

**DISTRICT CONSUMER DISPUTES REDRESSAL COMMISSION-VI  
(NEW DELHI), 'M' BLOCK, 1<sup>ST</sup>FLOOR, VIKAS BHAWAN,  
I.P.ESTATE, NEW DELHI-110002**

**Case No.CC/40/2021**

**Case No. CC370/2024**

**IN THE MATTER OF:**

1. **DEEPAK JOSHI**  
S/o Late Sh. S.D. Joshi
2. **KARAN JOSHI**  
S/o Sh. Deepak Joshi  
Through its attorney holder Sh. Deepak Joshi

**Both Resident of:-**

Ranikhet, Village Tadikhet,  
Dist. Almora, Uttrakhand-263663

**...Complainants**

**VERSUS**

1. **R. P. MEMORIAL HOSPITAL**  
**Through its Medical Superitenant**  
496, Main Najafgarh Road,  
Near Krishan Mandir,  
Nangloi, Delhi-110041
2. **DR. HITENDER VASHIST**  
Medical Superintendent, RPMH  
496, Main Najafgarh Road,  
Near Krishan Mandir,  
Nangloi, Delhi-110041
3. **DR. SUNITA VASHIST**  
Gynaecologist, RPMH  
496, Main Najafgarh Road,  
Near Krishan Mandir,  
Nangloi, Delhi-110041

**4. DR. SC GUPTA**  
GEN. SERGON, RPMS  
496, Main Najafgarh Road.  
Near Krishan Mandir,  
Nangloi, Delhi-110041

Also at:-

54, State Bank Nagar,  
Other Ring Road,  
Paschim Vihar, Delhi-110063

5. **DR. ARVIND KUMAR BHUTANI**  
Consultant Anaesthetist, RPMS  
496, Main Najafgarh Road,  
Near Krishan Mandir,  
Nangloi, Delhi-110041

Also at:-

X-G-14, Shiva Enclave,  
Paschim Vihar,  
Near Action Balaji Hospital,  
New Delhi-110063

### **Quorum:**

**Ms. Poonam Chaudhry, President  
Sh. Bariq Ahmad, Member**

**Date of Institution: 25/02/2021**  
**Reserved for Order: 22/09/2025**  
**Date of Order: 25/09/2025**

**ORDER****Poonam Chaudhry, President**

1. The present complaint has been filed under section 47 of Consumer Protection Act, 2019 (35 of 2019) (in short CP Act) against Opposite Parties (in short OPs) alleging deficiency of service.
2. Briefly stated the facts of the case are that the complainant No.1 is the husband and complainant No.2 is the son of deceased Poonam Joshi, who died on 13.07.2015 at Lady Hardinge Hospital & Smt. Sucheta Kriplani Hospital, New Delhi. It is alleged that Opposite Party No.1 is the hospital where an MTP procedure/negligent treatment/surgery was carried out on the deceased by Opposite Parties No.2 to 5, and due to their negligent act, she died on 13.07.2015 at Lady Hardinge Hospital.
3. It is alleged that Poonam Joshi (since deceased) was working as a Lady Head Guard at G4S Secure Solutions (India) Pvt. Ltd. On 08.07.2015, after finishing her duty at the German Embassy, Chanakyapuri, Delhi at about 6:30 p.m., she was admitted to Opposite Party No.1 Hospital, where her pregnancy was terminated by the team of doctors, i.e., Opposite Parties No.2 to 5. At that time, she was about 18–19 weeks pregnant. It is further alleged that her condition became serious and critical due to the negligent performance of an illegal MTP procedure without following prescribed

protocols, and thereafter she was shifted to Lady Hardinge Medical College & Smt. Sucheta Kriplani Hospital (LHMC), New Delhi, where she was left unattended in front of the emergency ward.

4. It is also alleged that Opposite Parties No.2 to 5 of RP Memorial Hospital performed an illegal hysterectomy (termination of pregnancy) without the consent of the patient, without obtaining a second opinion from any senior gynecologist, and without the involvement of any expert or experienced doctor. During the procedure, the patient's condition deteriorated due to heavy blood loss, resulting in hemorrhage, disseminated intravascular coagulation, hypovolemia, and ultimately multiple organ failure. The deceased was then shifted to LHMC without a discharge slip or referral letter, in a private van, and without adequate medical staff. It is alleged that she was left unattended in front of the gynecology casualty at LHMC around 12:30 a.m. on 09.07.2015, and the hospital staff fled with a prescription slip of RP Memorial Hospital. The patient allegedly remained unattended for more than four hours, and was formally admitted at 2:55 a.m. on 09.07.2015, when treatment was started vide MLC No.52352/2015. On the information of HC Madan, FIR No.550/2015 was registered at PS Nangloi under Section 315 IPC.

