District Consumer Disputes Redressal Commission- VIII (Central)

(Govt. of NCT of Delhi)
5th Floor, Maharana Pratap Inter State Bus Terminal Building
ISBT Kashmere Gate, Delhi- 110006

Consumer Complaint No.: DC/77/CC/148/2023

In the matter of

Samreen w/o Sh. Umar Nawaz
R/o 226, Gali Garhaiya, Matia Mahal Bazar,
Jama Masjid, Delhi-110006 … Complainant

Vs.

Dr. Kuljit Kau Gill,
2848, Family Health Care Centre,
Opp. Keekar Wali Masjid, Kucha Chellan,
Darya Ganj, New Delhi … Opposite Party

Also at :
5106 (Laal Building)
Koocha, Noorwalla Khan, Phatak bans,
Sirkiwalan, Hauz Qazi, Delhi-110006

ORDER

18.12.2025

(Dr. Rashmi Bansal, Member)

1. By this order, the Commission disposes of the consumer complaint filed by the complainant alleging deficiency in service and medical negligence on the part of Opposite Party No. 1 (OP1), the treating doctor against whom allegations of negligence have been made; Opposite Party No. 2 (OP2), who is the owner of the nursing home where OP1 practices; and Opposite Party No. 3 (OP3), the Department of Health and Family Welfare, the authority responsible for regulation and registration of such establishments run by OP2.

Complainant's Case

2. The facts emerging from the complaint are summarised as follows:

3. The complainant states that in July 2020 she undertook a urine pregnancy test (UPT) at home, which showed a positive result. To confirm the same, she visited OP2's nursing home on 24.07.2020, where OP1 took charge of her case. It is alleged that OP1 confirmed the pregnancy solely on the basis of the home UPT result, and without any independent check-up or investigation, prescribed certain medicines and also administered two injections to her.

Complainant submits that no tests were done even on her request, despite the mandatory requirement that medication should follow proper examination, investigation, and a known diagnosis. A urine test was prescribed on her insistence for confirmation of pregnancy. She alleges that OP1 treated her with utter negligence and disregard for medical norms, thereby "murdering her dreams and happiness" by failing to take even basic care. No test or check-up was conducted to ascertain her condition, which ultimately led to the death of the foetus. The complainant further alleges that OP1 and OP2 did not even mention any diagnosis on the treatment sheet, which is also a mandatory requirement. Despite this, she followed the instructions of OP1 and consumed the medicines prescribed.

4. She submits that on 11.08.2020 she developed abdominal pain and continuous bleeding and therefore revisited OP1/OP2. She informed OP1 of her symptoms, but OP1 again prescribed only acidity-related medicines, without any investigation or diagnosis, which were taken as per instructions of OP1. Her pain continued to increase and she became bedridden. As neither the pain nor the bleeding subsided, she again visited OP1 on 15.08.2020, yet again no test/ investigation was conducted, and only medicines were prescribed with the assurance that her condition was normal.

5. The bleeding continued and the pain worsened. On 26.08.2020 she again visited OP1/OP2, but once again no investigation was ordered and only medicines were prescribed and no diagnosis was mentioned.

6. With excruciating pain, the complainant revisited OP1/OP2 on 02.09.2020. Despite her severe pain and bleeding, OP1 was alleged to have again ignored the need for tests or examination and continued prescribing medicines and injections, which the complainant followed.

7. The complainant submits that on 07.09.2020, when her pain became unbearable and she nearly lost consciousness, her husband took her to another doctor who was shocked at her condition and advised urgent tests. The complainant was taken to a nearby laboratory, where the reports revealed the presence of a dead embryo in her womb. She was advised immediate treatment at Kasturba Hospital. There, she was told that her condition was extremely critical and she was immediately operated upon. Her fallopian tube was removed to save her life. She was informed that she would never be able to conceive again due to extensive internal damage. She remained hospitalised till 13.09.2020 and her stitches were removed on 22.09.2020.

8. The complainant states that her condition remained extremely poor and she was bedridden for months. Until August 2021 she could move only with pain and continued to require assistance. A legal notice dated 01.10.2020 was served upon both OP1 and OP2. OP1

replied on 17.10.2020, flatly denying all lapses. No reply was received from OP2. Thereafter, the complainant and her husband lodged a criminal complaint as well. The police sought an opinion from the Delhi Medical Council (DMC) regarding OP1's conduct, qualifications, treatment records, and whether criminal negligence was involved. OP1's MBBS and MD degree registration certificates were also sought for verification. DMC's Disciplinary Committee passed an order on 11.07.2023, which was confirmed by DMC with minor modifications vide order dated 05.09.2023.

