

Gurjit Singh Vs. Dr. Sunil Mittal

**BEFORE THE DISTRICT CONSUMER DISPUTES REDRESSAL
COMMISSION, KARNAL.**

Complaint No.377 of 2023
Date of instt.12.07.2023
Date of Decision:12.08.2026

Gurjit Singh son of Shri Joginder Singh, resident of village Thal, Tehsil
Assandh, District Karnal.

.....Complainant.

Versus

1. Dr. Sunil Mittal, MBBS, MS (Gen. Surgery), Mch. (Urology),
registered no.HN-3345, Consultant Shree Hari Hospital, 31,
Ashoka Colony, opposite Kalpana Chawla Medical College,
Karnal.
2. ICICI Lombard General Insurance Company Limited having
Address:- at ICICI Lombard General Insurance, ICICI Lombard
House 414, Veer Savarkar Marg, near Siddhivinayak Temple,
Prabhadevi, Mumbai-400025, vide Professional Indemnity
bearing insurance policy no.4021/A/274212736/00/000,
effective from 02.12.2022 to 01.12.2023.

.....Opposite Parties.

**Complaint under Section 35 of Consumer Protection Act,
2019.**

**Before Shri Jaswant Singh.....President.
Ms. Neeru Agarwal.....Member
Ms. Sarvjeet Kaur.....Member**

**Argued by: Shri H.S. Bajwa, counsel for the complainant.
Shri Rajan Gupta, counsel for the OP No.1.
Shri Ashok Vohra, counsel for the OP no.2.**

(JASWANT SINGH, PRESIDENT)

ORDER:

The complainant has filed the present complaint under
Section 35 of the Consumer Protection Act, 2019 against the opposite

parties (hereinafter referred to as 'OPs') on the averments that the complainant was suffering from Kidney stone, having kidney stone of 20 mm in his left kidney, for which, on 10.03.2023 he contacted and consulted the OP No.1. After going through the reports, OP no.1 told the complainant that to remove the stone of kidney, two types of operations were performed and ultimately, it was suggested by the OP No.1 that the kidney stone of the complainant shall be broken and removed through urinary tract. The complainant was insured with the New India Assurance Company Ltd. and the OP No.1 applied for the approval of the operation of kidney stone of the complainant. The complainant was asked to come on the next day by the OP no.1. On the next day i.e. on 11.03.2023, the complainant visited the Hospital of the OP No.1, where the urine and blood tests of the complainant were got done by the OP No.1 and in the reports, some infection was found for which OP no.1 started the treatment. On 12.03.2023, the OP No.1 put stent and discharged the complainant on 13.03.2023, from the Hospital and asked to come on 22.03.2023 for operation. On 22.03.2023, the complainant went to the Hospital, where again urine and blood samples of the complainant were taken and the reports of said tests were given on 25.03.2023 and on seeing the said reports, OP told the complainant that the same are normal and now on 26.03.2023, the operation for the removal of kidney stone shall be

Gurjit Singh Vs. Dr. Sunil Mittal

performed. On 26.03.2023, the OP No.1 asked the complainant that in case, the operation through urinary tract is performed, then in that eventuality, there may be more infection and it is also possible that the stone does not break at once and again the operation shall have to be performed. The OP No.1 suggested the complainant to get the operation done from "Doorbeen". The OP No.1 told the complainant that he has got the approval from the insurance company for getting the operation done through urinary tract and in case, they again apply for the approval of operation through "Doorbeen", the insurance may make excuses for the same and on 26.03.2023, the OP No.1 conducted the operation of the complainant for kidney stone and he was discharged from the Hospital on 28.03.2023. During operation, a catheter was inserted for the passing of urine. The OP No.1 advised to remove the said catheter after two weeks. However, after the operation, the blood was coming in the urine of the complainant. On 31.03.2023, the catheter was removed and the complainant informed the OP No.1 about coming blood in his urine, but the OP No.1 asked him that the blood would stop coming in his urine very soon. However, when on 01.04.2023, the blood did not stop, the complainant telephonically contacted the OP no.1, upon which, the OP No.1 asked the complainant to send the photo of his urine. The complainant sent the photo of his urine to OP No.1. On the same day,