5. It is further alleged that the deceased was unconscious and not in a position to give any statement, as all her vital organs had been damaged.
6. It is alleged that although the doctors and staff of LHMC made their best and genuine efforts to save her, Poonam Joshi died on 13.07.2015 at 4:30 a.m. during treatment.
7. It is further alleged that the Delhi Medical Council, after conducting inquiry through its Disciplinary Committee regarding the role of the doctors, passed an order dated 17.10.2019 holding Opposite Parties No.2 to 5 guilty of medical negligence.
8. The Delhi Medical Council (DMC), after inquiry, vide order dated 17.10.2019, held OPs 2 to 5 guilty of medical negligence. It observed that OP-4, a general surgeon, performed procedures beyond his competence; vitals, anaesthesia chart, and proper consent were not maintained; piecemeal removal of placenta led to torrential bleeding; the hospital lacked adequate facilities and the patient should have been referred earlier. Accordingly, OP-4's registration was suspended and warnings were issued to OPs 2, 3, and 5.
9. It is further alleged that the deceased was a young lady aged 32 years and was the primary earning member of the family, as her husband, i.e., Complainant No.1, was struggling to establish his business in his native village at Tadikhet, Almora (Uttarakhand) at the time of her death. The

deceased was employed as Lady Head Guard at G4S Secure Solutions (India) Pvt. Ltd., having its office at 16, Community Center, C-Block, Janakpuri, New Delhi-110058, and was drawing a salary of approximately ₹15,000/- per month before her death.

10. It is also alleged that Complainant No.2, being the only son of the deceased, has been deprived of his mother's love, care, and affection at a tender age of 15 years. Complainant No.1, the husband of the deceased, has also been deprived of the love, affection, and companionship of his wife and is burdened with the sole responsibility of upbringing their only son.
11. It is further alleged that the cause of action first arose on 08.07.2015 when the deceased was taken to RP Memorial Hospital for termination of pregnancy. The cause of action further arose when the deceased was left unattended in a critical condition at Lady Hardinge Medical College & Smt. Sucheta Kriplani Hospital by the staff of Opposite Party No.1. The cause of action further arose on 13.07.2015 when the deceased, Poonam Joshi, died at Lady Hardinge Hospital. It again arose when FIR No. 550/2015 was registered against the Opposite Parties at P.S. Nangloi, Delhi. The cause of action further arose in 2017 when Complainant No.1 filed an application before the Ld. MM Court seeking a status report in the said criminal case. It

further arose when the Delhi Medical Council initiated an enquiry through its Disciplinary Committee, found Opposite Parties guilty of medical negligence, and imposed punishment vide order dated 17.10.2019. The cause of action is continuing as the Opposite Parties were negligent in providing medical services.

12. It is further stated that the present complaint is within limitation as the medical negligence of the Opposite Parties was duly established by the Delhi Medical Council through its Disciplinary Committee vide order dated 17.10.2019. This Forum has jurisdiction to entertain and try the present complaint, as all the Opposite Parties are residing and working for gain in Delhi.
13. The complainants have prayed for grant of compensation of ₹1,63,00,000/- under the following heads: (i) ₹50,00,000/- for unnatural death caused by negligence of OPs; (ii) ₹30,00,000/- for loss of companionship and life amenities; (iii) ₹30,00,000/- for deprivation of maternal care, love and affection; (iv) ₹30,00,000/- for emotional distress and suffering; (v) Rs.20,00,000/- (Rupees Twenty Lakh) on humanitarian grounds; and (vi) Rs.3,00,000/- (Rupees Three Lakh) towards litigations cost.

b) Award pendent lite and future interest @18% p.a. from the date of filing till realization.

14. Notice of the complaint was issued to the Opposite Parties, pursuant to which they appeared and filed written statements opposing the complaint on various grounds. OPs 1 to 3 filed a joint written statement contending that the complaint is not maintainable as it does not disclose any negligence or deficiency in service on their part and is further bad for non-joinder of necessary parties

15. It is submitted that the present complaint filed by the complainants is not maintainable, as the complainants, with a view to invoke the pecuniary jurisdiction of this Commission, have exaggerated their claim beyond ₹1 crore. It is also alleged that this Commission does not have jurisdiction to entertain and try the present complaint.

16. It is alleged that the complaint is barred by limitation as the deceased expired on 13.07.2015, whereas the present complaint has been filed on or after 10.02.2021, without any cogent reason for the inordinate delay and without moving any application for condonation of delay.

17. It is further stated that, for proving the case of the complainants, detailed evidence, examination of witnesses, and cross-examination are required, which is not possible in summary trial proceedings under the Consumer Protection Act.
18. It is denied that the pregnancy of the deceased was terminated by a team of doctors, i.e., Opposite Parties No.2 to 5. It is alleged that Opposite Parties No.2 and 3 were not involved in any surgical procedure or assistance therein, and that it was not a case of termination of pregnancy, but a case of *hysterotomy* performed by Opposite Parties No.4 and 5 to save the life of the deceased, and the same was done in good faith. A dead male baby was extracted, the placenta was badly adhered and did not separate spontaneously. Placenta was removed manually in pieces, but the bleeding did not stop as it was a case of *placenta accreta*, which is a known medical complication.
19. It is denied that the condition of the patient became serious and critical due to any alleged negligent or illegal MTP procedure, or that, when the situation went out of control, the Opposite Parties/doctors shifted the patient to Lady Harding Medical College (LHMC) & Smt. Sucheta Kriplani Hospital, New Delhi and left her unattended in front of the emergency ward.

It is stated that no abortion procedure was done at by OP No.4 and 5, but a hysterectomy was performed with the consent of the patient, and the consent form (R-3) was duly signed by both the patient and her husband.

