

OFFICE OF THE DISTRICT CONSUMER DISPUTES REDRESSAL COMMISSION,
JALANDHAR.

No.DCC/Jal./25/Judgment/ 719

Dated 02.04.2025

To

Kunal Goel, Advocate son of R.P. Goel, Advocate
r/o House No.38, Mandir Wali Gali, Shiv Enclave,
Deep Nagar, Jalandhar Cantt. District Jalandhar. (Complainant-1)

Suruchi Gupta w/o Sh. Nikhil Gupta,
d/o R.P Goel, Advocate r/o 310, Raja Garden, Basti Peer Dad Khan,
Near Sharma Property Dealer, Jalandhar. (Complainant-2)

Raman Chawla, Prop. M/s Caremax Super Speciality Hospital,
Near Guru Nanak Mission Chowk, Jalandhar, District Jalandhar. (OP-1)

M/s Caremax Super Specialty Hospital,
Near Guru Nanak Mission Chowk, Jalandhar,
through its Prop. Dr. Raman Chawla. (OP-2)

Vivek Sharma, Consultant Cardiologist,
M/s Caremax Super Speciality Hospital,
Near Guru Nanak Mission Chowk, Jalandhar, District Jalandhar. (OP-3)

Bajaj Allianz General Insurance Company Ltd,
GE Plaza, Airport Road, Yerawada, Pune (OP-4)

The Oriental Insurance Company Ltd.
A25/27, Asaf Ali Road, New Delhi. (OP-5)

ICICI Lombard, General Insurance Company Ltd.
ICICI Lombard House, 414, Veer Savarkar Near Sidhivinayak Temple,
Prabhdevi, Mumbai. (OP-6)

Rajinder Thapploo c/o M/s Caremax Super Speciality Hospital,
Near Guru Nanak Mission Chowk, Jalandhar, District Jalandhar (OP-7)

Sub:- Certified copy of Judgment

Contd/P/2

::2::

Sir,

Please find enclosed herewith certified copy of order in CC No.173 of 2021 titled R.P.Goel (deceased) now Kunal Goel & others V/s Raman Chawla, Prop. M/s CareMax Superspeciality Hospital, decided by District Consumer Disputes Redressal Commission, Jalandhar on 24.03.2025.

You are requested to collect the extra sets filed by you in the above referred case within 30 days. In case you do not collect the extra sets within 30 days, these sets will be weeded out under Regulation 30(4)(5) 'Preservation of Records' of Consumer Protection Regulations 2005.

B. S. Grewal
Supdt. G-II 02/4/2025
D.C.D.R.C. Jalandhar

BEFORE THE DISTRICT CONSUMER DISPUTES
REDRESSAL COMMISSION, JALANDHAR.

Complaint No.173 of 2021

Date of Instt. 30.04.2021

Date of Decision: 24.03.2025

No. 719
02/4/2025

1. Kunal Goel, Advocate son of R.P. Goel, Advocate r/o House No.38, Mandir Wali Gali, Shiv Enclave, Deep Nagar, Jalandhar Cantt. District Jalandhar.
2. Suruchi Gupta w/o Sh. Nikhil Gupta, d/o R.P Goel, Advocate r/o 310, Raja Garden, Basti Peer Dad Khan, Near Sharma Property Dealer, Jalandhar.

.....Complainants

Versus

1. Raman Chawla, Prop. M/s Caremax Super Speciality Hospital, Near Guru Nanak Mission Chowk, Jalandhar, District Jalandhar.
2. M/s Caremax Super Specialty Hospital, Near Guru Nanak Mission Chowk, Jalandhar, through its Prop. Dr. Raman Chawla.
3. Vivek Sharma, Consultant Cardiologist, M/s Caremax Super Speciality Hospital, Near Guru Nanak Mission Chowk, Jalandhar, District Jalandhar.
4. Bajaj Allianz General Insurance Company Ltd, GE Plaza, Airport Road, Yerawada, Pune
5. The Oriental Insurance Company Ltd. A25/27, Asaf Ali Road, New Delhi.
6. ICICI Lombard, General Insurance Company Ltd. ICICI Lombard House, 414, Veer Savarkar Marg, Near Sidhivinayak Temple, Prabhdevi, Mumbai.
7. Rajinder Thapploo c/o M/s Caremax Super Speciality Hospital, Near Guru Nanak Mission Chowk, Jalandhar, District Jalandhar

..... Opposite Parties

Complaint Under the Consumer Protection Act.

Before: Dr. Harveen Bhardwaj (President)
Smt. Jyotsna (Member)
Sh. Jaswant Singh Dhillon (Member)

ATTESTED
Bimla
Superintendent

02/4/2025



Present: Sh. Kunal Goel, Adv. Counsel for Complainants.
 Sh. R. S. Sarna, Adv. Counsel for OPs No.1 to 3 & 7.
 Sh. Raman Sharma, Adv. Counsel for OP No.4.
 Sh. A. K. Arora, Adv. Counsel for OP No.5.
 Sh. A. K. Gandhi, Adv. Counsel OP No.6.

Order

Dr. Harveen Bhardwaj (President)

1. The instant complaint has been filed by the complainant, wherein it is alleged that the complainants availed the services of OPs and also paid consideration as per their demand and professional charges and OPs were under obligation to render effective and genuine services in the hospital but OPs No.1 and 2 utterly failed to render effective services and on the contrary rendered deficient and negligent services to the complainant. On 08.07.2019, the deceased Ms. Varsha Goel was admitted to OP No.2 Hospital with complaint of chest pain at 01:20 PM. That the complainants being LRs met and explained the entire situation to OP No.3 Dr. Vivek Sharma as he met the complainants first. Ms. Varsha Goel remained admitted in the hospital i.e. OP No.2 till late evening of 11.07.19 around 10 PM when she was declared dead (Copy of death certificate is attached). The complainants went into shock and trauma. Later when the complainant no. 02 asked for the medical records, the opposite party did not provide the medical records within 72 hrs as it is mandatory under the regulation 1.3 Indian Medical Council (Professional Conduct Etiquette and Ethics) Regulations, 2002 and it was provided (though incomplete) on 20.07.19 under the receipt. The complainant no.2 further asked for the CCTV footage which has never been supplied vide emails dtd. 31.07.19, 01.08.19, 04.08.19, 09.08.19, 13.08.19 and OP

ATTESTED

[Signature]
 Superintendent

02/14/2025

No.2 replied on two occasions dtd. 06.08.19 and 10.08.19. The complainant no.2 further demanded indoor patient records vide legal notice dtd. 26.09.19 to which OPs filed detailed reply dtd. 16.10.19, but did not provide indoor patient record. The complainant no.2 filed rejoinder dtd. 30.10.19 to the reply. Thereafter, the OPs supplied alleged indoor patient records vide letter dtd. 07.11.19. The alleged complete record was supplied in photocopies whereas as per the First Charter of Patient's Rights, in death case, the whole record was to be supplied in original. The complainant no.2 filed one civil suit for Permanent Injunction titled as "*Kunal Goel v/s Raman Chawla*" restraining the defendant to manipulate, temper, alter or edit the original indoor patient records as it is still lying in the custody of OPs. The defendants appeared and filed written statement in the case and it is pending in the Court of Sh. Jinder Pal Singh, CJJD, Jalandhar. The complainant no.2 filed another civil suit for Mandatory Injunction titled as "*Kunal Goel v/s Raman Chawla*" directing the defendants to produce OPD records of Dr. Raman Chawla for the period from 07.07.19 till 10.07.19. The defendants appeared and filed an application u/o 7 R 11 for rejection of plaint and a reply to the said application was filed by the complainant in the Court of Sh. Kapil Aggarwal, CJSD, Jalandhar.

As per the landmark judgment in **Nizam Institute** case, the Hon'ble Supreme Court held that the "the liability arises when "a professional may be held for negligence on one of the two findings: either he was not possessed with the requisite skill which he professed, or, he did not exercise,

ATTESTED

B. S. Singh
Superintendent

02/4/2025



with reasonable competence, the skill which he did possess.”