Gurjit Singh Vs. Dr. Sunil Mittal

in the night at 9.40 P.M., the urine of the complainant stopped coming/passing and he started suffering from severe pain and at that time, blood clot came out of the urinary tract. The complainant immediately informed the OP No.1 in this regard. The OP No.1 asked the complainant to come and admit in the Hospital immediately. The complainant reached in the Hospital and thereafter, the blood started coming profusely and the OP No.1 guessed that the bleeding may occur due to stent which was put by him during the operation and then he started the process of removing the stent and also applied for the approval in this regard from the insurance company with which the complainant was insured. On 04.04.2023, there was some change in the colour of urine and on 05.04.2023, the complainant was discharged from the Hospital with the assurance that now the blood shall not come in his urine. During the intervening night of 05.04.2023 and 06.04.2023, the urine of the complainant stopped coming because there was blood clot in his urinary tract. The complainant immediately contacted the OP no.1 and OP advised the complainant to come in the Hospital. The complainant reached in the Hospital and his urine was passed by way of catheter by the OP No.1, but the blood clot did not come out. The OP No.1 advised the complainant to get the ultrasound conducted and his ultrasound was performed, but after ultrasound, the complainant again developed the

strong urge to pass urine, but inspite of his best efforts, he could not pass the urine and ultimately, a part of blood clot came out. Thereafter, the complainant showed his report to the OP No.1. The report of ultrasound showed blood clot in the urine of the complainant. The OP No.1 advised the complainant to remain under observation for two days and the complainant continued to suffer from immense pain and blood clots continued to come. On seeing the deteriorating condition of the complainant, OP No.1 referred him to Batra Hospital and Medical Research Centre, Delhi and on 07.04.2023, the complainant reached in the said Hospital at Delhi. The complainant was admitted in Batra Hospital and Medical Research Centre, Delhi on 07.04.2023, where angiography was done through right femoral route by Dr. Rajiv Bajaj, which revealed large segmental branch pseudoaneurysm in lower pole of kidney for which selective embolization was performed and bleeding was occluded successfully and the complainant was discharged from the Hospital on 08.04.2023. There was gross negligent on the part of the OP No.1 in conducting the operation of the complainant for kidney stone, which is being explained as under:-

- (i) That while conducting the operation for kidney stone, the OP No.1 cut the artery/vein of the complainant, which led to the occurrence of Pseudoaneurysm and Hematuria. Pseudoaneurysm

occurs when blood vessel/artery is injured/ruptured and the blood starts coming out of artery. In the present case, the opposite party No.1 did not take proper care and caution while performing the operation and cut the vein of the complainant, due to which, the blood in urine (Hematuria) started coming. Not only this, due to rupturing of the vein, the blood clots started forming in the body of the complainant and the said clots also blocked the way of urine of the complainant, due to which, he suffered immense pain. Had the timely treatment not been given to the complainant, it could have led to his death.

- (ii) After the operation, the complainant several times informed the OP No.1 about the blood in urine, blood clots, stoppage of his urine and immense pain being suffered by him. However, opposite party No.1, instead of referring the complainant to higher centre for treatment, kept on doing experiments on him and also continue to play with his life, sometimes by admitting him for the removal of stent or by applying catheter to facilitate the passing of urine. Excessive bleeding due to rupturing of vein, forming of blood clots in the body and stoppage of urine and non-treatment of the same could have led to the death of the complainant, but it is the opposite party No.1, who did not think

about the same even once at any time, which speaks volume regarding his negligence.