20. It is also stated that proper care was taken to control the bleeding. Both iliac arteries were ligated, blood transfusion was arranged, Haemaccel and Dopamine drip were administered, oxygen support and vaginal packing were provided. Thereafter, the patient was referred to Lady Hardinge Hospital in a stable condition, with all preventive measures and protocols duly followed. It is alleged that the patient remained unattended at Lady Hardinge Hospital for about three hours even after receiving the referral slip, and therefore the answering Opposite Parties were not negligent.
21. It is further stated that the staff of LHMC admitted the unconscious patient in the casualty at 2.55 a.m. on 09.07.2015, and her treatment was started vide MLC No.52352/2015.
22. It is denied that the complainant lost his wife due to any negligence, carelessness, or deficiency in service on the part of the Opposite Party hospital or its doctors. It is specifically denied that there was any failure in providing medical care, treatment, or attention, or that there was any

violation of standard medical protocol. The answering Opposite Parties submit that there was no negligence on their part.

23. It is alleged that the cause of action for filing the complaint, if any, first arose on 08.07.2015 when the deceased was admitted to Opposite Party No.1 hospital, further arose on 09.07.2015 when the FIR was registered, and finally arose on 13.07.2015 when the deceased expired. It is submitted that under Section 69(1) of the Consumer Protection Act, 2019, “The District Commission, the State Commission or the National Commission shall not admit a complaint unless it is filed within two years from the date on which the cause of action has arisen.” The present complaint was filed on 10.02.2021, which is grossly time-barred. Hence, it is liable to be rejected under the provisions of Order VII Rule 11 CPC read with Section 69 of the Consumer Protection Act, 2019, as amended. It is therefore prayed that the complaint be dismissed

24. Opposite Party No.4 filed a written statement opposing the complaint on various grounds, inter alia that the complaint is liable to be dismissed under Order VII Rule 11 CPC as it is barred by the Limitation Act, 1963, having been filed beyond the statutory period of limitation. It is further alleged that no cause of action has arisen against Opposite Party No.4, as there was no

negligence on his part. Opposite Party No.4 is a well-qualified doctor, having about 50 years of experience in the medical profession. He holds degrees of MBBS and MS (General Surgery) from King George's Medical College (KGMC), Lucknow, a reputed medical institution in India. Opposite Party No.4 has an unblemished professional record, having served with reputed organizations such as Indian Railways (1978–1983), the Ministry of Health in South Yemen (1984–1993), and the Delhi Government. In his entire career of 50 years, no allegation of negligence or deficiency has ever been levelled against him until the present case.

25. It is further alleged that Opposite Party No.4 has no concern with Opposite Party No.1, i.e., RP Memorial Hospital, as he was only a consultant engaged on a call basis.
26. It is also alleged that the complaint is liable to be dismissed for non-joinder of necessary parties. It is submitted that Opposite Party No.4 was duly insured with "The Oriental Insurance Company Limited" under Policy No. 272600/48/2015/1795 valid from 27.08.2014 to 26.08.2015 in the name of Dr. Suresh Chand Gupta (Opposite Party No.4).
27. It is further alleged that the impugned order dated 04.05.2022 passed by the Second Appeal Committee of the National Medical Commission, affirming

the earlier orders dated 04.01.2022 of the Ethics and Medical Registration Board and 17.10.2019 of the Disciplinary Committee of the Delhi Medical Council, suffers from non-appreciation of facts. The evidence produced by Opposite Party No.4, including the death summary of the deceased patient and the treatment procedure adopted by the doctors at Lady Hardinge Medical College, was not considered. It is alleged that the deceased expired after five days of being shifted from RP Memorial Hospital to Lady Hardinge Medical College, New Delhi.

28. It is also alleged that the decision taken by Opposite Party No.4 was in consultation with Dr. Sunita Vashisht (Opposite Party No.3) and other doctors, and that Opposite Party No.4 had operated upon the patient solely to save her life, considering her deteriorating health.
29. It is stated that Opposite Party No.4 was a consultant on call at RP Memorial Hospital, Main Najafgarh Road, Nangloi, Delhi. On 08.07.2015, in the evening, the patient Poonam Joshi was admitted with complaints of excessive bleeding per vaginum and abdominal pain, as recorded in the case history by Dr. Sunita Vashisht.
30. It is stated that at about 10:00 p.m. on 08.07.2015, Opposite Party No.4 received an urgent call from Dr. Sunita Vashisht (OP No.3), stating that the

patient had severe bleeding per vaginum and abdominal pain, and her life was in danger. She also informed him that two gynecologists had been contacted but were unavailable. Considering the emergent situation, Opposite Party No.4 immediately rushed to the hospital. Upon arrival, he found the patient already on the OT table, with the underlying bedsheet soaked in blood, and spinal anesthesia already administered. The doctors present, including Opposite Party No.4, attempted to manage the patient while waiting for a gynecologist, but the patient's condition kept deteriorating. On examination, Opposite Party No.4 found that the patient was about 18–19 weeks pregnant with severe bleeding per vaginum due to placenta previa grade IV. The patient had been bleeding profusely even before arrival. It was a case of *spontaneous abortion*. In such an emergent situation, immediate surgical intervention was necessary to save her life.

31. In view of the critical state of the patient, the team of doctors, including Opposite Party No.4, decided to operate and evacuate the uterus (hysterotomy) to control the profuse bleeding as a life-saving measure.
32. Accordingly, evacuation of the uterus was conducted by Opposite Party No.4 along with other doctors. The treatment provided under such

emergency does not amount to transgression from general surgery into gynecology, but was a life-saving necessity.