In the present case, the complainant shall put forward both the findings of the Hon'ble Supreme Court. Detailed facts of the complaint are that the sole reason for approaching opposite parties was that the opposite parties claimed themselves to be the best hospital available in the city for heart problems. That the complainant also thought that any medical treatment in this case will be done under the guidance of Dr. Raman Chawla opposite party no.1 who is the only competent cardiologist in the hospital. As per the records of OPS, reply dtd. 16.10.19 to the legal notice and written statement filed in the Court of Sh. Jinder Pal Singh, CJJD, Jalandhar, when the mother of complainant no. 02 and 03 was admitted, she was suffering from massive heart attack i.e. Acute Coronary Syndrome, Acute Inferior Wall Myocardial Infarction which required urgent admission and medical management. According to medical literature, the patient who is suffering from massive heart attack i.e. Acute Coronary Syndrome, Acute Inferior Wall Myocardial Infarction has to be managed with primary Angioplasty as soon as possible. Angioplasty was the need of the hour and OP No.2 is a newly constructed and fully equipped cardiac center. The OP No.1 Dr. Raman Chawla is MD, DM in Cardiology and he is the only legally competent doctor in the said hospital who can perform angioplasty. It is worth mentioning here that hospital staff concealed from the complainants and other family members that OP No.1, the only Cardiologist in the hospital and legally competent to treat, is not present in the hospital on the day of admission and he was out of station hence angioplasty could not



ATTESTED

B. Anil A.
Superintendent

02/4/2015

be performed and this is gross medical negligence on the part of OPs as recently held in "*Loveleen Kaur vs Liver and Digestive Diseases Clinic and others*" case. As per the medical records, reply to the legal notice and written statement filed by OPs, the condition of the patient was very critical on the day of admission and if the main cardiologist was not present in the hospital to treat the patient of such severity, in that case the hospital was bound to apprise the complainants about the said fact and further hospital was duty bound to call another cardiologist on call to treat such a serious patient or the last option was to refer the patient to any other cardiac center. But the hospital neither performed angioplasty nor called any other specialist doctor to treat the patient which is against the decision held in *Gundu Krishnaiah v/s Dr. D. Narahari, Interventional Cardiologist*. The hospital admitted the patient in the same serious condition as the patient was having valid medical insurance and the ulterior motive of the hospital was not to give the best treatment to the serious patient but to usurp money from the insurance company. In the absence of Opposite Party no. 01 Dr. Raman Chawla, OP No.3 Dr. Vivek Sharma who is MBBS, PGDCC, FNIC, labeled as Consultant Cardiologist in the hospital started treatment and gave first dose of Cathlyse injection (Rataplese) at 02.05 PM (as per the records of OPs) i.e after 45 mins whereas it should have been given as early as possible or within 30 mins from the admission (admitted at 1.20 PM) and as per the landmark decision in case *Gundu Krishnaiah AND Dr.D.Narahari, Interventional Cardiologist*, this delay proved to be fatal for the cardiac muscle of the mother of complainant no.1 and 2. The OP



ATTESTED

Bimla D.
Superintendent

02/4/2025

No.3 Dr. Vivek Sharma is merely MBBS, PGDCC, FNIC and Opposite Party no. 01 has presented Opposite Party no. 03 as Senior Cardiologist as per the written statement filed in the Court of Sh. Jinder Pal Singh, CJJD, Jalandhar whereas in case *Goyal Hospital and Research Centre Pvt. Ltd. Jodhpur Vs. Kishan Shukla, R.P. 4023 of 2011*, the Hon'ble National Commission held that a doctor must have valid and recognized and specialized qualification. The above noted judgment also aptly answers the substantial questions of law involved in the present petition as it also refers to Indian Medical Council Regulations. Relevant part of the judgment is reproduced as under:-

"2. Dr. R.K. Vyas also admitted that Dr. Goyal was not a cardiologist and a simple M.D., cannot claim of being cardiologist i.e. Specialist in Heart Disease. As per IMC Regulations, 2002 Clause-B Sub-clause 1.1.3, "No person other than a doctor having qualification recognized by Medical Council of India and registered with Medical Council of India/ State Medical Council(s) is allowed to practice Modern System of Medicine or Surgery. Even otherwise, undergoing several trainings, attending workshops in Cardiology did not confer qualification of cardiologist. Hence it is not recognized by MCI or Rajasthan State Medical Council."

As per the above mentioned landmark decision, Opposite Party no. 03 was not entitled to even touch the patient of such severity but on the contrary he started treatment mother of complainant no.1 and 2, who was suffering from massive

ATTESTED
 Jinder Pal Singh
 Superintendent

02/4/2025



heart attack i.e. Acute Coronary Syndrome, Acute Inferior Wall Myocardial Infarction admitted on 08.07.19.

The OP No.1 i.e. Dr. Raman Chawla reached the hospital on 10.07.2019 and took the mother of complainant no.1 and 2 for Angiography in the noon and after Angiography it was explained to the complainants that there is a blockage of 99% on one Coronary artery and two blockages in other Artery so total three Stents were to be installed. This delay of 02 days (from 08.07.19 to 10.07.19) in conducting the Angiography is the first foremost mistake committed by OPs because the case of the deceased was of grave blockage and Angiography should have been the first exercise to be followed by any hospital which was completely ignored and delayed unreasonably. The delay in treatment deteriorated the conditions for the deceased, which later on became the primary reason for the death of mother of complainant no.1 & 2. The unavailability of Dr. Raman Chawla and misrepresentation at the admission of the patient at such high risk led to the severity in the matter which shows the unprofessional attitude and the inability to care as per the "*Loveleen Kaur vs Liver and Digestive Diseases Clinic and others*" case. It would be in the fittest of things to mention that there cannot be any negligence or rashness in service rendered by OPs. It is to be noted here that angioplasty was planned to be performed in the morning of 11.07.19 as evident from the consent letters but complainants failed to understand the reason for not performing the angioplasty in the morning and why the deceased was taken for angioplasty in the evening of 11.07.19. The patient, complainants and other family members were kept



ATTESTED

Bimla R
Superintendent

02/4/2025

on waiting whole day in the hospital but no satisfactory was given by the OPs. That it is important to be noted here that angioplasty which medically should have been performed on the day of admission was actually performed after 04 days and according to medical literature time is muscle. More the delay, more is the deterioration in the heart muscle. This delay of 04 days caused death of the mother of complainant no.1 and 2. The OPs failed to render best services. The OPs are playing with the lives of the public under the garb of having best cardiac center. In order to prove the contention, the complainant cites the recently decided case by Hon'ble State Commission, Punjab title

"Loveleen Kaur vs Liver and Digestive Diseases Clinic and others", in this case specialist doctor had gone out of the city for 02 days and left the patient with less competent doctor and the Commission held that the hospital guilty of gross medical negligence. The relevant paras are reproduced;

"the doctor owed the duty to care irrespective of the fact if the patient was in ICU or not. The duty of care one of the basis duties of the doctor. In the present case Dr. Harpreet Singh was not present for 02 days and only 02 BAMS doctors were present which was a crosspathy and which was not the pathy for which the treatment was taken by the complainant. The Court said that "leaving the patient for 02 days who was a high risk is amount to deficiency in service and medical negligence". There is no denial about the fact that the patient was brought to the hospital in critical condition where a specialized Cardiologist could have handle the case but firstly the absence of Dr. Raman Chawla was not informed and thereafter first two days Dr. Vivek

ATTESTED

Bimberd
Superintendent

02/4/2025

Sharma treated the patient inspite of the fact that he was not a competent specialized/ expert doctor who could have handled the critical case. The case of the complainant deserves to be allowed solely on this ground as opposite parties have concealed the present factum intentionally just to grab money out of the patient's family. Dr. Vivek Sharma projected himself as Cardiologist whereas, he is not a Cardiologist, he is simply a Diploma holder apart from MBBS. Diploma holder person cannot claim parity with MD or DM Cardiologist. That it is admitted by OP No.1 that patient was very critical and suffering from massive heart attack and needed urgent medical treatment like angiogram etc. but nowhere he admitted that he was present in the hospital on the day of admission of Ms. Varsha Goel and he started necessary treatment, on the contrary he has admitted in the written statement that OP No.3 was on duty and he started the treatment who by virtue of his medical qualification, was not capable and competent to treat. On 22.10.2020, complainant issued a legal notice in which the reason was sought from the OPs that why angioplasty was not performed in the morning of 11.07.19 and why the deceased was taken for angioplasty in the evening around 07.30 PM. No reply has been filed by the OPs till today. Adverse inference can be drawn from the silence of the OPs. Succinctly, the OPs are liable for gross medical negligence on the following grounds:

- a. That it was clear to the hospital i.e. OP No.2 while admitting the mother of complainant no.1 and 2 that she was suffering from massive heart attack.