- (iii) The negligence of the opposite party No.1 in the performance of operation of the complainant is writ large from the ultrasound report dated 06.04.2023, which categorically shows that there is a soft tissue structure measuring app. 3.48x2.39 cms. In the lumen which changes its position with change in position of the patient-like a clot for which follow up is suggested. Besides this, the discharge summary of Dr. Rajiv Bajaj of Batra Hospital and Medical Research Centre, Delhi clearly proves the gross negligence of the opposite party No.1 in which it was clearly mentioned that angiography was done through right femoral route, which revealed large segmental branch pseudoaneurysm in lower pole of kidney for which selective embolization was performed and bleeding was occluded successfully and the complainant was discharged from the hospital on 08.04.2023.
- (iv) The OP No.1 not only committed gross negligence in performing the operation of the complainant, but also committed fraud upon the complainant in order to conceal his negligence. When the complainant was discharged by the opposite party from the Hospital after operation for kidney stone, the opposite party No.1 issued him a discharge summary, which was duly signed by

the opposite party No.1 and in the said discharge summary, it was mentioned that operative procedure for the removal of kidney stone was Retrograde Intrarenal surgery and when the complainant was again admitted in the Hospital by the opposite party No.1 for the removal of stent, the opposite party No.1 again issued a discharge summary to him in which it was again mentioned that the complainant is having the past history of RIRS i.e. Retrograde Intrarenal surgery, but when the condition of the complainant worsened as stated above and he was referred to Batra Hospital and Medical Research Centre, Delhi by the opposite party No.1, the opposite party No.1 had given a Referral Summary dated 06.04.2023 to the complainant and in the said referral summary, the opposite party No.1 mentioned that the patient (complainant) was operated for left side P.C.N.L & DJ Stenting on 26.03.2023, but at the time of discharge from the Hospital twice, the opposite party No.1 had mentioned in the discharge summary that he had undergone Retrograde Intrarenal surgery. P.C.N.L. i.e. Percutaneous nephrolithotomy and R.R.I.S. i.e. Retrograde Intrarenal surgery are two different surgeries, but the opposite party in order to conceal his negligence, while referring the complainant to higher centre, mentioned that the complainant has undergone P.C.N.L. in the

referral summary, which this fact is also mentioned in the discharge summary issued by Batra Hospital and Medical Research Centre, Delhi. The above said act and conduct of the opposite party No.1 goes on to show that how the opposite party No.1 is playing with the lives of people.

The OP No.1 also charged the excessive amount of Rs.1,33,360/- from the complainant towards operation and other charges and Batra Hospital and Medical Research Centre, Delhi also charged a sum of Rs.49,985/- from the complainant. The complainant requested the OP No.1 several times to pay him adequate amount as compensation for his gross negligence and immense pain inconvenience having been suffered by the complainant, but the OP No.1 became adamant and refused to do so. Then complainant sent a legal notice dated 21.04.2023 to the OP but it also did not yield any result. During the pendency of present complaint, the OP No.1 moved an application to implead ICICI LOMBARD GENERAL INSURANCE CO. LTD.Address: at ICICI Lombard General Insurance, ICICI Lombard House, 414, Veer Savarkar Marg, near Siddhivinayak Temple, Prabhadevi, Mumbai-400025 vide Professional Indemnity bearing Insurance Policy No.4021/A/274212736/00/000, effective from 02.12.2022 to 01.12.2023, insurer of OPNo.1, as OP No.2 in the array of OPs in the present complaint. In the said application, it has been mentioned that

the professional doctor covers the risk of liability, if any, which may arise if they are held liable for medical negligence by any competent court etc. by taking the Professional Indemnity Insurance Policy from the insurer companies. Thus, there deficiency in service and unfair trade practice on the part of the OPs. Hence complainant filed the present complaint seeking direction to the OPs to pay a sum of Rs.50,00,000/- as compensation on account of gross negligence, mental agony and harassment, to pay Rs.1,83,345/- alongwith interest @ 18% per annum, to pay Rs.55000/- towards the litigation expenses and any other relief to which this Commission deems fit may also be granted.