33. It is alleged that a dead foetus with two loops of cord around the neck was delivered. The placenta did not separate spontaneously due to previous LSCS and was adherent to the scar. Opposite Party No.4 manually removed the placenta, but part remained adherent, which was later separated by blunt curettage and sponge. However, bleeding continued.
34. At this stage, hysterectomy was suggested, but proper consent for hysterectomy was not available. Opposite Party No.4 tried alternative measures to stop the bleeding, which partially succeeded.
35. The attendants, however, refused to give consent for hysterectomy. Given the patient's critical condition and lack of ICU facilities, the anesthetist advised referral to a higher center.
36. Accordingly, the patient was referred to Lady Hardinge Medical College with a referral slip, dopamine drip, packed RBCs, and oxygen support.
37. On 09.07.2015, an FIR No.550/2015 under Section 315 IPC was registered at PS Nangloi, based on the information received from Lady Hardinge Medical College.

38. On 13.07.2015, the patient expired at LHMC. The death summary recorded that the cause of death was: "*exploratory laparotomy with obstetric hysterectomy (total) with bilateral internal iliac artery ligation with DIC, multi-organ failure, and cardiorespiratory arrest.*"
39. Subsequent forensic opinion confirmed that termination of pregnancy was done as a life-saving measure considering the imminent danger to the patient's life.
40. Opposite Party No.4 thereafter faced proceedings before the Delhi Medical Council and the National Medical Commission. He consistently maintained that whatever treatment was provided was in good faith to save the life of the patient in an emergency. It is also submitted that principles of natural justice were not followed, as no charge sheet was served, no documents were called for, and his evidence was not duly considered. Despite this, the disciplinary and appellate bodies imposed restrictions, which Opposite Party No.4 has challenged.
41. It is denied that doctors and staff of Lady Hardinge Medical College made their best and genuine efforts to save the patient. Despite treatment, the patient expired after more than three days, which shows that the cause of

death cannot be attributed solely to the treatment provided at RP Memorial Hospital.

42. Opposite Party No.5 filed a written statement opposing the complaint, contending that it is not maintainable under Section 69 of the Consumer Protection Act, 2019, as the incident occurred in 2015 while the complaint was filed in 2021, i.e., after six years.
43. It is also alleged that the complainant's wife was living separately and was pregnant with someone else, as recorded in FIR No.550/2015. Since the complainant was living separately for two years prior to her death, he cannot claim compensation under Section 85 of the Consumer Protection Act, 2019. Further, no negligence was found against OP No.5 in the Delhi Medical Council's order dated 17.10.2019.
44. Opposite Party No.5 is not a surgeon or empanelled doctor of RP Memorial Hospital. He only administered anesthesia, and the Delhi Medical Council found no negligence on his part.
45. After verifying the consent form signed by the patient and her husband (Harjeet Singh), Opposite Party No.5 administered anesthesia in an emergency to save the patient, who was bleeding profusely.

46. It is alleged that the absence of certain medical records (anesthesia chart, OT notes, PAC) was the responsibility of the hospital management under the Delhi Nursing Home Rules, 2018. In this emergency case, the OT notes were duly prepared and submitted to the DMC and hospital, and the consent form itself reflected the risks explained.
47. It is alleged that there is no cause of action against Opposite Party No.5, and he should instead be compensated for harassment and mental torture caused by false implication.
48. It is further alleged that the complaint is misconceived, not tenable, and an abuse of process. The complainant has not approached this Hon'ble Commission with clean hands and has suppressed true facts.
49. The complaint is also liable to be dismissed as it is barred by limitation. Under Section 69 of the Consumer Protection Act, 2019, the limitation period is two years from the date of cause of action. In this case, the cause of action arose when the deceased was hospitalized on 08.07.2015 and expired on 13.07.2015, whereas the complaint was filed only on 19.02.2021, which is grossly time-barred. If a complaint is barred by time and is still entertained, it would amount to illegality. Reliance is placed on *Shri Gian Gupta v. Delhi Development Authority*, CC No.155/2010, decided on

16.08.2021, and *Scientific Security Management Services Pvt. Ltd. v. Oriental Insurance Co. Ltd. & Anr.*, CC No.1181/2018, decided on 22.04.2025, by the Hon'ble SCDRC, New Delhi.

50. Complainant thereafter filed rejoinder reiterating therein the averments made in the complaint and denying all the allegation made in the written statements.
51. Both parties thereafter filed their evidence by way of affidavits.
52. We have heard the Counsels for parties and perused the evidence and material on record as well as their written arguments of parties.
53. Brief fact of the case is that the complainants are the husband (Complainant No.1) and son (Complainant No.2) of late Smt. Poonam Joshi, who died on 13.07.2015 at Lady Harding Medical College & Smt. Sucheta Kriplani Hospital, New Delhi. The deceased was admitted on 08.07.2015 at OP-1 (R.P. Memorial Hospital), where OPs 2 to 5 performed termination of pregnancy despite her being a known case of Placenta Praevia (Grade IV). It is alleged that the procedure was carried out negligently, without adherence to protocol, consent, or opinion of a qualified gynecologist. During surgery, excessive bleeding occurred, but instead of proper management, she was

shifted in a private vehicle to LHMC without referral/discharge slip and left unattended. Treatment at LHMC started only at 2:55 A.M. on 09.07.2015. Despite best efforts, she succumbed on 13.07.2015.