ATTESTED

Binder & Superintendent

02/4/2025



b. That it was clear that the competent doctor i.e. OP No.1 was absent for 02 days and still the patient of such severity was admitted knowing fully well that angioplasty was the need of the hour and left the patient in the hands of junior doctor who was not the specialist doctor and as per the "*Loveleen Kaur vs Liver and Digestive Diseases Clinic and others*", the act and conduct of the hospital amounts to gross medical negligence.

c. That it was clear that the doctor i.e. OP No.3 who started treatment was incompetent to treat the patients who are suffering from heart attack as per *Goyal Hospital and Research Centre Pvt. Ltd. Jodhpur Vs. Kishan Shukla, R.P. 4023 of 2011* case.

d. That OP No.3 was duty bound to disclose the fact that patient required angioplasty and the competent doctor for angioplasty is not in the hospital.

e. That OP No.3 was duty bound to call another cardiologist to perform the angioplasty.

f. That OP No.3 as the last option should have referred the patient to any other cardiac center instead of admitting as per *Gundu Krishnaiah AND Dr. D. Narahari, Interventional Cardiologist* case.

g. That OP No.3 caused delay of 15 mins in giving Cathlyse (rataplese) injection which further deteriorated the heart muscles as per *Gundu Krishnaiah AND Dr. D. Narahari, Interventional Cardiologist* case.

h. That the hospital supplied medical records on 20.07.19 i.e. after 09 days which is against the rules and adverse inference can be drawn against the hospital.

ATTESTED

Bimla D.
Superintendent
02/4/2025

i. That complainant asked for CCTV footage of shifting of the mother of complainant no.1 and 2 from Cath Lab to Recovery Room, the hospital did not provide the same hence adverse inference can be drawn against the hospital.

j. That as per the Charter of Patient's Rights, in case of death, all the medical reports/investigations are to be supplied to the attendants of the deceased in original whereas in the present case, the whole record is provided in Photostat form. Adverse inference can be drawn against the hospital. It is clear that OPs are utmost negligent in giving the required and prescribed treatment to the deceased Smt. Varsha Goel and therefore are liable to pay compensation to the complainants. Hence, the present complaint filed with the prayer that the complaint of the complainant may kindly be allowed and OPs be directed to Rs.50,00,000/- as compensation for the loss of the mother of the complainant No.1 and 2.

2. Notice of the complaint was given to the OPs and accordingly, OPs No.1 to 3 filed their joint written reply and contested the complaint by taking preliminary objections that the complaint is not maintainable and devoid of any merits and is liable to be dismissed with heavy costs. It is further averred that the complainant has concealed the true and material facts from this Court and has not approached the Court with clean hands. It is further averred that no cause of action accrued to the complainant to file the present complaint against the answering OPs, since there is no deficiency in service, unfair trade practice on the part of the OPs nor there is negligence of any manner, on the part of the OPs. The complainant has failed to place on record any report from any medical board, in support of his alleged claim of

ATTESTED
 [Signature]
 Superintendent
 02/4/2025

medical negligence with respect to treatment of Smt. Varsha Goel at Care Max Super Speciality Hospital, Jalandhar on which the complainant has approached this Court. Apart from that the allegation of negligence has been raised by the complainant at much belated stage, which is result of some mischievous afterthoughts. It is further averred that the present false and frivolous complaint has been filed on the basis of false, vague and evasive assertions. Hence the present complaint is liable to be dismissed. It is further averred that the present complaint is not maintainable in the eyes of law, as the matter was/is already subject to justice before the civil court before filing of the present complaint, hence the present suit is liable to be dismissed with heavy costs. It is further averred that the complaint is ex facie misconceived, vexatious, untenable. The complainant has approached the Commission with soiled hands and has made the complaint in order to raise premediated, false and frivolous dispute to harass the answering OP. It is further averred that the present false and frivolous complaint has been filed on the basis of false, vague and evasive assertions. Hence the present complaint is liable to be dismissed with heavy costs. It is further averred that the complaint is bad for non-joinder and mis-joinder of necessary parties to the present complaint. On merits, it is admitted that Smt. Varsha Goel was admitted in the hospital on 08.07.2019, but the other allegations as made in the complaint are categorically denied and lastly submitted that the complaint of the complainant is without merits, the same may be dismissed.

3. OP No.4 filed its separate written reply and contested the complaint by taking preliminary objections that the complaint is not maintainable against the answering OP/Bajaj Allianz General Insurance Co. Ltd., as the complainant is not a consumer qua the OP No. 4, as

ATTESTED

Bimla D
Superintendent

02/4/2025

ED
deni
025



such the complaint against the answering OP is liable to be dismissed. It is further averred that there is no privity of contract between the complainant and the OP No.4/ Bajaj Allianz General Insurance Co. Ltd. The OP No.4 is not a necessary party in the present complaint, as such the complaint against the OP No.4 is liable to be dismissed. It is further averred that without admitting any liability it is submitted that issuance of policy bearing No. OG-19-1202-3305-00000008 for the period 27.11.2018 to 26.11.2019 under the Professional Indemnity in the name of OP No.1/Raman Chawla produced on record is not denied for indemnifying the insured in the claims arising out of bodily injury and/or death of any patient caused by or alleged to have been caused by error, Omission, or negligence in professional service rendered or which should had been rendered by the insured. In the present case, there is neither any error nor any omission or negligence on the part of OP No.1, that burden is on complainant to prove the cause of action and deficiency, that it is submitted that there is no cause of action against replying insurance company, it is submitted that complainant is not consumer of respondent insurance company and this consumer complaint is not maintainable against this replying respondent insurance company and the complaint is liable to be dismissed. It is further averred that this Commission has no jurisdiction to fix any liability qua the insurance company. In this regard, it is submitted that this Commission has only to see whether the concerned doctor is liable to pay any compensation or not. As far as the insured and the insurance company are concerned, the matter between them is to be decided by the insurance company by determining whether there is any alleged carelessness/negligence and whether the same is covered under the policy obtained by the concerned doctor and thereafter, the liability of

ATTESTED

Bimla D
Superintendent

02/4/2025

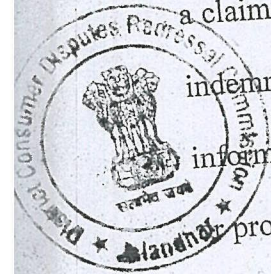
the insurance company is to be determined by the competent authority as per terms, conditions and exclusion clauses of the policy, however no relief can be granted directly in favour of the complainant against the replying OP. It is further averred that till date, no claim has been intimated by the OP No.1 with the replying OP No.4. It is the condition of the insurance policy that the insured shall give written notice to the company as soon as reasonably practicable of any claim made against the insured (or any specific event or circumstances that may give rise to a claim being made against the insured) and which forms the subject of indemnity under this policy and shall give all such additional information as the company may require. Every Claim, writ, summons process and all documents relating to the event shall be forwarded to the company immediately they are received by the insured. No intimation given or claim lodged or notice given nor forwarded the summons or process received by the OP No.1 to the answering OP No.4 at any point of time. As no claim has been lodged by the OP No.1 with the answering OP No.4 as per policy terms and conditions, as such answering OP No.4 can not be made liable in any circumstances. It is further averred that the OP No.4 reserves its right to file an amended reply if any new fact comes to its knowledge or new submissions are made by the Complainant. On merits, it is admitted that Smt. Varsha Goel was admitted in the hospital on 08.07.2019, but the other allegations as made in the complaint are categorically denied and lastly submitted that the complaint of the complainant is without merits, the same may be dismissed.