2. Upon notice, OP no.1 appeared and filed its written version raising preliminary objections with regard to maintainability; jurisdiction; cause of action; locus standi and concealment of true and material facts. On merits, it is pleaded that OP is insured with ""ICICI LOMBARD GENERAL INSURANCE CO, LTD", having address at ICICI Lombard General Insurance, ICICI Lombard House, 414, Veer Savarkar Marg, Near Siddhivinayak Temple, Prabhadevi, Mumbai 400025 vide Professional Indemnity bearing Insurance Policy No. 4021/A/274212736/00/000, effective from 02-Dec-2022 to 01-Dec-2023. The present complaint is not supported by any expert medical witness on behalf of the complainant. The Complainant approached

this Commission without support of any scientific evidence and has leveled bold allegations without support of any relevant medical literature in support of his contentions. The patient Gurjit Singh visited the OP with left side Renal Stone. He was explained about the various options and their pros and cons for the treatment and then after his consent, he was operated for Left RGP (Cystoscopy, Retrograde Pyelogram) URS (Ureteroscopy) and DJ Stenting on 11.03.2023. He was re-admitted on 26-03-2023 and the pros and cons of various modalities like RIRS (Retrograde Intra renal Surgery) and PCNL (Percutaneous Nephrolithotomy) were re-explained as per the available records. He gave consent for both the procedures. A written consent for both procedures was taken. Patient was operated and as per notes, RIRS was started but to remove a large fragment of stone PCNL was also done. Patient was discharged on 28.03.2023 in a stable condition. Thereafter, he had mild haematuria for which he was advised to visit the OP. On 02.04.2023, he was re-admitted for Cystoscopy and DJ stent removal considering that removal of stent may take care of haematuria. He gradually improved and he was discharged on 05.04.2023 in a stable condition with clear urine. However, during the night he had clot retention (a known complication) for which he was hospitalized on 06-04-2023 and was managed diligently and as per the accepted standard of practice. In

view of ongoing hematuria, the patient was referred for angio-embolisation on 07.04.2023 with stable vitals and the patient improved. After that the patient lost to follow up, and he did not turned up for follow up with us despite our repeated attempts to contact him.

Medical Facts:-

- A. **Complication of Renal Surgery:** Bleeding is a known complication of renal stone surgery and patient was duly explained about this prior to the procedure and due care was taken to relieve him once he developed the complication.
- B. **Postoperative Haemorrhage:** Patients continue to be at risk for significant bleeding for the first several weeks postoperatively. Most patients who bleed postoperatively can be managed conservatively, but approximately 1% will require invasive treatments.
- C. Delayed Bleeding occurs but approximately 1 to 3 weeks postoperatively. When angiography is performed on these patient, the most common causes of bleeding are laceration of segmental artery, arteriovenous malformation, pseudoaneurysm, arteriovenous fistula. Renal angiography and with selective embolization is highly effective in treating these lesions..

- D. PNL is considered the standard treatment for staghorn and large-volume renal calculi, as well as upper tract calculi refractory to other modalities.
- E. Bleeding may occur during any aspect of a PNL. A retrospective review of 3,878 patients undergoing PNL found a 1% rate of severe bleeding and an accompanying transfusion rate of 5.5%.
- F. Pseudoaneurysm was the most common finding at angiography, and 91.6% of patients were successfully treated with angioembolization.

Cons for the treatment and then he opted for the procedure by his own and after his consent, he was operated for Left RGP (Cystoscopy, Retrograde Pyelogram) URS (Ureteroscopy) and DJ Stenting on 11-03-2023. The OP is a well-qualified and experienced doctor, and he treated the patient diligently, prudently, with reasonable care & skill, and as per accepted medical standards. The OP always acted in the best interest of the patient and as per the accepted standards of practice. The patient was never neglected, and was attended immediately and personally even in late night and mid night hours. Complainant was re-admitted on 26.03.2023 and the pros and cons of various modalities like RIRS (Retrograde Intra Renal Surgery) and PCNL (Percutaneous Nephrolithotomy) were re-explained. He was given the option for second opinion and surgery at some other centre

