

DISTRICT CONSUMER DISPUTES REDRESSAL COMMISSION

SOUTH DELHI

CONSUMER COMPLAINT NO. DC/83/CC/372/2022

ANJU SINGH

PRESENT ADDRESS - HOUSE NO. 29C, POCKET-D, SFS DDA FLATS MAYUR VIHAR,
PHASE-III, DELHI 110096SOUTH,DELHI.

.....Complainant(s)

Versus

MAX SMART SUPPER SPECIALTY HOSPITAL

PRESENT ADDRESS - MANDIR MARG, PRESS ENCLAVE ROAD, SAKET DISTRICT CENTRE
SAKET NEW DELHI 110017SOUTH,DELHI.

.....Opposite Party(s)

BEFORE:

MONIKA A. SRIVASTAVA , PRESIDENT

KIRAN KAUSHAL , MEMBER

FOR THE COMPLAINANT:

NEMO

FOR THE OPPOSITE PARTY:

NEMO

DATED: 16/09/2025

ORDER

DISTRICT CONSUMER DISPUTES REDRESSAL COMMISSION-II

Udyog Sadan, C-22 & 23, Qutub Institutional Area

(Behind Qutub Hotel), New Delhi- 110016

Case No.372/2022

Anju Singh

W/o Sh. Rakesh Kumar Singh

R/o House No.29C, Pocket-D,

SFS DDA Flats, Mayur Vihar, Phase-III

Versus

1. Max Smart Super Speciality Hospital

Mandir Marg, Press Enclave Road,
Saket District Centre
Saket, New Delhi-110017

2. Dr. Vibha Gulati

SKTSSH-Dental
Max Smart Super Speciality Hospital
Mandir Marg, Press Enclave Road,
Saket District Centre
Saket, New Delhi-110017

....Opposite Party

Date of Institution : 28.12.2022
Date of Order : 16.09.2025

Coram:

Ms. Monika A Srivastava, President

Ms. Kiran Kaushal, Member

Present: Adv. Aruna Singh for complainant.

Adv. Anand Dabas for OP.

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ORDER

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Member: Ms. Kiran Kaushal

1. Facts of the case as pleaded by the complainant are that complainant on 28.12.2020

booked an appointment with the Max Smart Super Specialty Hospital hereinafter referred to as OP-1 to consult Dr. Vibha Gulati (OP-2) for her tooth pain.

2. It is stated that the complainant's appointment was booked with OP-2 for 29.12.2020 at 2 PM. Complainant paid of Rs.150/- towards consultation fee and after check-up, OP-2 directed the complainant to deposit requisite charges so that she could start complainant's treatment. It is stated that OP-1 charged Rs.8,210/- from complainant as per the treatment advised by OP-2. OP-2 took X-ray of mouth and gave some treatment to the complainant without informing and taking her consent for the procedure/line of treatment.

3. After sometime, OP-2 informed that she has done the filling and root canal of complainant's teeth and advised her to take medicines as per the prescription which would help her to reduce the pain. Copy of the prescription of OP-2, X-ray of complainant's mouth and receipts dated 29.12.2020 is annexed as Annexure 3, 4 and 5 respectively.

4. It is next stated that the complainant took medicines for three days but she did not get any relief from her tooth ache. Complainant could not sleep continuously for three days and since she was feeling unbearable pain she was forced to consult another Doctor having a clinic in her vicinity. It is stated that complainant on 02.01.2021 visited Dr. Amit Kaushish for her dental pain who prescribed her medicines for infection and pain for five days.

5. Complainant got relief from the pain but was shocked and surprised as after the physical examination Dr. Amit Kaushish informed her about actual position of her jaw which was altogether different from the treatment done by OP-2 and the amount charged by OP-1 for the said treatment. It is stated that OP-1 charged the amount for the services/treatment which was never given to the complainant on 29.12.2020.

6. It is further stated that as per the schedule, complainant again booked an appointment and met OP-2 on 05.01.2021 and apprised her with the problems faced by the complainant. OP-2 examined the complainant and assured her that she would not face any problem in future. It is stated that when the complainant asked about discrepancy noticed by her in the bill dated 29.12.2020 she was informed by OP-2 that over billing was done by all the hospitals to meet the expenses and also admitted that complainant did not get the treatment as mentioned in the prescription given by OP-2 as she did root canal of one teeth.

