from the array of parties.
34. The Opposite Party may be deleted from the array of parties, having no nexus to the issue alleged in the Complaint and no specific allegation or reliefs being made against the Answering Opposite Party. Since the Opposite Party is neither a necessary party nor a proper party to this case, the name of the Opposite Party may be struck off/deleted from the array of parties on the facts mentioned herein above.

35. The Opposite Party being an insurance company has no policy in favour of Complainant which would indicate that the Opposite Party is in any way related to the present matter.

36. It is, therefore, most respectfully prayed that this Hon'ble Commission may:

- a) Kindly be pleased to delete the name of the Opposite Party from the array of parties in the present Complaint.
- b) Any other just and equitable orders as this Hon'ble Commission may deem fit in the interest of justice.

36. Evidence affidavit of the complainant filed and examined herself as PW1. Ex.A1 to Ex.A42 are marked for the complainant. Evidence Affidavit of Opposite Parties No.1 and 2 was filed through Sri Dr.Venkata Ramakrishna Tukkururam as DW-1. Ex.B1 to Ex.B8 and M.O.No.1 and Evidence Affidavit of Opposite Party No.4 filed through Mrs.Mohini Suryawanshi who is their Constituted Signatory and Ex.B9 and Ex.B10 are marked on their behalf. Written arguments of the complainant filed. Heard both parties.

37. On perusal of material available on record the points to be answered for determination are:-

1. Whether any deficiency of service is there on the part of the opposite parties as claimed under the complaint?
2. Whether the complainant is entitled for the relief sought?
3. To what relief?

POINT NO.1 & 2:-

1. Admittedly, the Complainant had prior to February, 2019 for the past 6 months, suffering with low back pain radiating to left Lower Limb. On 28.2.2019 she had gone MRI of the LUMBER SPINE and also MRI screening of the whole spine. The MRI report was delivered to the Complainant on 2.3.2019 and she was diagnosed with "Grade I spondylolisthesis L5 over S1". The Complainant on 29.3.2019 consulted Opposite Party No.2 at Agartala, Tripura who used to visit Agartala on behalf of the Opposite Party No.1 once in every month for a period of 2 or 3 days and attend the patients of Tripura and after seeing the MRI report advised the Complainant to undergo surgery and surgery is the only option for her cure and the Opposite Party No.2 did not suggest any conservative non-surgical method of treatment to her.
2. It is an admitted fact that the Complainant was admitted on 16.5.2019 in the Opposite Party No.1 hospital and on the very next day i.e., 17.5.2019 the Opposite Party No.2 doctor had performed spine surgery i.e., L5-S1 stabilization spine, TLIF to the Complainant and on 22.5.2019 the Complainant discharged with the advice that she was fit to travel by air with wheelchair assistance.
3. The Complainant contended that the Complainant was unable to walk and stand even, but still she was discharged just because as per the contract agreement surgery has been completed, return tickets also purchased but the Complainant was unable to stand even, hence at last movement flight tickets were cancelled. The Complainant had to stay in the guest house of Yashoda Hospital i.e., Opposite Party No.1 incurring huge expenditure. On 26.5.2019 after purchase of flight tickets the complainant along with her husband went back to

Agartala in wheelchair. After surgery from the hospital to till date she had been continuously suffering from post-operative major complications and day by day her health condition has been deteriorating. She is suffering from constant low backache pain radiating through whole body from head to two legs, tow arms along with numbness, followed with constant fever and also added problem if urine infection. Cervical pain is also present. For urine infection the Complainant had consulted a urologist, who told her that she is suffering due to her spinal problem. Now the Complainant is unable to sit constantly even for 10 minutes. She is unable to take her food with her own hands. She cannot write, walk and cook. She is unable to perform even the minimum care of herself. She cannot even lie down on bed on her own. While in sleeping position she cannot turn one side to another. Before surgery the Complainant was earning women after surgery her expenditure had amounting to Rs.50,000/- every month for her medicines and two-house maids etc., The Complainant had been continuously suffering from post operative major complication. Surgery was not at all required. As result failed surgery the Complainant facing mental agony, physical and emotional trauma.