also, however, he was willing for procedure here only. He then kept on swaying between PCNL and RIRS and then before surgery consented for both the procedures. (Consent papers are annexed here with and marked as Annexure R/5 Colly). He gave consent for both the procedures. A written consent for both procedures was taken. Patient was operated and as per notes RIRS was started but to remove a large fragment of stone PCNL was also done. Patient was discharged on 28.03.2023 in a stable condition. Thereafter, he had mild haematuria for which he was advised to visit the OP. On 02.04.2023, he was re-admitted for Cystoscopy and DJ stent removal considering that removal of stent may take care of haematuria. He gradually improved and he was discharged on 05.04.2023 in a stable condition with clear urine. However, during the night he had clot retention (a known complication) for which he was hospitalized on 06-04-2023 and was managed diligently and as per the accepted standard of practice. In view of ongoing hematuria, the patient was referred for angio-embolisation on 07-04-2023 with stable vitals and the patient improved. After that the patient lost to follow up, and he did not turned up for follow up with us despite our repeated attempts to contact him. All the allegations are incorrect, twisted the facts, mere aversions based on suspicion & presumptions, unscientific, without expert medical opinion or any proof. Thus, there is no

deficiency in service and unfair trade practice on the part of the OP.

The other allegations made in the complaint have been denied and prayed for dismissal of the complaint.

3. OP No.2 filed its separate written raising preliminary objections with regard to maintainability; jurisdiction; cause of action; locus standi; mis-joinder and non-joinder of necessary party and concealment of true and material facts. On merits, it is pleaded that complainant has not impleaded Shree Hari Hosiptal, Karnal where the complainant remained indoor patient for getting his treatment under the consultancy of the OP no.1, who has used the name, fame, laboratory, operation theatre and stationery of Shree Hari Hospital, Karnal. OP no.2 has not received a proposal and the premium from the OP no.1, where upon he purchased professional indemnity policy for him valid w.e.f.02.12.2022 to 01.12.2023 for the premises anywhere in India covered under the policy, where professional services are performed by the insured. The insurance in question is based on utmost good faith and both the parties i.e. insured as well as the insurer are bound by the terms and conditions of the contract of insurance. The liability of the insurance company has to be within the four corners of the contract of insurance alone. OP no.1 is well qualified and experienced doctor and he treated the patients diligently, prudently with reasonable care and skill and as per

accepted medical standards. The OP shall not have any liability in respect of the captioned subject matter as the policy is professional indemnity policy and if the Hon'ble Commission arrives at the conclusion that there is misconduct conducted by the insured only. Thus, there is no deficiency in service and unfair trade practice on the part of the OP. The other allegations made in the complaint have been denied and prayed for dismissal of the complaint.

4. Parties then led their respective evidence.

5. Learned counsel for the complainant tendered into evidence affidavit of complainant Ex.C1, postal receipt Ex.C2, copy of insurance policy Ex.C3, copy of discharge summary I Ex.C4, copy of discharge summary 2 Ex.C5, copy of ultra sound report Ex.C6, copy of Referral Summary Ex.C7, copy of Batra Hospital Lab Report Ex.C8, copy of discharge summary of Batra Hospital Ex.C9, copies of Snapshots of Claim paid Ex.C10 and Ex.C10A, copy of Balaji Clinical Lab Report Ex.C11 and closed the evidence on 07.05.2025 by suffering separate statement.

6. On the other hand, learned counsel for the OP no.1 tendered into evidence affidavit of Dr. Sunil Mittal Ex.OP1/A, copy of Degree and Registration Ex.OP1, copy of insurance policy Ex.OP2, copy of treatment records Ex.OP3, copy of medical literature Ex.OP4,

Gurjit Singh Vs. Dr. Sunil Mittal

copy of consent papers Ex.OP5 and closed the evidence on 29.10.2025 by suffering separate statement.

7. Learned counsel for the OP no.2 tendered into evidence affidavit of Amandeep Sharma, Senior Legal Manager Ex.O1/A, copyh of professional indemnity policy for doctor and medical practitioner Ex.O1 and closed the evidence on 16.01.2026 by suffering separate statement.