4. OP No.5 filed its separate written reply and contested the complaint by taking preliminary objections that the complainant is not the consumer of the answering OP and that being so the present

ATTESTED

Bimla D
Superintendent

02/4/2015



complaint is liable to be dismissed against the answering OP. It is further averred that there is no privity of contract between the complainant and the answering OP. It is further averred that there is no deficiency in service or unfair trade practice on the part of the answering OP and that being so the present complaint is liable to be dismissed. It is further averred that without admitting any liability, it is submitted that the answering OP had issued Error and Omission-Medical Establishment Insurance Policy in favour of M/s Care Max Super Speciality Hospital for the period 01.10.2018 to 30.09.2019 for a sum of Rs.3,00,00000/- subject to terms and conditions of policy of insurance. On merits, all the allegations as made in the complaint are categorically denied and lastly submitted that the complaint of the complainant is without merits, the same may be dismissed.

OP No.6 filed its separate written reply and contested the complaint by taking preliminary objections that the present complaint is false, vexatious and has been filed with a malafide intention to harass the answering OP by misusing the process of law and to avail undue advantages. It is an attempt to waste the precious time of this Forum and hence is liable to be dismissed. It is further averred that the present complaint is not maintainable against the answering OP and the same is liable to be dismissed. As there is no privity of contract exist between the complainant and the answering OP. Moreover, as per record, no claim under the policy lodged by the OP No.3 i.e. Dr. Vivek Sharma with the answering OP No.6 So, the present complaint is liable to be dismissed. It is further averred that the complainant has not come before the Forum with clean hands and suppressed the material facts. The complainants are themselves guilty of misrepresentation and suppression of material facts. Thus, the present complaint is liable to be

ATTESTED

Banla D
Superintendent

02/4/2025

dismissed forthwith on the grounds of being malafide, baseless and lacking in a bonafide cause of action. It is further averred that the complainant is not a consumer within the definition of Section 2(d) of the Consumer Protection Act. On merit, all the allegations as made in the complaint are categorically denied and lastly submitted that the complaint of the complainant is without merits, the same may be dismissed.

6. OP No.7 filed its separate written reply and contested the complaint by taking preliminary objections that the complaint is not maintainable and devoid of any merits and is liable to be dismissed with heavy cost. It is further averred that the complainant has concealed the true and material facts from the Court and has not approached the Court with clean hands. It is further averred that no cause of action accrued to the complainant, to file the present complaint against the answering OPs, since there is no deficiency in service, unfair trade practice on part of the OP nor there is negligence of any manner, on part of the OPs. It is further averred that the complainant has failed to place on record any report from any medical board, in support of his/their alleged claim of medical negligence with respect to treatment of Smt. Varsha Goel at Caremax super speciality Hospital, Jalandhar, on which the complainant has approached this Court. Apart from that the allegation of negligence has been raised by the complainant at much belated stage, which is result of some mischievous afterthought/s. It is further averred that the present false and frivolous complaint has been filed on the basis of false, vague and evasive assertions. Hence the present complaint is liable to be dismissed with heavy costs. On merits, it is admitted that Smt. Varsha Goel was admitted in the hospital on 08.07.2019, but the other allegations as made in the complaint are categorically denied and

ED
 Attested
 Superintendent

02/4/2025

lastly submitted that the complaint of the complainant is without merits, the same may be dismissed.

7. Rejoinder to the written statement filed by the complainant, whereby reasserted the entire facts as narrated in the complaint and denied the allegations raised in the written statement.

8. In order to prove their respective versions, both the parties have produced on the file their respective evidence.

9. We have heard the learned counsel for the respective parties and have also gone through the case file as well as written arguments submitted by the counsel for the complainant and counsel for

the OPs No.1 to 3 & 7 very minutely.

10. Ld. Counsel for the complainant has submitted that there is delay in the treatment of deceased Smt. Varsha Goel by the OPs. She was taken to Cardiac Centre of OP No.1 on 08.07.2019, where she remained admitted in the hospital till 11.07.2019, the day of her death.

It has been submitted that there was an urgent requirement of angiography and angioplasty, whereas the OPs opted for Thrombolysis.

Since, no competent doctor was available there, therefore, the angiography and angioplasty was not conducted. Dr. Raman, Chawla, the Senior/expert Cardiologist was not present in the hospital on 08.07.2019 and 09.07.2019 and he joined the hospital on 10.07.2019.

After that the angiography was done. There was a delay in treatment of two days i.e. 08.07.2019 and 09.07.2019. Angiography was performed on 10.07.2019, whereas angioplasty was planned for 11.07.2019 at 11:00 AM, but the same was performed at 09:15 PM on 11.07.2019. He has referred 'European Science of Cardiology for the treatment of heart attack patient' and submitted that Thrombolysis was not the required treatment as she was taken to Cardiac Centre and angiography was



ATTESTED
Bimla D.
Superintendent

02/4/2025

D
ant

required but the same was not performed, which proves the negligence on the part of the OPs.

11. He has further submitted that on 08.07.2019 Dr. Vivek Sharma attended Smt. Varsha Goel as there was no other doctor present in the hospital. He misrepresented himself as a Cardiologist and started the treatment. He was only MBBS doctor. Considering his misrepresentation as Cardiologist to be true, the complainant obeyed his instructions and his mother was treated. Dr. Rajinder Thaploo, as alleged, by the OPs, was not present there, but in order to save their skin, the OPs have named Dr. Rajinder Thaploo. Even Dr. Rajinder Thaploo is not cardiologist as he was never registered with the Punjab Medical Council as per requirement of Punjab Medical Council Act nor he has been shown as Cardiologist in the website of the OP whereas Dr. Vivek Sharma has been shown as Cardiologist. The OPs have not proved that Dr. Vivek Sharma was following the instructions of Dr. Rajinder Thaploo as alleged by the OPs. Both the doctors i.e. Dr. Vivek Sharma and Dr. Rajinder Thaploo were not authorized to treat the patient of heart (Cardiac) illness.

12. With regard to consent the Ld.Counsel for the complainant has submitted that the consent obtained by the OP is no consent as per law. There is no document on record to prove that the complainant has taken time from the OP in giving the consent as alleged by the OP. The complainants were never explained about the alternative mode of the treatment i.e. angiography/angioplasty. The complainant never opted for Thrombolysis in place of the urgent treatment of angiography as alleged by the OP. He has further referred the opinion of Medical Board, wherein the medical board has held that there is no gross negligence on the part of the OPs. Ld.Counsel for the complainant has submitted that if no gross

ATTESTED

B. J. S. S.
Superintendent

02/4/2025

ED

dent

025

negligence, as per medical expert was found, then definitely negligence was there because of the negligence of the OPs, the mother of the complainant has died.

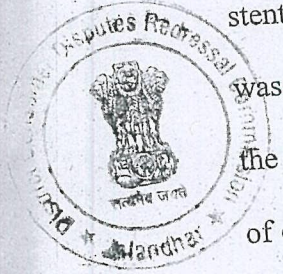
13. The complainant has relied upon the law laid down by the Hon'ble Supreme Court in a case titled as '*Nizam Institute of Medical Science Vs. Prasanth S. Dhanaka and Others*', in Civil Appeal No.4119 of 1999, decided on 14.05.2009. Further, the complainant has relied upon a law laid down by the Hon'ble State Commission, Punjab (Chandigarh), in a consumer complaint No.129 of 2016, decided on 31.10.2019, titled as '*Manisha Dehrran and Ors. Vs. J. P. Hospital, Super Speciality Corporate Hospital*'.