4. It is an admitted fact that Ex.A1 i.e., MRI final report impression clearly shows that “ Loss of lumbar lordosis with degenerative disc disease a mildly reduced LS-S1 dis height as described. Grade -I spondylolisthesis L5 over S1(4mm)”.
5. It is also an admitted fact that as per Ex.A2 (i.e., Medical examinations, prescriptions and bill of Opposite Party No.1 hospital, dt:29.3.2019, 14.5.2019,15.5.2019,22.5.2019 and 24.5.2019) prescription of Opposite Party No.2 doctor on 29.3.2019 clearly shows that the problems of the Complainant

was clearly mentioned as per MRI report “L5 S1 Grade - I Listhesis”.

6. It is an admitted fact that as per Ex.A3 i.e., discharge summary of Opposite Party No.1 hospital clearly shows that the Complainant was admitted at Opposite Party No.1 hospital on 16.5.2019, date of surgery was on 17.5.2019 and date of discharge shown as 22.5.2019. As per this discharge summary in Diagnosis column it was mentioned as “L5-S1 GRADE-II LISTESIS” and as per this Ex.A3 Opposite Party.No.2 i.e., doctor was chief consultant Opposite Party No.2 Hospital and also a consultant doctor as per Ex.A2 who diagnosed problem as “L1-S1 GRADE-I Listhesis” on prescription dt:29.3.2019 as per Ex-A2 and it was mentioned as GRADE –II. Moreover, the Opposite Party No.1 i.e., hospital had not conducted any MRI test to the Complainant after she admitted in their hospital. They themselves changed the problem of the Complainant Grade -I to Grade-II.
7. The Opposite Parties No. 1 and 2 have stated in Written Version para No.4 that “L4-S1 stabilization and L5-S1 T4F with local bone graft was done”. But, as per discharge summary of the Opposite PartyNo.1 hospital, course in the hospital shows that “L4-S1 stabilization, L5-S1, TLIF done on 17.5.2019”. But local bone graft was done words not mentioned in the discharge summary by the Opposite Parties No. 1 and 2.
8. It is also an admitted fact that after surgery the Complainant have been visited Opposite Party No.2 doctor 7 months for the treatment of severe low backache and paid radiating though whole body from head to legs, tow arms along with numbness. But the problems were not reduced. As per Ex.A17 i.e., Bone scan report, dt:28.11.2019 given by the Regional cancer centre,

Department of Nuclear medicine, Agartala in Complainant scan report clearly stated that “Abnormal foci of increased tracer concentration are noted in the L4 & L5 vertebra.”

9. The Complainant have visited National Neurosciences Centre, Calcutta and also visited AGMC & G.B. Pant Hospital, Agartala on several occasions on 17.12.2019 and 21.01.2020 they have given the finding as “Bone scan suggestive of increased concentration of traces suggestive of increased concentration of tracer seen in the aforesaid areas which is suggestive of degenerative changes”. (Under Ex.A21).

10. According to Ex.A35 i.e., copies of the Medial Examinations and Prescriptions of NIMHANS, Bangalore Dt:05.04.2021 the Complainant had visited National Institute of Medical Health and Neuro Sciences on 05.04.2021 and they have conducted the CT. Scan to the complainant, as per CT-spine of 06.04.2021 shown its findings:

“Post operative defect seen in the posterior element of L5 vertebra. Metallic fixators are seen in L4, L5 & S1 vertebra. IV discal calcification seen in L5-S1 level”.

11. The Complainant also visited St.John’s Medical College Hospital, Bangalore and got DXA Bone Densitometry report done on 27.10.2021 and as per Ex.A42 i.e., Patient Case sheet, dt:31.01.2022 Dr.Kartikueyan. R had specifically diagnosed the Complainant case as “Failure Back Syndrome”. He had also stated that as her case was at “Grade-I stage”, therefore, surgery was not at all required.

