

BEFORE THE COURT OF DISTRICT CONSUMER DISPUTE REDRESSAL COMMISSION,  
WEST SINGHBHUM AT CHAIBASA

Dated 18.12.2023

Misc case No 1/2011

Anup Kumar Sanyal  
Son of Sri N.P. Sanyal  
R/o Holding No 210, Bhuinyadih  
PO Agrico, PS Sitaramdera  
Jamshedpur- East Singhbhum

----- Complainant

Versus

Dr M. Alam  
R/o 5, Rajendranagar, Sakchi  
PO Sakchi  
Jamshedpur (East Singhbhum)

----- Opposite Party

Present: -

1. Hon'ble Sri Sunil Kumar Singh, President
2. Hon'ble Sri Rajiv Kumar, Member
3. Hon'ble Smt. Deoshree Choudhary, Member

COUNSEL

For the Complainant :- Learned Advocate Ajai Kumar Mitra  
For Opposite Party :- Learned Advocate Ravi Shanker

ORDER

1. The complainant Anup Kumar Sanyal filed this instant case against Dr M. Alam, TMH , Jamshedpur claiming compensation for Medical Negligence . The case of the complainant in brief is that he met with an accident and received injuries in left foot and ankle on 25.02.2003 . He was admitted in private Nursing Home of Dr. Alam and due to negligence of Dr Alam, Gangrene was developed which was not properly treated by Dr. Alam. When on long treatment, he was not cured, then admitted in TMH Jamshedpur on 03.03.2003 where his left leg was amputated on 07.03.2003. Complainant further alleged that due to negligence of Dr Alam, Gangrene (septicemia) was developed in his leg which



was finally amputated by the Doctors of TMH, Jamshedpur due to which he became totally invalid and sustained enormous loss . Complainant has claimed compensation of Rs 10,00,000/- (Rupees Ten Lakhs ) from OP Dr. Alam.

2. On notice , OP Dr Alam appeared and filed Written statement to contest the case by denying allegation of the complainant and stated that the complainant didn't followed his advice regarding taking certain medicines. He has further taken plea of Expert Opinion to establish negligence on his part as he was not negligent in treating the complainant rather due to negligence on the part of complainant Septicemia developed in his leg which was finally amputated at TMH, Jasmshedpur. He further stated that complainant made false allegation against him by claiming compensation of Rs 10,00,000/- (Rupees Ten Lakhs only) which is liable to be dismissed as he was not running any Private Nursing Home at Jamshedpur.
3. In course of hearing, Complainant Anup Kumar Sanyal filed his statement of witness namely Gour Gopal Sal, Nirmal Das , Ramjee Jaiswal who have fully supported the case of the complainant. Complainant and witnesses have categorically stated that the complainant was treated by OP Dr Alam in his Private Nursing Home and due to his negligence, Septicemia developed in left leg of the complainant which was amputated at TMH due to which he became invalid. On the contrary, OP Dr Alam also filed his statement on affidavit and denied allegation made by the complainant . Further stated that he treated complainant and prescribed some medicines including Antibiotic Injections twice a day which was not followed by the complainant. Again complainant came to his clinic on 03.03.2003 when he was referred for hospitalization and as such claim made by the complainant is false and concocted only for claiming compensation.
4. Having heard both the parties and considering materials available on the case record, this commission allowed the prayer made by the complainant in original complainant case No 83/2003 and directed the OP Dr Alam to pay Rs 2,00,000/- (Rupees Two Lakhs only) to the complainant vide order dated 24.04.2008.



Being aggrieved and dissatisfied with the above order , OP Dr Alam preferred First appeal No 185/2008 before the Hon'ble Jharkhand State Consumer Dispute Redressal Commission Ranchi . On notice, complainant Anup Kumar Sanyal appeared before the state commission and after hearing both the parties, Hon'ble State Commission vide order dated 24.01.2010 was pleased to set aside order dated 24.04.2008 passed by this commission and remanded the case to this commission to consider the plea of the appellant (Dr Alam) regarding Expert opinion in the light of decision of Hon'ble S.C. in Martin F.D.Souza 2009 CPJ 32(S.C.) and Jacobs Mathew 2005(3) CPR 70 (S.C.) and directed to pass reasoned orders after hearing both the sides as per law . Accordingly Hon'ble State Commission allowed this appeal without cost with a direction to this commission to conclude the enquiry within 3 months after receiving the order of the Hon'ble State Commission.