The Ld. Counsel for the OPs has submitted that the complainant has not produced on record any report from any Medical Expert in support of his alleged claim of Medical Negligence, whereas the OPs have filed on record the opinions of different doctors who have certified that right treatment was given. He has submitted that the OP No.3 i.e. Dr. Vivek Sharma was an emergency and critical ICU Expert at the hospital and was on duty being incharge of ICU/Emergency and Dr. Rajinder Thaploo/OP No.7 was also present there. Dr. Rajinder Thaploo is a senior cardiologist. Dr. Rajinder Thaploo attended Smt. Varsha Goel immediately alongwith his team. Due procedure was done when she was admitted in the hospital. He has further submitted that decisions of doing primary angiography/angioplasty or giving Thrombolytic therapy is multi focal or multi faceted treating cardiologist after taking into consideration all the factors. He has further submitted that the complainants gave consent to give thrombolytic therapy after ruling out all contradictions. He has relied upon the consent Ex.OP-1/C. He has submitted that after receiving the immediate

ATTESTED
 B. S. D. D.
 Superintendent

02/4/2025 125

treatment, Smt. Varsha Goel responded well and her condition improved, which is a standard recognized course of treatment adopted worldwide. She remained stable after thrombolytic therapy. Next day, she started having intermittent chest pain. Since, she had started spontaneous isolic pain as per bed head ticket, there was a indication of angiography, which was done after the attendants were explained about the need of angiography multiple times at 04:00 PM and 09:00 PM, but the attendant did not give consent for angiography and on receiving the consent angiography was performed. After doing the angiography, the results of the same were explained and it was advised for angioplasty, but again the attendant took time in giving consent for angioplasty plus stenting. After receiving the consent, the angioplasty was done. There was no delay in conducting the procedure and giving the treatment to the deceased Smt. Varsha Goel. He has further submitted that numbers of complaints were filed by the complainant before the Punjab Medical Council. Due enquiry was conducted by the Civil Surgeon after constituting the Medical Board. All the documents have been relied upon by the OP. He has further submitted that Dr. Rajinder Thaploo was well qualified and educated and having degrees and is competent to treat the cardiac patient. He has relied upon the documents relating to the education and qualification of Dr. Rajinder Thaploo. He has further submitted that OP No.7, Dr. Rajinder Thaploo is a cardiologist and is competent and experienced to handle such patients. Standard recognized course of treatment was adopted by the OP. There is no delay at all. Dr. Vivek Sharma never attended and treated Smt. Varsha Goel independently. He has referred the opinion of the Dr. Arun Chopra from Fortis Hospital, Dr. Gaurav Mohan from Shri Guru Ram Dass Charitable Hospital and has relied upon the law laid down by the



ATTESTED
Bimla D
Superintendent

02/4/2025

Hon'ble Kerala High Court, in a RFA No.557 of 2015, decided on 09.07.2019, titled as 'A. K. Mohamded Tariq and others Vs. Savera Hospital Pvt. Ltd. and others'. And further relied upon the law laid down by the Hon'ble Supreme Court, in a Civil Appeal No.1385 of 2001, decided on 10.02.2010, titled as 'Kusum Sharma & Others Vs. Batra Hospital & Medical Research Centre & Others.'

15. Before deciding the negligence or medical negligence by the OPs, it is necessary to discuss the definition of medical negligence. The Hon'ble Supreme Court has defined the medical negligence in the case, titled as "Jacob Mathew Vs. State of Punjab and Anr." in 2005 (6) SCC 1, wherein his Lordship held as under:-

"A case of occupational negligence is different from one of professional negligence. A simple lack of care, an error of judgment or an accident, is not proof of negligence on the part of a medical professional. So long as a doctor follows a practice acceptable to the medical profession of that day, he cannot be held liable for negligence merely because a better alternative course or method of treatment was also available or simply because a more skilled doctor would not have chosen to follow or resort to that practice or procedure which the accused followed."

It has been observed by the Hon'ble Supreme Court that any task which is required to be performed with a special skill would generally be admitted or undertaken to be performed only if the person possess the requisite skill for performing that task. Thus, if the doctor possess with an adequate qualification and is capable and authorized in doing the treatment acceptable to the medical profession of that day, he cannot be held liable for negligence. A simple lack of care and an error of judgment or an accident is not proof of negligence. It has been held



ATTESTED
Bimla G
Superintendent

02/4/2025

by the Hon'ble Supreme Court in a case titled as '*Kusum Sharma and others Vs. Batra Hospital & Medical Research Centre & Others*' that '*while dealing with the cases of medical negligence the following principles must be kept in view:-*

I. *Negligence is the breach of a duty exercised 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.*

II. *Negligence is an essential ingredient of the offence. The negligence to be established by the prosecution must be culpable or gross and not the negligence merely based upon an error of judgment.*

The medical professional is expected to bring a reasonable degree of skill and knowledge and must exercise a reasonable degree of care. Neither the very highest nor a very low degree of care and competence judged in the light of the particular circumstances of each case is what the law requires.

IV. *A medical practitioner would be liable only where his conduct fell below that of the standards of a reasonably competent practitioner in his field.*

V. *In the realm of diagnosis and treatment there is scope for genuine difference of opinion and one professional doctor is clearly not negligent merely because his conclusion differs from that of other professional doctor.*

VI. *The medical professional is often called upon to adopt a procedure which involves higher element of risk, but which he honestly believes as providing greater chances of success for the patient rather than a procedure involving lesser risk but higher chances of failure. Just because a professional looking to the gravity of illness has taken*



ATTESTED

B. J. Singh
 Superintendent

02/4/2025

higher element of risk to redeem the patient out of his/her suffering which did not yield the desired result may not amount to negligence.

VII. Negligence cannot be attributed to a doctor so long as he performs his duties with reasonable skill and competence. Merely because the doctor chooses one course of action in preference to the other one available, he would not be liable if the course of action chosen by him was acceptable to the medical profession.

VIII. It would not be conducive to the efficiency of the medical profession if no *Kusum Sharma & Ors vs Batra Hospital & Med.*

Research Centre ... on 10 February, 2010 Indian Kanoon -

<http://indiankanoon.org/doc/29738758/> 21 Doctor could administer medicine without a halter round his neck.

IX. It is our bounden duty and obligation of the civil society to ensure that the medical professionals are not unnecessary harassed or humiliated so that they can perform their professional duties without fear and apprehension.

X. The medical practitioners at times also have to be saved from such a class of complainants who use criminal process as a tool for pressurizing the medical professionals/hospitals particularly private hospitals or clinics for extracting uncalled for compensation. Such malicious proceedings deserve to be discarded against the medical practitioners.

XI. The medical professionals are entitled to get protection so long as they perform their duties with reasonable skill and competence and in the interest of the patients. The interest and welfare of the patients have to be paramount for the medical professionals.