12. According to Meyerding classification of spondylolisthesis:

To determine the grade of spondylolisthesis using the meyerding classification, two vertical lines are drawn along the posterior

cortex superior and inferior vertebra, and a measurement is taken between them (A), the length of the inferior vertebral body is also measured(B). A calculation of A/B determines the grade:

- Grade I :0.25%
- Grade II :26-50%
- Grade III :51-75%
- Grade IV : 76-100%
- Grade V : >100% (Spondyloptosis)

The grades can be further grouped as

- “Low-Grade” : Grade 1 and Grade 2
- “High -Grade” : Grade 3,4 and 5

As per the experts opinion for grades 1 and 2 no need of the surgery. It will be managed by other conservative non-surgical methods of treatment instead of straight away heading for spine surgery.

13. The Complainant had relayed and filed the citations clearly establishes that surgery not required and wrong surgery conducted:

1. Order dated 26.09.2023 in Civil Appeal No(S). 7175 of 2021; passed by the Supreme Court of India [2023 Live Law (SC) 826] the Supreme Court has held that the Principle of Res Ips Loquitur ("the things speak for itself") where negligence is evident, burden of proof shifts to Hospital (Para 71 to 73) and thereby had awarded a Compensation of Rs. 1.5 Crore to an Ex. Indian Air Force Official who contracted HIV during a blood transfusion at a Military Hospital. In this case the Supreme Court had held both the Indian Army and the Indian Air Force to be jointly and severally liable for Medical Negligence.
2. Judgment dated 06.11.2024 in First Appeal No. 1093 of 2018 passed by the National Consumer Disputes Redressal Commission, New Delhi wherein the NCDRC upheld a Medical

Negligence finding against 2 (TWO) Neurosurgeons (Appellants No. 3 & 4) for failing to obtain proper Informant Consent and conducting Surgeries with outdated (3 months old) reports. The Commission exonerated the Hospital and its Medical Superintendent finding no specific Evidence of Negligence against them. Further, in para 24 the Doctrine of Res Ips Loquitur ("the things speak for itself) is based on an inference of Negligence based on the nature injury or damage even if there is no direct evidence of the Defendants action.

3. Order dated 19.12.2024 in Civil Appeal NOS. of 2024 (Arising out of SLP (C) NOS 11716-11717 of 2019) passed by the Supreme Court of India [2024 INSC 1035] the Supreme Court has set aside the Judgment of the NCDRC and held that "it was a blatant result of Medical Negligence by the Respondent in post operative wherein corrective steps could have been taken if the most reasonable and basic skills which were expected from the Respondent Doctor were applied The SC had directed the Respondent Doctor to pay a compensation of Rs. 3,50,000/- to the Appellants within a period of two months.

14. As per Ex-A37 i.e., copies of Duty Chart of AOD's of All India Radio Balonia clearly shows that the Complainant was worked as Casual Announcer in in All India Radio since 2003 up to 11.05.2019 and she had studies M.A., and Certificate Diploma in Montessori Teaching Practice and she was a earning women. After the surgery she had been in rest for 3 months, thereafter on 20.08.2019 she had joined to her duties. But with great difficulty she could attend few days only. Thereafter again she had to dis continue her work as she had to sit constantly for 5 to 6 hours. Moreover, the Complainant being a lady she had look after the all house related works. But after the surgery she had

unable to conduct the works and became totally dependent on others completely. But, after the surgery she became dependent on two maids and also she became as a dependent financially on husband who is a school teacher.

15. The Opposite Parties No.3 and 4 are insurance companies and they have provided insurance policies to the Opposite Parties No. 1 and 2. No such contractual relations existed in between the Complainant and the Opposite Parties No. 3 and 4 and the Complainant had not made any allegations with regard to deficiency of service on the part of Opposite Parties No. 3 and 4. Hence, they are not liable for payment of compensation to the Complainant.