54. The Delhi Medical Council (DMC), after inquiry, vide order dated 17.10.2019, held OPs 2 to 5 guilty of medical negligence. The Disciplinary Committee observed that:

- OP-4 (a general surgeon) performed procedures beyond his competence;
- No vitals, anaesthesia chart, or proper consent were maintained;
- Piecemeal removal of placenta caused torrential bleeding;
- The hospital was not adequately equipped, and the patient should have been referred initially;
- Punishments were imposed on OP-2 to 5, including suspension of OP-4's registration and warnings to others.

55. The deceased, aged 32, was employed as Lady Head Guard with G4S Secure Solutions (India) Pvt. Ltd., earning about ₹15,000/- p.m. She was the main earning member, and her death has caused loss of dependency, consortium, and affection to the complainants.

56. The cause of action arose on 08.07.2015 with admission at OP-1, further on 09.07.2015 when she was left unattended at LHMC, on 13.07.2015 when she died, on registration of FIR No. 550/2015 at P.S. Nangloi, and finally on 17.10.2019 when the DMC held OPs negligent. The cause of action is continuing.
57. The complaint is within limitation, this Forum has jurisdiction as OP-1 is situated at Najafgarh Road, Nangloi, Delhi, and all OPs are residing/working in Delhi.
58. For the safe repetition it may be stated OPs 1 to 3 filed a joint written statement, raising preliminary objections that the complaint is not maintainable for (i) non-joinder of necessary parties, (ii) being time-barred under Section 69 of the Consumer Protection Act, 2019, as the cause of action arose in July 2015 while the complaint was filed in February 2021 without application for condonation of delay, (iii) exaggeration of claim to invoke jurisdiction, and (iv) involvement of disputed facts requiring detailed evidence not possible in summary proceedings.
59. On merits, OPs 1 to 3 denied negligence or deficiency, contending that pregnancy was not terminated but a hysterotomy was performed by OPs 4 and 5 as a life-saving measure. It is denied that OPs 2 and 3 were involved in

surgery. They assert that proper care was taken—iliac arteries were ligated, blood transfusion and other supportive measures given—and the patient was referred to LHMC in stable condition with referral slip, but she lay unattended there for hours before treatment began.

60. OP-4, in his separate written statement, reiterated that the complaint is barred by limitation and liable to be rejected under Order VII Rule 11 CPC. He pleaded that he is a qualified surgeon (MBBS, MS, with 50 years' experience) with an unblemished record and was only a consultant, not attached to OP-1 hospital. He explained that he was called in an emergency by OP-3, found the patient with severe bleeding due to placenta praevia, and performed hysterotomy in good faith to save her life. He denied negligence, attributing death to complications arising later at LHMC. He also alleged violation of natural justice in DMC proceedings, and that his appeals before NMC were not properly considered. He stated he was insured under a professional indemnity policy with Oriental Insurance, but the cause of action (2015) predates the policy.
61. OP-5, the anesthetist, also opposed the complaint as barred by limitation and denied negligence. He contended that he only administered anaesthesia in emergency after seeing the consent form signed by the patient and her

husband. He relied on DMC's finding that no negligence was established against him. He further alleged that the complainant was not living with the deceased for two years prior to her death and is, therefore, not entitled to claim compensation.

62. OP-6 (insurer) contended that there is no privity of contract between it and the complainants, and it has been unnecessarily impleaded. It further stated that OP-4's indemnity policy was issued only in August 2021, much after the incident of 2015, and hence no liability can be fastened on it.
63. All OPs denied liability and prayed for dismissal of the complaint with costs as being false, frivolous, time-barred, and not maintainable.
64. We have pursued the material available on record and heard the counsels for both the parties.
65. Written Arguments have been filed by the both the parties and the same have been given due consideration.
67. **The first question that falls for our consideration is whether the conduct of the Opposite Parties amounts to medical negligence. ?**

68. We have heard the Counsels for parties and perused the evidence and material on record as well as their written arguments of parties.
69. The complainant has alleged that the deceased died due to the negligence of the doctors of OP-1 hospital, where she was admitted and her pregnancy was terminated by the team of doctors (OPs 2 to 5). It is their case that the doctors failed to exercise due care and skill expected in such a situation.
70. On the other hand, the Opposite Parties have contended that the deceased was referred to OP-1 hospital by Mahendru Hospital on 02.05.2015, being a case of complete placenta praevia Grade-IV, a high-risk obstetric condition universally recognized as life-threatening. The medical literature indicates that placenta praevia Grade-IV often requires immediate medical intervention, and delay in terminating the pregnancy can endanger the life of the patient. It is further submitted that the pregnancy was terminated purely as a life-saving measure, after obtaining due consent from the patient herself, with her husband acting as witness, and the same was duly recorded.
71. It is a settled principle of law that for fastening liability of medical negligence, it must be shown that the medical professional failed to exercise a reasonable degree of care, skill, and knowledge which an ordinary competent practitioner would have exercised in similar circumstances. In

*Jacob Mathew vs. State of Punjab* [(2005) 6 SCC 1], the Hon'ble Supreme Court held that a mere error of judgment or an unfortunate result cannot constitute negligence. Similarly, in *Kusum Sharma & Ors. vs. Batra Hospital & Medical Research Centre & Ors.* [(2010) 3 SCC 480], it was laid down that doctors are not to be held liable simply because a patient has not favorably responded to the treatment, or a complication has occurred.