So, the first thing to be noted is that the doctor must be possessed with required educational qualification and skill to treat the



ATTESTED

B. S. S. S.
Superintendent

02/4/2025

disease. As per the law laid down by the Hon'ble Supreme Court, in a case titled as '*Jacob Mathew Vs. State of Punjab and Anr.*' and Hon'ble National Commission before making the doctor liable, it is to be seen as to whether the doctors possess required and adequate qualification and is capable of doing the treatment. In the present case admittedly Smt. Varsha Goel suffered severe heart attack on 08.07.2019. It is also not disputed that she was admitted in the hospital/OP No.1. It is also not disputed that at the relevant time, OP No.2 i.e. Dr. Raman Chawla was not available and present in the hospital. The qualification and the degrees of the Dr. Raman Chawla is not disputed. He is an expert cardiologist. As per the complainant, Dr. Vivek Sharma attended Smt. Varsha Goel on 08.07.2019. He was not a cardiologist. As per Ex.C-4 Colour Doppler Echocardiography Report, Dr. Vivek Sharma has been shown to be MBBS, PGDC, FNIC consultant Cardiologist. As per Ex.C-37, the written statement, filed by the OP before the Court of Sh. Jinder Pal Singh, Civil Judge Jr. Div. Jalandhar, in a suit for permanent injunction filed by the complainant, the OPs have alleged that defendant No.3 i.e. Vivek Sharma was working as Senior Cardiologist at the said hospital and was designated as Emergency and ICU Incharge at the hospital. Ex.C43 is the website of OP No.1 in which Dr. Vivek Sharma has been shown to be a Cardiologist. In the written statement filed by the OPs in the present complaint, Dr. Vivek Sharma has been mentioned simply as an emergency and critical care ICU expert at the hospital. As per the opinion^o of the Review Committee of Medical Board Ex.OP1/AAH the MBBS degree of Dr. Vivek Sharma is relevant as he was carrying out the order of Dr. Rajinder Thaploo, the senior cardiologist at the relevant time, whereas the original Medical Board opinion dated 26.10.2021 which is the part of Ex.C42, (page no.10),

ATTESTED

Birinder A
Superintendent

P
02/4/2025



Vivek Sharma as DM Cardiologist. As per the Review Committee Board Ex.OP1/AAH, he was registered with Punjab Medical Council. Ex.C-46 i.e. Certificate of Indira Gandhi National Open University shows that Dr. Vivek Sharma was having Post Graduate Diploma Clinical Cardiology issued on 02.08.2011. He is not DM Cardiologist. Ex.C-47, Proceedings of board of Governors of Medical Council of India, depicts the decision of the Board of Governors regarding recognition of PGDCC Programme (Post Graduate Diploma in Clinical Care) offered by IGNOU was not allowed and recommended for inclusion in the first schedule of the IMC Act 1956 for batches admitted from 2006 to 2013 admission cycle with the remarks that 'The PGDCA of IGNOU does not in any way fosters excellence in medical education or is aimed at bringing into the world, medical professionals, who are able to render the optimum service to the public, in the best interests of Society since it provides a wrong impression about specialization in Cardiology to general public while it does not meet standard requirements of recognition of a postgraduate qualification by BoG/MCI.' As per Ex.C46 he passed the diploma in 2011. Ex.C-48, is the letter dated 17.02.2023 written by the Chairperson District Appropriate Authority-cum-Civil Surgeon Jalandhar, in reply to complaint filed by the complainant, wherein the reply filed by Dr. Vivek Sharma has been considered and it has been mentioned in it that Dr. Vivek Sharma was eligible and permitted to conduct Ecocardiography only and not Ultrasonography. It has further been mentioned that PGDCC Course by IGNOU is still not recognized diploma, however, the Hon'ble High Court of Delhi has directed the Central Govt. to take decision regarding recognition after consulting the MCI on merits.

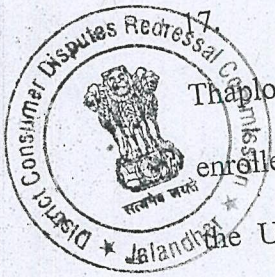


ATTESTED

Binla S
Superintendent

07/4/2025

16. Now comes the question of Dr. Rajinder Thaploo, who is also allegedly, Cardiologist. It has been submitted by Counsel for the complainant that Dr. Rajinder Thaploo was never registered with Punjab Medical Council and he got registered with Indian Medical Council in 2021, but he treated the patient in 2019, therefore, at that time he was not possessing the adequate qualification to practice cardiology, whereas the counsel for the OP has submitted that Dr. Rajinder Thaploo is a cardiologist and has worked with many hospitals for the last so many years as a senior cardiologist. On 08.07.2019 also he treated Smt. Varsha Goel as he was a cardiologist and he was having degree and is registered with the IMA also.



As per Ex.C-43, the website, the name of Dr. Rajinder Thaploo, nowhere finds mentioned, meaning thereby that he was not enrolled as a doctor with the OP. Ex.OP7/3 is the certificate issued by the University of Jammu in the year 2010 regarding Dr. Rajinder Thaploo, who has passed the examination of doctor of medicine. Ex.OP-7/2 is the registration of Dr. Rajinder Thaploo with Himachal Pradesh medical council and the registration is of 26.05.2022. Certificate of registration of additional qualification under Section 15 of State Medical Council Act 1988 is Ex.OP7/1 and that also shows that he is registered with Jammu and Kashmir Medical Registration Council. Ex.OP7/5 is the Post Graduate training as a diploma of National Board for the practice of Cardiology in the exam held in June, 2018. As per Section-4 (2) of Medical Registration Punjab Act of 1916 that 'except with the special sanction of (State) Government no one other than a registered practitioner shall be competent to hold any appointment as physician, surgeon or other medical officer in any hospital, asylum, infirmary, dispensary or lying-in hospital not

ATTESTED

Bhinder A
 Superintendent

02/4/2025

supported entirely by voluntary contributions or an medical officer of health.' The complainant has proved on record the information taken under RTI dated 28.05.2024 and 27.06.2024, which is the part of the file and as per law, the documents filed during arguments can be considered for the purpose of adjudicating the controversy properly. As per the letter dated 28.05.2024, vide which the information sought by the complainant was given under RTI Act with the remarks 'Dr. Rajinder Thaploo is registered with J&K Medical Council, vide regd. No.10593 dated 27.01.2009 (MBBS) and his additional qualification MD medicine is registered with this council dated 24.08.2013 under No.1872. His name is still borne on the register of registered medical practitioners maintained by Jammu & Kashmir Medical Council.' The



letter dated 27.06.2024 shows that his name has been registered with Himachal Pradesh State Medical Council Shimla on 26.05.2022

Whereas Smt. Varsha Goel was admitted in the hospital on 08.07.2019.

As per the information dated 17.12.2023 taken under RTI Act Dr. Rajinder Thaploo was not registered with the Punjab Medical Council. The OP has not produced on record any document to show that he was registered with IMCA or with Punjab Medical Council at the relevant time i.e. on 08.07.2019.

It has been held by the Hon'ble National Commission in a case titled as '*Goel Hospital Vs. Krishan Gopal Shukla*', decided on 07.05.2013, in a Revision Petition No.4023 of 2011 against the order of Rajasthan State Consumer Commission that '*undergoing several trainings, attending workshops in cardiology did not confer qualification of cardiologist unless and until the same is recognized by MCI*' It has further been observed by the Hon'ble National Commission in above said case that the persons who are misrepresenting and posing

ATTESTED

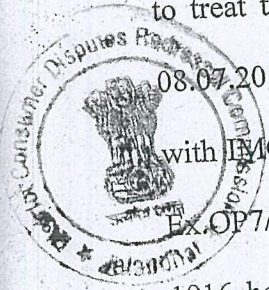
W. S. Shukla
Superintendent

02/4/2025

as a specialist or super specialist without any approved qualification by the statute or controlling authority, it is a quackery that treating the patient in absence of valid degree.