7. It is next stated that during the visit for treatment on 29.12.2020 and 05.01.2021, complainant found that proper facilities/equipments and safe/suitable environment was missing as two doctors were sharing a single room, table and equipment and the protocol of Covid was not being followed by OP. Further the complainant was also not satisfied with the treatment given by

OP-2 as the problem was not permanently cured.

8. It is next stated that the complainant kept having slight pain in her teeth which she did not take seriously in the hope that it would eliminate with the passage of time but in September, 2021, it became difficult for the complainant to bear the pain despite taking pain killer. Therefore, on 19.09.2021 she again visited Dr. Amit Kaushish who advised her to get another x-ray of complainant's mouth. After taking X-ray the said Doctor removed the cotton piping which was left inside by OP-2 while filling her teeth. The complainant was informed that OP-2 did not complete procedure of root canal as no capping was done by her. It is stated that complainant took complete treatment from Dr. Amit Kaushish who charged Rs.20,600/- for the same.

9. It is further stated that OP-1 charged Rs.8,210/- for restoration of Tooth No 8, flap surgery of tooth 4, root canal treatment of tooth 5 and one x-ray. However, Dr. Amit Kaushish diagnosed that there was temporary filling, no capping on the root canal treatment and cotton piping was removed. Therefore, it is evidenced that OP-1 charged wrongly and OP-2 diagnosed, treated and acted against the medical norms.

10. Alleging deficiency of service, complainant prays for direction to OP to pay Rs.28,810/- with interest @18% p.a paid for her complete treatment; to pay costs/damages/compensation of Rs.3,00,000/- towards medical negligence, deficiency of service and unfair trade practice; to pay Rs.2,00,000/- towards mental agony, financial and physical harassment; to pay Rs.77,000/- towards advocate's fee and Rs.11,000/- towards miscellaneous expenses.

11. OP-1 resisted the complaint stating inter alia that OP-2 was not a doctor of OP-1, she was working with M/s Focus Dental Services Private Limited. However, it is submitted that there is an agreement between the OP-1 and M/s Focus Dental Services Private Limited. It is next stated that complainant consulted OP-2 and after examining her Jaw, OP-2 explained her further course of the treatment that needs to be administered to the complainant.

12. OP-2 asked the patient to get the billing done to begin appropriate procedure which requires four to five visits for the complete procedure. It is stated that OP-2 explained the complete treatment and informed the complainant that the complete procedure would take around four to five visits. A copy of the x-ray done by OP-2 is enclosed and annexed as Annexure-3 which demonstrate the actual position of the jaw of the patient.

13. It is stated that since dental procedures require several visits, total charges for the treatment is taken from the patient in the first appointment meeting to make it easier for the patients. It is admitted by the complainant that root canal of her teeth was done which requires several visits to complete the procedure. The treatment was started soon after the registration

process was completed by the patient.

14. It is next stated that complainant was charged for restoration of 8th tooth, flap surgery of 4th tooth, root canal treatment of 5th tooth and one x-ray but complainant went to some other local doctor for the treatment before completing her course of treatment with OP-2. Therefore, all the allegations of medical negligence, deficiency of service and unfair trade practice by OP-1 and OP-2 are denied.

15. In light of the same, it is prayed that the complaint be dismissed with costs.

16. Despite due service, none appeared on behalf of OP-2 therefore OP-2 was proceeded exparte vide order dated 18.05.2023.

17. Rejoinder to reply of OP-1 is filed by the complainant wherein, it is stated that complainant took her appointment with OP-1 and she is not privy to the contract of OP-1 with M/s Focus Dental Services Private Limited. It is stated that the appointment of OP-2 was given by OP-1 on its own without her seeking an appointment with OP-2. OP-1 billed as per the advice of OP-2 and only then the treatment was started. It is denied that OP-2 explained the complete treatment that needs to be administered and had informed her that the complete procedure would take four to five visits.

18. It is further stated that OP-1 has admitted that total charges for the treatment were taken from the complainant in the first appointment/meeting which proves that the conduct of the OPs is contrary to the working norms as it is difficult to anticipate the total amount of expenses in advance while treating any patient. It is stated that the charges were taken by the OPs in advance and without giving the complete treatment the prescription mentions the treatment 'Done'.