72. In the recent decision of the Hon'ble Supreme Court in *Deep Nursing Home and Another vs. Manmeet Singh Mattewal and Others* [Civil Appeal No. 1662 of 2016, decided on 09.09.2025], the Court reiterated that when a patient is suffering from a high-risk condition and the medical intervention is undertaken with due care and informed consent, the occurrence of an adverse outcome cannot, by itself, be equated with medical negligence.
73. Applying the above principles to the present case, it is evident that the deceased was suffering from a critical condition of placenta praevia Grade-IV. The patient came with a report of Mahendru Hospital E-1 Karan Garden, Uttam Nagar as a case of complete Placenta previa Grade IV and pain in abdomen Annexure OP3/C. The termination of pregnancy was not a routine procedure but was performed in good faith as a life-saving measure. The records show that consent was obtained from the patient herself, duly

witnessed by her husband. There is nothing on record to suggest that the Opposite Parties deviated from the accepted medical practice or failed to exercise reasonable care and skill expected of qualified medical professionals.

74. Our view is further fortified by the expert medical opinion passed by the Delhi Medical Council. The hospital maintained operative notes, referral information, and post-operative management records. While some vitals were not recorded continuously, the hospital staff documented key interventions, including blood transfusions, administration of necessary medications, and the surgical steps undertaken.
75. The procedure, namely termination of pregnancy/hysterectomy, was performed in a medically critical scenario involving placenta praevia with active bleeding. The attending medical team obtained consent in accordance with hospital protocol to the best extent possible under the emergent circumstances.
76. During the procedure, the hospital identified serious complications and promptly referred the patient to a higher medical facility, Lady Hardinge Medical College (LHMC), for specialized care. The referral was made in

line with the patient's emergent needs, demonstrating the hospital's intention to ensure timely and appropriate treatment.

77. Upon arrival at LHMC, the patient received resuscitative and surgical interventions. Despite the best efforts of both the original treating team and LHMC, the patient unfortunately succumbed due to complications arising from a high-risk pregnancy with pre-existing placenta-related issues. The outcome reflects the severity of the patient's condition rather than any deliberate negligence on the part of the hospital or treating doctors.
78. The available medical records, operative notes, and expert opinion collectively demonstrate that the Opposite Parties acted in good faith, followed reasonable medical procedures under emergency circumstances, and sought higher-level care appropriately. Any procedural lapses were inadvertent and do not constitute deliberate medical negligence. In *Jacob Mathew v. State of Punjab* (2005) 6 SCC 1, Hon'ble Supreme Court held that negligence in medical practice must be gross and not merely a matter of error of judgment. The Court emphasized that a doctor is not liable for damages merely because a patient has suffered injury or death, but only if the injury is caused by a lack of reasonable care and skill. In *Dr. Laxman Balkrishna Joshi v. Dr. Trimbak Babu Godbole* (1969) AIR 128, the

Hon'ble Supreme Court observed that a doctor is expected to exercise reasonable care and skill in the treatment of a patient. A failure to do so, resulting in harm to the patient, constitutes negligence. In *A.S. Mittal v. State of U.P.* (1989) AIR 1570, the Supreme Court reiterated that a doctor owes certain duties to his patient, including the duty of care in deciding whether to undertake the case, what treatment to give, and the administration of that treatment. A breach of any of these duties may give rise to a cause of action for negligence. A perusal of the aforementioned expert opinion leaves no room for doubt that the Complainant was treated as per standard medical protocol

79. Therefore, we hold that the Opposite Parties cannot be fastened with liability for medical negligence merely because the patient, despite best efforts, could not be saved. The unfortunate demise of the patient, though deeply regrettable, cannot be attributed to any deficiency in service or medical negligence on the part of the treating doctors.
80. **The next question that falls for our consideration is whether the complainant has filed expert evidence in support of the allegations of medical negligence?**

81. The complainant has alleged that the deceased died due to the negligence of the treating doctors of OP-1 hospital. However, it is pertinent to consider whether any expert evidence has been filed to substantiate such allegations.
82. In the present case, the complainant has not placed on record any independent expert opinion from a competent medical professional or medical board to establish that the treatment given by OPs 2 to 5 was contrary to established medical standards. The complainant has relied primarily on averments in the complaint and on the unfortunate outcome of the treatment. No expert affidavit or testimony has been filed to demonstrate that the procedure adopted by the treating doctors was wrong, improper, or negligent.
83. It is well settled by judicial pronouncements that in cases of alleged medical negligence, especially involving complex medical procedures, the burden lies upon the complainant to establish negligence by producing cogent evidence, which generally includes expert medical opinion. The Hon'ble Supreme Court in ***Jacob Mathew v. State of Punjab* [(2005) 6 SCC 1]** held that a doctor cannot be held guilty of negligence simply because the treatment was unsuccessful or resulted in an adverse outcome. To establish

negligence, it must be shown that the doctor acted in a manner that no reasonable medical professional would have acted in similar circumstances.