5. On receiving order of the Hon'ble State Commission, enquiry was started by this commission vide Misc Case No. 1/2011 and notice was served to both the parties upon which they appeared before this commission and as per direction of Hon'ble State Commission, letter was issued to Dr. Sunil Kumar , HOD, Surgical Department, TMH, Jamshedpur regarding his opinion of medical negligence of Dr. Alam. Dr. Sunil Kumar submitted his report on 06.09.2013 upon which complainant prayed to issue notice to Dr. Sunil Kumar for his cross examination which was rejected by this commission and complainant was directed to file documentary evidence in rebuttal of opinion of Dr. Sunil Kumar and further he was directed to file interrogatory to be sent to Dr. Sunil Kumar for his answer and subsequently Dr. Sunil Kumar sent his answer, copy of same was supplied to the complainant. Further letter was also issued on 10.02.2012 by this commission to the Director, RIMS , Ranchi for constituting medical board to examine all the papers of medical treatment of Anup Kumar Sanyal by Dr. Alam and submit report upon which report of medical board dated 8.11.2012 was submitted to this commission which is on the case record. Complainant filed objection petition to the expert opinion sent by the RIMS, Ranchi and submitted that no opinion has been given by the Medical Board



regarding deficiency of service of Dr. Alam in treatment of the complainant and the report is vague which can't be acted upon as Expert Opinion. Accordingly enquiry in Misc Case No 1/2011 has been closed and the same is merged with the Original Complaint Case No 83/2003 for its adjudication as per direction of the Hon'ble State Commission in First Appeal No 185/2008.

6. Heard the parties and perused the Expert Opinion of Dr. Sunil Kumar, HOD , Surgical Department , TMH, Jamshedpur and report of Medical Board, RIMS , Ranchi submitted before this commission. Also gone through oral and documentary evidence adduced by the parties. Both the parties have filed their respective written argument which is on the case record. Learned counsel for the complainant submitted that he was treated by Dr. Alam but due to his negligency , Septicemia developed in his left leg which was amputated by the Doctors at TMH, Jamshedpur. Further argued that due to negligency of Dr. Alam, he became invalid and has claimed compensation of Rs 10,00,000/- (Rupees Ten Lakhs Only) which is just proper and reasonable. Moreover he has established his case with oral and documentary evidence. Expert Opinion of Dr. Sunil Kumar and Medical Board, RIMS, Ranchi is vague as no specific opinion has been given which can't be accepted and acted upon. Further Dr. alam has not adopted prescribed procedure of treatment under the Medical Professional Regulatory Board and hence complainant is entitled for compensation from the OP Dr. Alam.

On the contrary, OP Dr Alam has denied allegation made by complainant and submitted that he treated complainant and prescribed some Antibiotics Injections which was not followed by the complainant due to which infection developed in his leg for which he can't held liable. Further submitted that he has taken all care and precaution while treating the complainant. Moreover prescribed procedure of treatment was adopted but due to negligence on part of the complainant , infection (Septicemia) developed in his leg and in view of settled principle of law, Doctor can't be held liable for medical negligence. As such claim made by the complainant is liable to be dismissed.

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7. Having heard both parties and on the perusal of material available on the record as well as considering expert opinion given by Dr. Sunil Kumar and Medical Board, RIMS Ranchi, We find admittedly that complainant met with an accident on 25.02.2003 and he sustained injuries in his left leg, ankle which was treated by Dr. Alam and some antibiotics , other medicines were prescribed by Doctor on 27.02.2003. Further complainant again visited the Doctor on 03.03.2003 till then septic developed in his leg and he was advised for hospitalization where his leg was amputated by Doctor of TMH Jamshedpur. Let us now consider whether the complainant has been able to established his case by documentary evidence and expert opinion as directed by Hon'ble State Commission in First appeal No 185/2008. Expert opinion was called by this commission as per direction of the Hon'ble State Commission which was submitted and the same is available on the case record.