19. Evidence and written arguments are filed on behalf of complainant and OP-1. Submissions made by the Ld. counsels are heard. Material placed on record is perused. Despite due service as none appeared on behalf of OP-2, OP-2 was proceeded exparte vide order dated 18.05.2023. The averments made and the evidence led by the complainant has remained unrebutted and uncontroverted by OP-2.

20. Admittedly, complainant took an appointment for her dental treatment from the Hospital of OP-1 and her appointment was booked with a dental doctor i.e OP-2. Complainant visited OP-2 in the Hospital of OP-1 on 29.12.2020. It is not in dispute that complainant paid Rs.8,210/- to OP-1 for the following services-

- i. Restorations-composite filling Grade -1
- ii. Soft tissue management flap surgery Grade-1

iii. Root Canal treatment-RCT

iv. Radiology-OPG

21. Complainant's case is that though she was charged for the services mentioned above but the said services were not actually provided to the complainant. As per the complainant she had to visit another dental doctor for getting the same treatments done and she paid Rs.20,600/- to Dr. Amit Kaushish for the treatment which had already been done by OP-2.

22. Complainant in support of her case has placed the photocopy of the X-ray (OPG). Bill dated 29.12.2020 paid by the complainant. Prescription of another doctor on 02.01.2021 wherein it is seen that certain medicines were prescribed to her for her pain. There is another treatment taken by Dr. Amit Kaushish of Dental Care Centre which is dated 19.09.2021 which shows that cotton was removed from the mouth of the complainant, X-ray was taken and RCT was done.

23. This is a case of *res ipsa loquitor*. Complainant visited OP-2 who started the process of RCT and did temporary filling wherein cotton was used so that hole does not get blocked. As RCT required more sittings no capping was done. It is common knowledge that many dental procedures require several visits/sitting based on the clinical condition of the patient. It is seen that complainant's root canal was done on 29.12.2020 and some medicines were prescribed to her. As the complainant did not find relief from her pain rather than visiting OP-2 again, she preferred going to another dental doctor on 02.01.2021.

24. It is seen that temporary filling of complainant's tooth was done wherein the cotton was used so that the hole is not blocked and complainant was supposed to get the permanent filling and capping done later on. The complainant was not communicated properly with regards to her next visit. It is noticed that complainant went to Dr Amit Kaushish (another doctor) for the treatment of RCT again on 19.09.2021 i.e. approximately after nine months of the treatment taken from OP-2.

25. It is seen that though the complainant has averred that she visited OP-2 again but no prescription or any bill regarding the second sitting has been filed by the complainant. It is not clear whether the complainant was treated further and charged again for the second visit to OP-2. It is general practice that total charges for the treatment are taken from the patient in the first appointment to make it easier for the patient.

26. On perusal of the material placed before us, this seems to be a case where the dental doctor (OP-2) has failed to explain the appropriate procedure and the time taken for the treatment. OP-2 is found to be deficient in service as the prescription does not reflect whether the complainant required more sittings or the treatment was complete in one sitting itself. No date further has been mentioned in the prescription or the bill. OP-2 is found to be deficient in service for not informing the complainant regarding the next date of her visit or when was she supposed to

visit OP-2 for permanent filling and capping.

27. We opine that OP-1 cannot wash of its hands by stating that OP-1 was not the doctor of OP-1 but was working as a Doctor of dental department at M/s Focus Dental Service Pvt Ltd. as the complainant had got the appointment booked from OP-1 and had not specifically asked to be booked with OP-2. OP-1 cannot be absolved of its liability as the appointment of OP-2 was booked by OP-1 and also the fact that complainant has made the payment to OP-1.

28. In light of the discussion above, OP-1 and OP-2 are jointly and severally liable to pay Rs.15,000/- towards deficiency in service within 03 months from the date of order failing which OPs shall pay the above stated amount with interest @5% p.a till realization.

Parties be provided copy of the judgment as per rules. File be consigned to the record room. Order be uploaded on the website.

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MONIKA A. SRIVASTAVA
PRESIDENT

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KIRAN KAUSHAL
MEMBER