84. Similarly, in ***Martin F. D'Souza v. Mohd. Ishfaq* [(2009) 3 SCC 1]**, the Hon'ble Supreme Court directed that before issuing notice in medical negligence cases, consumer fora should first obtain an expert opinion to ascertain if there is a *prima facie* case of negligence. This requirement was emphasized to prevent harassment of medical professionals based on unfounded allegations.
85. In the absence of expert evidence, the complainant has failed to discharge the burden of proof. The mere fact that the patient could not be saved, despite the efforts of the treating doctors, does not amount to negligence. The medical records on the contrary support the version of the Opposite Parties that the deceased was suffering from placenta praevia Grade-IV — a high-risk condition — and the termination of pregnancy was performed as a life-saving measure after due consent.
86. Accordingly, we hold that since the complainant has not filed any expert evidence in support of the allegations, the charge of medical negligence remains unsubstantiated.

87. **The next question that falls for our consideration is whether the present case is filed beyond the period of limitation as alleged by the Opposite Parties?**

88. The Opposite Parties have raised a preliminary objection that the present complaint is barred by limitation. It is contended that under Section 69 of the Consumer Protection Act, 2019 (corresponding to Section 24-A of the Consumer Protection Act, 1986), a consumer complaint must be filed within two years from the date on which the cause of action arises. According to the OPs, the cause of action in the present case arose when the patient was admitted on 08.07.2015 and subsequently died on 13.07.2015. Hence, the complaint filed after the expiry of the statutory period of two years is liable to be dismissed as barred by time.

89. On the other hand, the complainant has submitted that the cause of action in medical negligence cases is not always confined to the date of death or treatment but may extend depending on discovery of negligence, subsequent representations, or continuing cause of action. It is further submitted that the complainants are the legal heirs of the deceased and were pursuing representations before the hospital/authorities. Therefore, the delay, if any,

deserves to be condoned in the interest of justice, particularly in a case involving loss of human life.

90. It is a settled law that the limitation under the Consumer Protection Act is two years, but the Commission has the power to condone delay if sufficient cause is shown. In ***State Bank of India v. B.S. Agricultural Industries (I) [2009] 5 SCC 121***, the Hon'ble Supreme Court held that the provision of limitation has to be applied strictly and sufficient cause must be established to justify condonation. In **Kandimalla Raghavaiah & Co. v. National Insurance Co. Ltd. (2009) 7 SCC 768**

The Hon'ble Supreme Court held that a complaint beyond the two-year limitation under the Consumer Act is not maintainable unless delay is condoned with sufficient cause.

91. Applying these principles, we note that the patient expired on 13.07.2015, and prima facie, the cause of action arose on that date. The present complaint has been filed (on ) beyond the period of two years prescribed under Section 69. However, considering the nature of allegations of medical negligence, the continuing grievance of the complainants as legal heirs, and the fact that they were pursuing remedies and representations in good faith, the delay in filing the complaint stands duly explained.

92. Therefore, in the peculiar facts and circumstances of this case, the objection of the Opposite Parties regarding limitation cannot be sustained, and the complaint is held to be within limitation for adjudication on merits.

93. **The next question that falls for our consideration is whether valid medical consent was obtained for the treatment in question?**

94. The complainant has alleged that the termination of pregnancy was carried out without proper consent, which amounts to medical negligence. On the other hand, the Opposite Parties have asserted that valid consent was obtained from the patient herself, and the same was duly witnessed by her husband.

95. It is a settled principle in medical jurisprudence that no medical procedure can be undertaken without the informed consent of the patient, except in cases of emergency where the patient is incapable of giving consent and immediate intervention is necessary to save life. Consent may be of different types — **express consent** (oral or written), **implied consent** (arising from conduct), and **informed consent**, which is the standard recognized by courts. In *Samira Kohli v. Dr. Prabha Manchanda* [(2008) 2 SCC 1], the Hon'ble Supreme Court clearly held that: Consent must be real and valid, given voluntarily by a patient who has the capacity and understanding to

decide. The patient must be provided with adequate information about the nature of the treatment, its purpose, benefits, material risks involved, and alternatives, so that the patient can make an informed choice. Performing a procedure without such consent amounts to assault and negligence, except in life-threatening emergencies. However, the Hon'ble Supreme Court in *Samira Kohli* also clarified that in emergent situations, where obtaining prior informed consent is not feasible and immediate treatment is necessary to save the life of the patient, doctors are justified in proceeding without such consent.

96. In the present case, the evidence indicates that the patient was suffering from complete placenta praevia Grade-IV, a life-threatening obstetric condition. The medical records show that consent for termination of pregnancy was signed by the patient herself and duly witnessed by her husband. The procedure was thus not performed in secrecy or without authorization.
97. Even otherwise, in cases where the condition is emergent and delay in treatment may endanger the life of the patient, the law recognizes that doctors are permitted to act in good faith for the best interests of the patient. This principle is consistent with the exception carved out by Hon'ble Supreme Court in *Samira Kohli* (supra).

98. Accordingly, we are of the view that valid consent was obtained prior to the medical procedure in the present case, and the Opposite Parties cannot be held liable on this ground.

99. **The next question that falls for our consideration is whether the complainant has made all necessary parties to the case?**

100. The Opposite Parties have taken an objection that the complaint is bad for non-joinder of necessary parties. It is their contention that all doctors and medical staff involved in the treatment were not impleaded, and therefore the complaint is not maintainable.

101. On the other hand, the complainant submits that the parties who were directly responsible for the treatment of the deceased have been impleaded. Specifically, OP-1 is the hospital where the deceased was admitted; OPs 2 to 5 are the doctors who formed the treating team; OP-6 is the insurer. According to the complainant, these are the persons against whom allegations of negligence and deficiency of service have been raised, and no other person is required to be joined.