8. We have heard the learned counsel for the parties and perused the case file carefully and have also gone through the evidence led by the parties.

9. Learned counsel for the complainant, while reiterating the contents of the complaint, has vehemently argued that complainant underwent surgery on 26.03.2024 for kidney stone, and remained admitted from 26.03.2023 till 06.04.2023. Immediately, after the surgery i.e. on 26.03.2023, the complainant developed persistent gross hematuria, repeated blood clot formation, urinary retention and severe pain. Instead of checking the root cause of bleeding, the OP no.1 continued symptomatic treatment by catheterization. When the complainant's condition became critical, then the OP referred the complainant to Batra Hospital, where angiography done which revealed a large segmental branch pseudoaneurysm, requiring emergency embolization. The conduct of OP shows lack of reasonable

Gurjit Singh Vs. Dr. Sunil Mittal

post operative care. Persistent gross hematuria for several days after surgery was a clear warning sign requiring prompt investigation. Instead, the complainant was repeatedly reassured, discharged and treated conservatively until his condition deteriorated to the extent that emergency embolization became necessary at a higher centre. In this way, there is negligence on the part of the OP and lastly prayed for allowing the complaint. Learned counsel for the complainant placed reliance on the case titled as **Paramjit Singh Grewal (Dr) and another Versus Charanjit Singh Chawla NCDRC 2006 (47) RCR (Civil) 164, Medical Superintendent, Medical Superintendent Lok Nayak Jai Prakash Narain Hospital Versus Km.Santosh (minor) 2016 (2) CLT 291 and V.Kishan Rao Versus Nikhil Super Speciality Hospital and Another 2010 (4) JT 630.**

10. Per contra, learned counsel for the OP No.1, while reiterating the contents of the written version, has vehemently argued that the patient Gurjit Singh visited the OP with left side Renal Stone. He was explained about the various options and their pros and cons for the treatment and then after his consent, he was operated for Left RGP (Cystoscopy, Retrograde Pyelogram) URS (Ureteroscopy) and DJ Stenting on 11.03.2023. He was re-admitted on 26-03-2023 and the pros and cons of various modalities like RIRS (Retrograde Intra renal

Gurjit Singh Vs. Dr. Sunil Mittal

Surgery) and PCNL (Percutaneous Nephrolithotomy) were re-explained as per the available records. He gave consent for both the procedures. The complainant was operated and as per notes RIRS was started but to remove a large fragment of stone PCNL was also done and discharged on 28.03.2023 in a stable condition. On 02.04.2023, the complainant was re-admitted for Cystoscopy and DJ stent removal considering that removal of stent may take care of haematuria and improvement he was discharged on 05.04.2023 in a stable condition with clear urine. However, during the night he had clot retention for which he was hospitalized on 06-04-2023 and was managed diligently and as per the accepted standard of practice. In view of ongoing hematuria, the patient was referred for angio-embolisation on 07.04.2023 with stable vitals and the patient improved. After that the patient lost to follow up, and he did not turned up for follow up with us despite our repeated attempts to contact him. There is no expert opinion on the file to prove that the OP has committed any medical negligence while conducted the surgery of the complainant and complainant has also refused to get constituted a Medical Board for his examination. Thus, there is no deficiency in service and unfair trade practice on the part of the OP and prayed for dismissal of the complaint.

11. Learned counsel for the OP No.2 while reiterating the contents of the written version has vehemently argued complainant has not impleaded Shree Hari Hosiptal, Karnal where the complainant remained indoor patient for getting his treatment under the consultancy of the OP no.1 who has used the name, fame, laboratory, operation theatre and stationery of Shree Hari Hospital, Karnal. OP no.2 has not received a proposal and the premium from the OP no.1 where upon he purchased professional indemnity policy for him valid w.e.f.02.12.2022 to 01.12.2023 for the premises anywhere in India covered under the policy where professional services are performed by the insured and lastly prayed for dismissal of the complaint.