On perusal of the report of Medical Board, RIMS, Ranchi dated 08.11.2012, we find no specific opinion has been given regarding treatment rather simply mentioned that Detail clinical finding of limb is not mentioned in later investigation leading to amputation. Dr. Sunil Kumar, TMH, Jamshedpur submitted his report dated 2.7.2013 stating therein that "Based on documentary evidence, apparently there has been no medical negligence on the part of Dr Alam", So Dr. Sunil has given specific opinion which is objected by the complainant and submitted that since Dr. Alam and Dr. Sunil working together in TMH and as such he submitted collusive report which can't be accepted and acted upon.

Complainant has also filed interrogatory which was answered by the Doctor Sunil stating therein that Road Accident wounds are prone to develop infections depending on factor like severity of wound and time interval between time of injury and medical care etc. Doctor has admitted the Plaster of Paris application may lead to compromise in blood circulation which is known complication of the procedure and usually due to swelling of limb after injury. Further we find the facts admitted by both the parties that injury takes place on 25.02.2003 for which Dr. Alam treated the complainant on 27.02.2003 with plaster of left leg below knee and Doctor has advised I.V. Supacef 1.5 mg 12 hourly with



other medicine . It is admitted case that complainant sustained injuries in his leg due to Road accident on 25.02.2003 and Dr Alam has applied Plaster of Paris in his leg below knee on 27.02.2003 and according to expert opinion, the Plaster of Paris may lead to compromise in blood circulation which is known complication of the procedure and usually due to swelling of limb after injury. So apply of Plaster of Paris on injured leg may stop blood circulation causing infection and developed Septicemia and as such we find Dr Alam has not adopted due practice, procedure and skill while treating the complainant . Case of complainant also finds corroboration from expert opinion . Only on the basis of opinion of Doctor, it can't be held that there was no medical negligence on part of Dr Alam. In view of the discussion made above, we came to conclusion that Dr. Alam has not adopted prescribed procedure practice and skill while treating the complainant and due to deficiency in treatment by Dr. Alam , Septicimia developed in the leg of complainant just within 3 to 4 days of treatment . He was admitted in TMH Jamshedpur where his leg was amputated due to which he became invalid and sustained enormous physical and financial loss for which Dr . Alam is solely responsible. Complainant has successfully established his case against the OP by adducing oral and documentary evidence which can't be discarded on mere technical ground . Further the complainant will have to suffer mental and physical agony throughout his life due to deficiency of medical service given by the OP Dr Alam which can't be compensated in terms of money.

So considering above facts we find complainant is entitled for compensation from the OP Dr. Alam. Accordingly we hereby directed OP Dr. Alam to pay compensation of Rs 3,00,000/- (Rupees Three Lakhs only ) to the complainant. Further directed to pay Rs 1,00,000/- (Rupees One Lakh Only )for mental and physical harassment and Rs 50,000/- (Rupees Fifty Thousand) Only as litigation cost to the complainant. OP Dr Alam is hereby ordered to pay Rs 4,50,000/- (Rupees Four Lakhs Fifty Thousand)only to the complainant with an interest of 9% P.A. from the date of passing of this order till its realization. OP Dr Alam is also directed to make all the



payment to the complainant within 60 days from passing of this order failing which necessary coercive steps will be taken against the OP for realization of the above amount .

With above order , this instant case is hereby disposed off.

Office is directed to serve copy of this order both the parties free of cost and also upload the order on website of this commission at once for perusal of the respective parties .

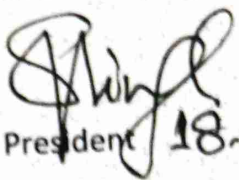
Rajiv Kumar  
Member 18.12.23

District Consumer Commission  
West Singhbhum , Chaibasa

  
18/12/23  
Member

District Consumer Commission  
West Singhbhum , Chaibasa

Dictated and corrected by me

  
President 18.12.23

District Consumer Commission  
West Singhbhum , Chaibasa

Place :- West Singhbhum(Chaibasa)

Dated :- 18.12.2023