18. So, from the discussion and law laid down by the Hon'ble Supreme Court and the documents, it is proved that Dr. Vivek Sharma is not a qualified as a cardiologist. He is having the diploma of Cardiology, which is not recognized by the IMC, therefore, cannot be considered to be a cardiologist or specialist as discussed by the Hon'ble National Commission. He has filed application for registration transfer Ex.OP7/7 on 10.05.2019 but was not registered till 08.07.2019. So, Dr. Vivek Sharma did not possess the required and adequate qualification to treat the cardiac patient Smt. Varsha Goel, who was admitted on 08.07.2019. Similarly, Dr. Rajinder Thaploo was never registered either with IMCA nor with PMC at the relevant time i.e. on 08.07.2019 vide Ex.OP7/9. As per Section-4(2) of Medical Registration Punjab Act of 1916 he is not qualified as a Cardiologist. As per Ex.OP7/5, he has pursued the prescribed course of Post Graduate training and is Diploma holder for the practice of cardiology. Thus, as per the law laid down by the Hon'ble National Commission in a case titled as '*Goel Hospital Vs. Krishan Gopal Shukla*', decided on 07.05.2013, he did not possess requisite qualification or degree on 08.07.2019 and as per the law laid down by the Hon'ble Supreme Court in a case, titled as "*Jacob Mathew Vs. State of Punjab and Anr.*" in 2005 (6) SCC 1, he was not competent to treat.

19. It is proved that Smt. Varsha Goel was admitted in Cardiac Centre in the hospital of OPs on 08.07.2019. It is also proved that she had suffered severe heart attack and her condition was very critical when she was admitted. As per the bed head ticket Ex.OP-1/G, the



ATTESTED

B. Gulab
 Superintendent

02/4/2025

patient Smt. Varsha Goel was presented to the emergency with complaint of 'severe chest pain radiating to left arm alongwith sweating uneasiness, epigestic discomfort and shortness of breath'. As per record, she was presented before Dr. Ashutosh, Medical Officer, who, advised:-

- need of 'Thrombolysis' and urgent admission,
- required 'stabilization
- ECG was suggestive of acute inferior wall MI'.
- Report of ECHO was 'RWMA present in RCA Territory Moderate Systematic Dysfunction.'

The name of Dr. Rajinder has been mentioned. As per his report, 'planned for Thrombolysis, no contradiction of Thrombolysis', The record shows that entire treatment was done and planned without instructions from Dr. Raman Chawla. Then on the same day i.e. 08.07.2019 Dr. Vivek Sharma checked the patient and prescribed the treatment. It has been mentioned that pros and cons of Thrombolysis were explained to the attendants. It has nowhere been mentioned in these proceedings that Dr. Vivek had prescribed the treatment after having consultation either with Dr. Rajinder as alleged or with Dr. Raman Chawla. It has also not been mentioned anywhere that the attendant of Smt. Varsha Goel opted for giving Thrombolysis injection to the patient in place of angiography or angioplasty. In the entire proceeding, nothing has been mentioned that the attendants of the patient were ever informed about the alternative treatment of angiography or angioplasty. As per record, at 06:10 PM, 'the patient was feeling comfortable, mild chest discomfort was found' and necessary medicine was given by Medical Officer. Again she was checked by Dr. Vivek on 08.07.2019 at 09:00 PM and as per his



ATTESTED

Bimla D
Superintendent

02/4/2025

observation 'post Thrombolysis, the patient was clinically stable' and it has been mentioned that 'she was comfortable than previous condition and follow treatment chart' was advised. Again on 09.07.2019 at 08:10 AM, Medical Officer checked the patient and no fresh complaint was found. At 11:20 AM, Dr. Vivek checked her and she was found relatively stable. No chest pain was found. Then Dr. Rajinder visited and checked the patient at 04:00 PM and it was mentioned 'need CAG i.e. Coronary Angiogram'. No action was taken at that time, nothing has been mentioned that the attendants never gave any consent for angiography, nothing has been mentioned by Dr. Rajinder that anything was explained to the attendants rather it was mentioned by Dr. Vivek at 09:00 PM, on 09.07.2019 that need of coronary angiogram was explained to the attendants again, nothing has been mentioned about the time taken by the attendants for giving consent as alleged. On 10.07.2019, the medical officer checked and mentioned about the 'plan to do CAG on 10.07.2019'. The advice was taken from Dr. Raman Chawla only on 10.07.2019 mentioned as '10.07.2018' in the bed head ticket chart at 02:10 PM. On 10.07.2019, the angiography was done and as per the record the patient was kept under strict monitoring and angioplasty was performed on next day. Thereafter, she developed complication and could not survive. From the bed head ticket chart, it is proved that it was only Dr. Vivek, who attended the patient and visited her time and again and advised the treatment alongwith Dr. Ashutosh, Medical Officer and only two times i.e. on 08.07.2019 at 04:00 PM and on 09.07.2019 (no time mentioned) Smt. Varsha Goel was attendant by Dr. Rajinder.

20. As discussed above, neither Dr. Vivek Sharma nor Dr. Rajinder Thaploo was competent to treat Smt. Varsha Goel, who, was



ATTESTED
 Simla D
 Superintendent
 02/4/2025

admitted in the Cardiac Centre and her condition was critical as has been admitted in the written statement that the condition of the patient was very critical and she was admitted in critical care unit of hospital. It is mentioned in written statement that need of CAG was explained to the complainant and other family members and the procedure was done by the doctor as per the consent of the complainants. It has further been alleged in the written statement by the OPs that the complainant opted for Thrombolysis and not for angiography as he was informed about the pros and cons of both the treatment, but as discussed above, nothing has been mentioned in the bed head ticket chart that the complainants were ever informed and explained about the alternative mode of treatment i.e. angiography. The OP has relied upon the consent given by the complainant Ex.OP-1/C to Ex.OP1/E. Perusal of Ex.OP1/C shows that it is written in Punjabi, but as per submission of the complainant, Sh. R. P. Goel was not knowing Punjabi and he never writes in Punjabi, but at this stage, this question is not in controversy. The point is as to whether the alternative mode of treatment was ever explained to the complainant or not. As per this statement and consent letter, the injection was required as a blood thinner except this nothing has been mentioned. Nothing has been mentioned about the name of the injection or about angiography or angioplasty. So, the contention that the complainant did not give consent for angiography is not tenable.

21. Another arguments of the OPs is that the consent for angiography or angioplasty was not given in time and the complainant took time to give the consent. Ex.OP1/D clearly shows that there was consent of angioplasty also alongwith coronary artery bypass surgery/IABP/insertion etc. which are life saving interventions. Ex.OP1/E also is separated consent for angioplasty. It has nowhere

ATTESTED

[Signature]
Superintendent

02/4/2025

02/4/2025

been mentioned either in Ex.OP1/D or Ex.OP1/E a separate consents for angiography or angioplasty are required. There is nothing on the record which may show that the complainant ever made request for time to give consent. Even otherwise it cannot be presumed by any stretch of imagination that a patient, who, is in a bad condition the attendant will seek time to give consent as at that time the paramount important thing for every attendant/relative is to save the patient and not to wait for time or to consult with other doctors as alleged by the OPs. Moreso, the consent for angioplasty was already given vide Ex.OP1/D. In such circumstances, when the patient's life is at risk and chances of survival are very low, the attendants would definitely take the risk to give the best of treatment in order to try to save the life of the patient especially when patient is already in Cardiac Center and the chances for her survival are low. It is admitted and proved that Smt. Varsha Goel was admitted in the hospital on 08.07.2019.