12. We have duly considered the rival contentions of the parties.

13. On the pleadings of the parties and documents on record, it stands admitted that the complainant was firstly admitted and operated upon on 11.03.2023 (Left RGP, URS and DJ Stenting) and was thereafter re-admitted and operated again on 26.03.2023 and complainant remained under treatment of the OP no.1 from 26.03.2023 to 06.04.2023. RIRS was started but to remove a large fragment of stone PCNL was also done. However, in the discharge summary dated 28.03.2023 as well as in the subsequent discharge summary issued at the time of removal of the DJ stent, OP No.1

recorded the procedure performed only as "Retrograde Intrarenal Surgery", without any reference whatsoever to PCNL having been resorted to. It is only in the Referral Summary dated 06.04.2023, wherein it has been shown that complainant's condition had already deteriorated on account of persistent haematuria and clot retention, that OP No.1 for the first time disclosed that the complainant had undergone "Left P.C.N.L. & DJ Stenting". This material discrepancy between the discharge summaries and the referral summary, coming as it does only after the complainant's condition worsened, remains unexplained by OP No.1 and lends credence to the complainant's case that OP No.1 attempted to withhold the true nature and extent of the procedure performed upon him.

14. Further, OP no.1 has also alleged that there is no expert opinion of the Board of Doctors on the file to prove the negligence of the treated doctor and complainant had also refused for examination by the Board of Doctors. In this regard, we are of the considered opinion that in the present case from the treatment record, it is crystal clear that after conducting the surgery/treatment done by the OP no.1, the condition of the complainant has become deteriorated and finally after referring to the Batra Hospital on 07.04.2023 where he was cured and discharged on the very next day i.e. 08.04.2023. The expert evidence is required where the case is complicated enough

Gurjit Singh Vs. Dr. Sunil Mittal

and the commission is unable to resolve the issue involved without the assistance of expert opinion. In this regard, we reliance upon the case law **Gyan Mishra Vs. Sahara India Medical Institute, decided on 07.11.2019 of Hon'ble National Commission** *wherein it is held that the expert evidence is necessary, the Fora under the Act must come to a conclusion that the case is complicated enough to require the opinion of an expert or that the facts of the case are such that it cannot be resolved by the members of the Fora without the assistance of expert opinion. This court makes it clear that in these matters no mechanical approach can be followed by these Fora. Each case has to be judged on its own facts. If a decision is taken that in all cases medical negligence has to be proved on the basis of expert evidence, in that event the efficacy of remedy provided under this Act will be unnecessarily burdened and in many cases such remedy would be illusory.* Hence, in view of the above, the plea taken by the OPs has no force.

15. In the present case, after conducting the surgery for kidney stone by the OP no.1 the condition of the complainant had become deteriorated but the OP no.1 neither referred the complainant nor treated him properly till his condition has become more worst and complainant was referred on 07.04.2023 to Batra Hospital and Medical Research Centre, Delhi. A careful perusal of the records of Batra

Gurjit Singh Vs. Dr. Sunil Mittal

Hospital and Medical Research Centre, Delhi (Ex.C8, Ex.C9) reveal that angiography performed through the right femoral route disclosed a large segmental branch pseudoaneurysm in the lower pole of the kidney, necessitating selective embolization, after which the bleeding was successfully occluded and the complainant was discharged on 08.04.2023. These contemporaneous medical records corroborate the complainant's version of continued bleeding, blood clots and stoppage of urine following the surgery performed by OP No.1. The OP No.1 kept the complainant under observation between 26.03.2023 and 06.04.2023, and referred him to a higher centre equipped for angio-embolization only on 07.04.2023, by which time the complainant's condition had become precarious. This delay in appropriate escalation, coupled with the careless treatment squarely amounts to medical negligence and deficiency in service on the part of OP No.1. Negligence is the breach of a duty caused by omission to do something which a reasonable man guided by those considerations which ordinarily regulate the conduct of human affairs would do, or doing something which a prudent and reasonable man would not do. Negligence becomes actionable on account of injury resulting from the act or omission amounting to negligence attributable to the person sued. The essential components of negligence are three, "duty", "breach" and "resulting damage". In this regard we placed reliance