16. Basing on the above discussion, facts and circumstances of the case we are considered opinion that there is deficiency in service on the part of the Opposite Parties No. 1 and 2 for conducting the wrong surgery to the patient who was suffering with Grade-1 spondylolisthesis L5-S1. As per other treating doctors and medical literature that surgery was not required for Grade -I and Grade II patients. The Opposite Parties No. 1 and 2 have not adopted and suggested conservative non-surgical method of treatment for the Complainant. Moreover, they have not conducted MRI test to the Complainant before conducting the major surgery. The act of the Opposite Parties No. 1 and 2 clearly establishes deficiency in service on the part them. Due to negligence and deficiency of service by the Opposite Parties No. 1 and 2 the Complainant had become bedridden her entire life and also dependent on others her entire life physically and financially. Hence, we are allowing the Complaint in part and directing the Opposite Parties No. 1 and 2 jointly and severally to pay compensation an amount of Rs.50,00,000/- (Rupees Fifty lakhs) for causing mental agony, physical trauma and financial loss caused to the Complainant and to her family members life

time and also directing to pay Rs.20,000/- (Rupees Twenty thousand) towards costs of the Complaint to the Complainant. Complaint against opposite parties No.3 and 4 is dismissed.

POINT NO.3: -

In the result, the Complaint is allowed in part by directing the Opposite Parties No. 1 and 2 jointly and severally to:

1. Pay an amount of Rs.50,00,000/- (Rupees Fifty lakhs only) towards compensation for causing physical trauma, mental agony and financial loss caused to the Complainant for her entire life and also to her family members.
2. Pay an amount of Rs.20,000/- (Rupees Twenty thousand only) towards costs of the Complaint.
3. Complaint against opposite parties 3 and 4 is dismissed
4. Time for compliance 45 days from the date of receipt of this order. In default the compensation amount shall attract interest @ 9% p.a. from the date of default to till its realization.

Transcribed and Dictated to Typist, typed by her, corrected and pronounced by us in the open Commission today the 21st day of April,2026

Sd/-
MEMBER

Sd/-
MEMBER

Sd/-
PRESIDENT

APPENDIX OF EVIDENCE

Witnesses examined for Complainant:-

Mrs.Juma Nath (PW1)

Witnesses examined for Opposite Parties No.1 and 2:-

Dr.Venkata Ramakrishna Tukkururam (DW1)

Witnesses examined for Opposite Party No.3:

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Witnesses examined for Opposite Party.No.4:

Ms.Mohini Suryavanshi (DW2)

Exhibits marked on behalf of the Complainant:-

Ex.A1: is the copy of Final Report of Tripura Medical College,
dt:02.03.2019

Ex.A2: is the copies of medical prescriptions of Op.No.1's
hospital in various dates

Ex.A3: is the copy of Discharge Summary, dt:22.5.2019

Ex.A4: is the copy of bill of supply/Invoice of Op.No.1 hospital,
for Rs.2,06,000/-, Dt:22.05.2019

Ex.A5: is the copies of Electronic Ticket Receipts

Ex.A6: is the copy of To whomsoever it may concern issued by
Op.No.1's hospital, dt:24.5.2019

Ex.A7: is the copy of photographs of the Complainant and her
family at Charminar, Hyderabad

Ex.A8: is the copies of Medical bills

Ex.A9: is the copy of Medical prescription of Op.No.1 hospital,
dt:8.6.2019

Ex.A10: is the copy of Medical prescription of Op.No.1 hospital,
dt:20.07.2019

Ex.A11: is the copy of Medical prescription of Op.No.1 hospital,
dt:14.9.2019

Ex.A12: is the copy of Medical examination at National
Neurosciences Centre, Calcutta, dt:27.9.2019

Ex.A13: is the Copy of MRI of LS Spine Report of ILS hospitals,
dt:14.10.2019

Ex.A14: is the copy of medical prescription, dt:9.11.2019 of
Op.No1 hospital

Ex.A15: is the copy of Provisional Report of Serum C-Reactive
Protein test at GB Pant Hospital, Agartala,
dt:19.11.2019