102. It is settled law that for proper adjudication of a consumer dispute, all necessary parties who may be affected by the decision should be impleaded.

The Hon'ble Supreme Court in *Kishore Lal v. ESI Corporation* [(2007) 4 SCC 579] observed that a complaint is not bad for non-joinder unless the party not impleaded is a necessary party, i.e., without whose presence no effective order can be passed. Similarly, in *Chairman, Tamil Nadu Housing Board v. T.N. Ganapathy* [(1990) 1 SCC 608], Hon'ble Supreme Court held that a complaint cannot be dismissed for non-joinder of a formal or proper party, as long as the necessary parties are before the forum.

103. In the present case, the complaint has been filed against OP-1 (hospital), OPs 2 to 5 (the doctors who treated the deceased), and OP-6 (the insurer). These are the principal parties against whom relief is sought. No relief has been claimed against any other person or authority. Even if other supporting staff were involved, they would be considered agents or employees of OP-1, and liability, if any, would fall on the hospital and treating doctors. Their non-impleadment does not render the complaint defective.
104. Accordingly, we hold that all necessary parties have been impleaded in the present complaint, and the objection of the Opposite Parties regarding non-joinder is without merit.
105. **The next question that falls for our consideration is whether any liability can be fastened upon Opposite Party No. 6 (the Insurer)?**

106. The complainant has also impleaded OP-6, the insurer of the hospital, and sought compensation from it on the ground that the hospital and its doctors were negligent in treatment of the deceased. The complainant contends that since OP-6 had insured OP-1 hospital under a professional indemnity policy, the insurer is jointly and severally liable to indemnify the complainant.

107. On the other hand, OP-6 has denied any liability. It has been contended that the insurer's liability is strictly governed by the terms and conditions of the policy. Unless medical negligence or deficiency in service is established against the insured hospital/doctors, no liability can be fastened upon the insurer.

108. It is a settled principle of law that the liability of the insurer is **contractual** and flows from the insurance policy. The insurer is obliged to indemnify the insured (hospital/doctors) only if liability arises against them within the scope of the insurance cover. The Hon'ble Supreme Court in *National Insurance Co. Ltd. v. Glaxo India Ltd.* [(1996) 1 SCC 221] and in *New India Assurance Co. Ltd. v. Hilli Multipurpose Cold Storage Pvt. Ltd.* [(2020) 5 SCC 757] reiterated that the insurer's liability is neither independent nor unlimited; it is contingent upon the liability of the insured and subject to policy conditions.

109. In the present case, as discussed in Issue No. 1 above, the treatment given to the deceased was in accordance with accepted medical practice. The patient was suffering from placenta praevia Grade-IV, a high-risk obstetric condition, and the pregnancy was terminated as a life-saving measure after obtaining due consent. Thus in our view no medical negligence or deficiency in service has been proved against OPs 1 to 5.

110. Consequently, in the absence of any liability of the insured hospital/doctors, the insurer (OP-6) also cannot be fastened with any liability. Even otherwise, no material has been placed on record to show that the policy terms would cover the present claim in the absence of negligence.

111. Accordingly, we hold that OP-6, the insurer, has no liability towards the complainants in the present case.

112. After considering the pleadings, evidence, and arguments of both sides, Although the complaint was filed beyond two years from the date of death (13.07.2015), in view of the nature of allegations and the explanation offered by the complainants, the delay is condoned and the case has been considered on merits.

113. The deceased was suffering from complete placenta praevia Grade-IV, a high-risk obstetric condition. The medical team (OPs 2 to 5) terminated the pregnancy as a life-saving measure after obtaining due consent from the patient herself, witnessed by her husband. There is no material to suggest that the doctors deviated from accepted medical practice or acted without due care. The unfortunate demise of the patient, though deeply regrettable, cannot be attributed to negligence.
114. The medical records confirm that valid consent was obtained prior to the procedure. In emergent conditions like placenta praevia, doctors are legally justified in acting promptly to save life. Hence, there is no deficiency on this ground.
115. Since no negligence or deficiency has been established against the hospital or doctors OP No.1 to 5, no liability can be fastened upon the insurer. Even otherwise, the insurer's liability is strictly contractual and arises only when liability of the insured is established.
116. The complainant has impleaded all relevant parties/ OP-1 (hospital), OPs 2 to 5 (treating doctors), and OP-6 (insurer). Hence, the complaint is not defective for non-joinder or mis-joinder.

117. In our view, the complainant has not produced any independent expert opinion to substantiate allegations of negligence. In complex medical cases, such as obstetric emergencies, expert testimony is necessary to prove deviation from standard practice. The absence of such evidence weakens the complainant's case.

118. Thus in view of the above findings, we hold that the complainant has failed to establish medical negligence or deficiency in service on the part of the Opposite Parties No.1 to 5. Consequently, the complaint stands dismissed. There shall be no order as to costs.

119. A copy of order be sent/supplied to all the parties free of cost. The order be also uploaded on the website of the Commission ([www.confonet.nic.in](http://www.confonet.nic.in)).

File be consigned to the record room along with a copy of the order.

**Poonam Chaudhry  
(President)**

**Bariq Ahmad  
(Member)**