9. The Disciplinary Committee made the following observations:

I. The Medical Superintendent of OP2 failed to appear before the Committee despite notice.

II. OP1 was found not entitled to suffix M.S./M.D. to her name, as that is in violation of Indian Medical Council Regulations, as she was registered only with MBBS qualification. However, she was held eligible to undertake antenatal cases.

III. OP1 was absolved from criminal negligence for the demise of the foetus, which resulted from ruptured ectopic pregnancy.

IV. The Committee noted that OP1 prescribed a list of medicines without proper investigation for the complainant's complaint of having abdominal pain.

V. It is also noted that the complainant had a ruptured ectopic pregnancy, which, as per medical literature, requires urgent surgical management as the same poses life-threatening risks to maternal health. The fact that the complainant was pregnant, the differential diagnosis of ectopic pregnancy should have been kept in mind by OP1, so that timely requisite treatment could have been administered.

VI. The Committee recommended issuance of a warning to OP1 for shortcomings in treatment.

VII. OP1 was directed to refrain from using the suffix M.S./M.D.

10. The DMC confirmed the above findings (except expunging the general warning regarding shortcomings in treatment) and further directed issuance of a warning restraining OP1 from claiming herself to be a gynaecologist without requisite qualification and further directing her to refrain from claiming herself to be a gynaecologist.

11. The complainant submits that though OP1 was absolved of criminal negligence, the DMC findings clearly established that OP1 misrepresented her qualifications; failed to

conduct investigations; prescribed medication without proper diagnosis; and was found to have acted with shortcomings warranting a warning.

12. The complainant alleges that her lifelong dream of motherhood was shattered due to the negligence of OP1 and OP2. She alleges numerous violations:

I. absence of investigation/examination;

II. prescription of medicines without investigation;

III. absence of diagnosis before treatment;

IV. lack of reasonable care despite her high-risk obstetric history;

V. false designation by OP1 through wrongly use of an MS degree and presenting herself as a specialist.

13. She further states that she spent a substantial amount on treatment but lost her most important right as a woman, motherhood. She continues to suffer physically and emotionally. She claims compensation of ₹44,29,000/- inclusive of medical expenses, mental agony, loss of life's pleasure, loss of child, travel expenses, expenses for domestic help, loss of work, and litigation costs of ₹25,000/-. She also seeks enquiry against OP1 and OP2 and cancellation of all registrations granted to OP2.

14. Notice was issued to OP1, OP2 and OP3. OP2 and OP3 did not appear even once and also have not filed any reply / submissions.

15. OP1 attempted to file her written statement but same was beyond the statutory limit of 30 days under Section 38(3)(b) Consumer Protection Act, (CPA) 2019, which is mandatory, and vide order dated 16.11.2023 of this Commission, the same was directed not to constitute part of the record. No application seeking condonation of delay was filed by OP1 with her written statement. The same filed by OP1 on 04.04.2024, was heard on 06.08.2024 and was dismissed by this Commission vide its order dated 03.09.2024. Hence, the written statement of OP1 was not taken on record. OP1 was heard only on legal submissions filed by her.

16. The complainant filed her evidence, and in support of her case, filed the following documents:

i. Treatment sheets dated 24.07.2020, 11.08.2020, 15.08.2020, 26.08.2020, 02.09.2020;

ii. Scan report dated 07.09.2020;

iii. Discharge summary dated 13.09.2020;

iv. Legal notice dated 01.10.2020;

v. Reply dated 17.10.2020 by OP1;

vi. DMC order dated 05.09.2023 with confirmation of order dated 11.07.2023 of the Disciplinary Committee;

vii. Photographs of medicines.

17. On legal submissions, OP1 contended that she was merely a visiting doctor at OP2's nursing home and therefore OP2 is vicariously liable for any alleged act or omission. Reliance was placed on Mohammed Ajmal v. Indraprastha Apollo Hospital, wherein Hon'ble State Commission held that in cases of medical negligence, hospitals or nursing homes alone are liable to compensate the patient for the loss or injury suffered by him / her, and that the nursing home/ hospital has an independent remedy to take action against such doctor or staff and Achut Rao v. State of Maharashtra, wherein, it was held by the Hon'ble Supreme Court that hospitals are vicariously liable for negligence of their treating doctors. OP1 submits that any liability, if it arises at all, should fall upon OP2, the operator of the nursing home. Hence, the complaint against OP1 is liable to be dismissed.