- Ex.A16: is the copy of Medical Prescription at AGMC & G.B.Pant hospital, Agartala, dt:19.11.2019, on 26.11.2019
- Ex.A17: is the copy of Bone Scan report at Regional Cancer Center, Agartala, dt:28.11.2019
- Ex.A18:is the copy of Medical Examination, at AGMC & G.B.Pant hospital, Agartala, dt: 16.12.2019
- Ex.A19: is the copy of Medical prescription, at AGMC & G.B.Pant hospital, Agartala, dt: 17.12.2019
- Ex.A20: is the copy of Investigation Report at Kalika Diagnostic Centre, Agartala, dt:19.01.2020
- Ex.A21: is the copy of Medical Examination and Prescription, at AGMC & G.B.Pant hospital, Agartala, dt: 21.01.2020
- Ex.A22: is the copy of Medical Examination and Prescription, at AGMC & G.B.Pant hospital, Agartala, dt: 01.02.2020
- Ex.A23:is the Copy of Medical Prescription, at Tripura Medical College and Dr.Bram Teachin Hospital, Agartala, dt:14.2.2020, dt:20.02.2020
- Ex.A24: is the copy of CT Scan report at Teresa Diagnostic Cente, Gomati, dt:2.3.2020
- Ex.A25: is the copy of medical prescription, at Tripura Medical College and Dr.Bram Teachin Hospital, Agartala, dt:10.03.2020
- Ex.A26: is the copy of Medical prescription at Narayan Superspeciality hospital, dt:19.6.2020
- Ex.A27: is the copy of Medical prescription, at AMRI Mukundapur, dt:4.7.2020
- Ex.A28: is the copy of Medical prescription, by Dr.Utpalendu Debnath, dt:28.11.2020
- Ex.A29: is the copy of Medical bills in various dates
- Ex.A30: is the copy of medical prescription, at Tripura Medical College and Dr.Bram Teachin Hospital, Agartala, dt:08.01.2021

- Ex.A31: is the copy of prayer for financial compensation,
dt:15.6.2020
- Ex.A32: is the copy of Legal Notice, dt:8.1.2021
- Ex.A33: is the copies of Medical prescription bills, dt:9.5.2021
and Dt:13.5.2021 for Rs.4,850/-
- Ex.A34: is the copies of Air Tickets, dt:15.3.2021 & 15.4.2021
total amount of Rs.29,995/-
- Ex.A35: is the copy of Meidal examinations and Prescriptions of
NIMHANS, Bangalore, dt:07.4.2021, 15.4.2021
- Ex.A36: is the copies of duty chart of AOD's for the months of
March 2019 to December 2019
- Ex.A37: is the copy of MA part I & part II qualification
certificates of the Complainant
- Ex.A38: is the copy of picture of Dual Thread Pedicle screw as
per the image forwarded in WhatsApp message by
Op.No.2.
- Ex.A39: is the copy of Letter Dt:12.11.2020 to the HOD, AIR,
Belonia letter in Bengali along with English translation
- Ex.A40: is the copies of WhatsApp chat between complainant
and Op.No.2
- Ex.A41: is the copy of Bank Statement of the Complainant
- Ex.A42: is the copy of Case Sheet along with MRI report

Exhibits marked on behalf of the Opposite parties No. 1 and 2:-

- Ex.B1: is the copy of Admission record of the Complainant
- Ex.B2: is the copy of Discharge Summary, dt:22.5.2019
- Ex.B3: is the copy of letter to intimation to Insurance Company
of Op.No.1, dt:5.5.2022
- Ex.B4: is the copy of Professional indemnity policy (Medical
establishment) year of 2019-2020
- Ex.B5: is the copy of Professional indemnity policy (Medical
establishment) year of 2020-2021
- Ex.B6: is the copy of Professional indemnity policy (Medical

establishment) year of 2021-2022

Ex.B7: is the copy of intimation letter to insurance company of
Op.No.2, dt:11.8.2022

Ex.B8: is the copy of professional indemnity policy for doctor
and medical practitioner year of 2019 to 2020

M.O.No.1: C.D of audio video counselling to the patient and her
attendants.

Exhibits marked on behalf of the Opposite party No.4:-

Ex.B9: is the copy of letter of Authority

Ex.B10: is the copy of Policy Schedule

Exhibits marked on behalf of the Opposite party No.3:-

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Sd/-
MEMBER

Sd/-
MEMBER

Sd/-
PRESIDENT