Gurjit Singh Vs. Dr. Sunil Mittal

upon the case law titled as **Nizam Institute of Medical Sciences Vs. Prasanth S. Dhananka and others in Civil Appeal no.4119 of 1999, date of decision 14.05.2009 of Hon'ble Supreme Court.**

16. OP no.1 firstly conducted the surgery negligently due to which condition of the complainant become deteriorated, he was referred to Batra Hospital and Medical Research Centre, Delhi. If the complainant was not cure then the position would be otherwise. In view the above facts and circumstances of the case, we found that firstly OP no.1 has conducted the surgery of complainant in a negligent manner and secondly did not refer the complainant to higher institute at earlier stage for proper management, which is also amounting negligence on the part of the OP hospital.

17. Keeping in view the ratio of the law laid down in aforesaid judgments, facts and circumstances of the present complaint, the act of the OP no.1 amounts to deficiency in service while conducting the surgery upon the complainant.

18. The complainant has suffered mental pain, agony and harassment as well as financial loss due to negligence act of OP No.1 Complainant was insured and major part of the treatment expenses would have been paid by the insurance company. No doubt, during treatment complainant would have spent part amount on account of treatment and also spent on medicines, diet, transportation etc.

However, grant of compensation would be just a consolation to the complainant, who will have to face difficulties. The complainant has claimed an amount of Rs.50,00,000/- which is on the very higher side. Hence, it would be justified, if an amount of Rs.2,00,000/- be awarded to the complainant on account of compensation for mental pain, agony and harassment as well as financial loss etc.

19. So far as the liability of OP No.2/Insurance Company is concerned, it stands admitted on record that OP No.1 was having a Professional Indemnity Policy bearing no.4021/A/274212736/00/000, valid from 02.12.2022 to 01.12.2023 (Ex.C3/Ex.OP2), with the sum insured of Rs.1,00,000,00/-, which period admittedly covers the treatment and surgical procedures in question performed upon the complainant between March, 2023 and April, 2023. OP No.2 has not disputed the existence, validity or coverage of the said policy. Since a clear finding of medical negligence and deficiency in service stands returned against OP No.1 hereinabove, and the treatment giving rise to the cause of action falls squarely within the currency of the said Professional Indemnity Policy, OP No.2 is liable to indemnify OP No.1 and to satisfy the compensation awarded to the complainant, to the extent hereinafter directed.

20. Thus, as a sequel to above discussion, we allowed the present complaint partly and direct the OP no.2 (being insurer) to pay

Gurjit Singh Vs. Dr. Sunil Mittal

Rs.2,00,000/-(Two Lacs only) as compensation to the complainant on account of loss suffered by him. This order shall be complied within 45 days from the receipt of copy of this order. It is made clear if the awarded amount not paid within stipulated period then the awarded amount will carry interest @ 9% per annum from the date of filing order till its realization. The parties concerned be communicated of the order accordingly and the file be consigned to the record room after due compliance.

Dated:12.08.2026

President,
District Consumer Disputes
Redressal Commission, Karnal.

(Neeru Agarwal)
Member

(Sarvjeet Kaur)
Member

Sushma
Stenographer

Gurjit Singh Vs. Dr. Sunil Mittal

Present: Shri H.S. Bajwa, counsel for the complainant.
Shri Rajan Gupta, counsel for the OP No.1.
Shri Ashok Vohra, counsel for the OP no.2

Today the case is fixed for remaining arguments, if any and order. Arguments heard. Order announced. Vide our separate detailed order of even date, the present complaint has been partly allowed. The parties concerned be communicated of the order accordingly and the file be consigned to the record room after due compliance.

Dated: 12.08.2026

President
DCDRC, Karnal.

Member(I) Member(II)

Sushma
Stenographer