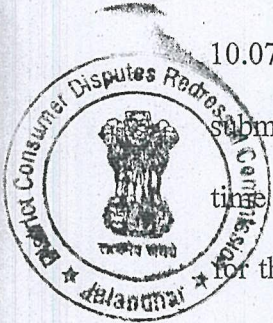
It is also admitted that Dr. Raman Chawla was not available there at the time of admission and initial treatment. It has alleged by the OPs during the enquiry before the Medical Board that the complainant was informed about the non-availability of Dr. Raman Chawla, but this assertion raised by the OP before the Medical Board has not been proved by him in the present complaint. There is no such document or even allegation in written statement and on record to show that the complainant was ever made aware about the non-availability of Dr. Raman Chawla, the Cardiologist. It has further been alleged by the OPs that the complainant was fully made aware about the alternative mode of treatment i.e. angiography and angioplasty, but again as per record produced by both the parties, it has no where been proved that angiography/angioplasty was offered as a first line of treatment to the

ATTESTED
Supriya
 Superintendent

02/4/2025

02/4/2025

patient. As per the bed head ticket, angiography was done on 10.07.2019 and the angioplasty was scheduled to be done in the morning of 11.07.2019. Generally angiography and angioplasty are performed during the same procedure, wherein angiography helps identifying blockages and angioplasty then treats them wide widening the blocked artery with a balloon or a stent. If the blockages are found during angiography, the doctor can proceed immediately with angioplasty to open up the affected artery and this approach is used because it can be a single less invasive procedure improving patients outcomes, but in the present case, angiography and angioplasty were not done together at the same time, rather the angiography was done on 10.07.2019 and angioplasty was done on 11.07.2019. As per submission of the OP, the angioplasty could not be done at the same time as the patient took time to give consent and consent was not given for the angioplasty and the same was performed in the evening time as before performing the angioplasty, the patient is to remain empty stomach, whereas the patient was not empty stomach, therefore, the same was performed in the evening, but this contention is not tenable as per Ex.OP1/D consent for angioplasty was there. As per the Medical Literature, the element of consent is a very critical issue in medical treatment. Where generally if there is no emergency situation, then the doctor can delay the treatment and refuse for treatment, but where there is emergency and in order to save the life of the patient, the doctor need not get consent of the attendants. It has been held by the Hon'ble Punjab State Commission, in a Misc. Application No.541 of 2019 in Consumer Complaint No.129 of 2016, decided on 31.10.2019, case titled as '*Manisha Dehran and Ors. Vs. J. P. Hospital, Super Speciality Corporate Hospital*' that '*As per Regulation 7.16 of Indian Medical*



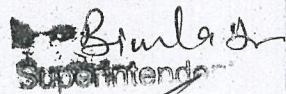
ATTESTED

Banda
Superintendent

02/4/2025

Council (Professional, Conduct, Etiquette and Ethics) Regulations, 2002, it is a legal requirement that doctors must take consent before performing any procedure or operation. The obtaining of consent is must except in medical emergency cases, life saving treatment can be given even in absence of the consent. It has further been held by the Hon'ble State Commission that *'in case the consent is obtained the doctor must explain to the patient or his attendants why this particular treatment is necessary and appropriate for him or her.* In a case titled as *'Dr. T. T. Thomas Vs. Elisa'*, AIR 1987 Kerala 52, decided on 11, August 1986, the Hon'ble Kerala High Court that it is the doctor's ethical and legal duty to treat the patient to best of his ability. Lack of valid consent is not a constraint in life threatening situation. The Hon'ble Supreme Court in a case titled as *'Parmanand Katara Vs. Union of India & Ors.'* 1989 SCR (3) 997, decided on 28, August 1989 has expended the scope and jurisprudence of emergency medical care in India. It mandated that both public and private hospitals and doctors must provide immediate medical aid in emergency cases. It has been observed that no legal formalities are required in emergency cases. In the present case, the consent of angiography and angioplasty both was given vide Ex.OP1/D and during the procedure of angiography, it was obligatory upon the doctors to perform angioplasty, if it was required. They should not have waited for further consent. It is not the case of the OP that at the time of performing angiography, angioplasty was not required immediately.

23. Another defence taken by the OP is that the deceased was not empty stomach, but this contention is again not tenable. It is proved that Smt. Varsha Goel suffered severe heart attack and was in critical care unit and it was an emergency case. She was in the hands of the

ATTESTED

 Superintendent
 02/4/2025



hospital administration only. It was the duty of the hospital to take care of the fact that the patient does not take any meal or anything before angioplasty. More so, in the hospital the meal to the patient is provided by the hospital only. As per Ex.C-14, which is the final bill prepared by the OP, the charges for diet have been taken only for three days i.e. till 10.07.2019 and no meal was provided by the OP to the complainant on 4th day i.e. on 11.07.2019. This fact itself shows that she was not given any diet in the morning and she was empty stomach. There is no explanation why there was delay in performing the angioplasty.

24. From the above discussion, it is proved that Dr. Rajinder Thaploo was not possessing required qualifications as he was not registered with the Punjab Medical Council or Indian Medical Council at the relevant time i.e. from 08.07.2019 to 11.07.2019. He was not senior cardiologist as alleged. There is nothing on record to show that consent was ever refused by the complainant for angioplasty consequent upon angiography. Similarly, Dr. Vivek Sharma was also not a cardiologist and his degree has not been recognized by the IMC. As per record, it is clear cut case of misrepresentation as both the doctors, who were available in the hospital, at the time of admission and initial treatment, were not eligible for practicing cardiology acceptable to medical profession of that day as they did not have required qualifications. It is also proved that Dr. Raman Chawla was not there. This shows that in the absence of expert Cardiologist, Dr. Raman Chawla, the two available doctors had to rely on Thrombolytic procedure and as per record only the Thrombolytic procedure was discussed with the attendants of the patients and consent was also obtained from them with that regard only. Had there been no misrepresentation in the designation of Dr. Rajinder Thaploo and Dr.



ATTESTED

Bimla
Superintendent

02/4/2019

02/4/2019

Vivek Sharma as Cardiologist and had it been clear to the patient's family that in the absence of Dr. Raman Chawla, Cardiologist, there is no available Cardiologist in the hospital, the family members might have decided to take the patient to some other hospital, where a cardiologist was available at that time. Dr. Raman Chawla was available on 10.07.2019 and on that very day, he performed the angiography but angioplasty was not performed immediately. As per Ex.OP1/AAE, the Medical Board has opined that there was no gross negligence meaning thereby that negligence was found by the Medical Board. Thus, in view of the judgments passed by the Hon'ble Supreme Court, Hon'ble National Commission and Hon'ble State Commission, it is concluded that there was misrepresentation and misleading information in relation to the services rendered by the OPs No.1 to 3 and 7 as per Section 2(28) of the Consumer Protection Act, 2019 while treating Smt. Varsha Goel and they were negligent in providing services to Smt. Varsha Goel.

25. In view of the above detailed discussion, the OPs No.1 to 3 and 7 are held negligent in providing services to Smt. Varsha Goel. Deficiency in service and unfair trade practice has been proved. In such circumstances, the OPs No.1 to 3 and 7 are jointly and severally directed to pay Rs.5,00,000/- to the complainant. So far as the OPs No.4 to 6 are concerned, it is concluded that there is no privity of contract between the complainant and the insurance companies i.e. OP No.4 to 6. So, accordingly, we hold that the OPs No.1 to 3 and 7 can lodge the claim for reimbursement with the insurance companies i.e. OP No.4 to 6 and the insurance companies shall decide the same expeditiously as per rules. The complainant has not claimed any relief directly from the OP No.4 to 6, therefore, the complaint of the complainant against OP



ATTESTED

B. S. S.
Superintendent

02/4/2025

No.4 to 6 is dismissed and partly allowed qua OPs No.1 to 3 and 7. The entire compliance be made within 45 days from the date of receipt of the copy of order, failing which the OPs No.1 to 3 and 7 shall be further liable to pay the awarded amount with interest @ 6% per annum from the date of filing complaint, till realization. This complaint could not be decided within stipulated time frame due to rush of work.

26. Copies of the order be supplied to the parties free of cost, as per Rules. File be indexed and consigned to the record room.



Dated
24.03.2025

Sd/-
Member

Sd/-
Member

Sd/-
President

Free Certified Copy 173 of 2021

Case No. _____

Serial No. of the Application _____ 02-04-2025 (1)

Date of receipt of Application _____

Name of the applicant _____ Sh. Kunal Goel (Complainant-1)

Date of disposal _____ 24-03-2025

Date of Preparation of copy _____ 02-4-2025

Date of dispatch of free certified copy of order _____ 02-4-2025

By Hand _____

By Post _____

Dimple
02/4/2025

Certified to be true copy
Bimla
Superintendent
District Consumer Disputes
Redressal Commission
Jalandhar

02/4/2025

Prepared by _____
Compared by _____

02/4/2025