18. The Commission examined the documents and heard both sides. OP1 did not discharge her burden, as no written statement was filed.

19. Analysis and findings of the Commission:

I. As per the legal notice reply and the reply filed before Disciplinary Committee by OP1, it is not in dispute that the complainant visited OP1/OP2 on 24.07.2020, 11.08.2020, 15.08.2020, 26.08.2020 and 02.09.2020.

II. OP1 acquired knowledge of the complainant's pregnancy on the very first visit, i.e. on 24.07.2020 itself, when she has noted on the treatment sheet as "UPT positive ("done at home"); yet, she failed to get a confirmatory pregnancy test, obstetric ultrasound, or any other test conducted or to record any diagnosis in any of the treatment sheets from the first visit on 24.07.2020 to 02.09.2020, the last visit.

III. Not only this, OP1 also failed to mention any details of the complaints or problems with which the complainant had approached OP1 nor mentioned any diagnosis, on the basis of which she had prescribed the medicines or given instructions to the complainant, which is in contravention of settled medical practice, which demands proper details of the complaints for which the patient approached the doctor, details of the diagnosis or disease identified by the doctor and details of the investigations undertaken for confirming the disease before prescribing medicines. A higher duty of care is expected in cases involving pregnant patients, as in the present case, where OP1 already knew

complainant's high-risk obstetric history (a previous spontaneous preterm delivery of dead twins at six months of pregnancy).

IV. OP1 stated in the reply before Disciplinary Committee that the complainant visited her clinic and the OP2 nursing home at a very early stage of pregnancy and she came for the treatment of pain in the upper liver areas, not for prenatal treatment. After diagnosis, it was found that the complainant had a gastric problem. Accordingly, Pantosec for gastric issues and Emset for vomitting were prescribed. Every time the complainant took medicines, she was relieved of her pain. The complainant never reported any problem related to the pregnancy. Moreover, she prescribed an ultrasound to keep a check on the health and status of the foetus in the womb, which can be verified from the treatment sheet. Also, the complainant is aged about 40 years and is at high risk in terms of having a normal pregnancy and delivery and had a history of spontaneous delivery of dead twin foetus at six months of pregnancy.

V. A careful examinations of the treatment sheets shows that:

   i. OP1 has not written the problems or complaints with which complainant had approached her;

   ii. No diagnosis was made by OP1 with respect to the problem identified, including the gastric problem claimed by OP1 to be afflicting the complainant or with respect to any other finding;

   iii. OP1 did not mentioned any investigation for reaching the conclusion on the basis of which medicines were prescribed;

   iv. Ultrasound was prescribed by OP1 on 02.09.2020 while the complainant had complained of bleeding and pain on 11.08.2020, 15.08.2020, 26.08.2020, and 02.09.2020 i.e., after five visits, approximately after 40 days from first visit.

   v. Despite OP1 herself treating the complainant as a 40-year-old patient and categorising her as a high-risk case, (as per the reply to the legal notice and the reply before the Disciplinary Committee) it is evident that OP1 failed to exercise the heightened degree of care, diligence, and monitoring mandatorily required in cases of such high-risk pregnancies. The conduct of OP1 in treating the complainant in a casual and negligent manner, while simultaneously acknowledging her as a high-risk

patient, is internally inconsistent and establishes a clear breach of the duty of care, thereby constituting medical negligence.

vi. This conduct further demonstrates an impermissible shifting of responsibility, which cannot be sustained in law. OP1 wrongly portrayed the complainant as a 40-year-old high-risk patient and thereafter took the plea that considering the complainant's age, she cannot be held liable. Such a defence is untenable, as the complainant's actual age was 32 years, a fact duly recorded by OP1 herself in the treatment sheets.

vii. The ultrasound dated 07.09.2020 showed an 8-week non-viable embryo, which means that 8 weeks had passed before the ectopic pregnancy was diagnosed. OP1 failed to rule out the ectopic pregnancy timely despite the complainant's continued complaints of bleeding and abdominal pain. The delayed diagnosis was the proximate cause necessitating emergency surgical intervention that consequently resulted in removal of the fallopian tubes, thereby permanently extinguishing her reproductive capacity and closing her chances of conceiving again. Timely requisite treatment could not be administered to the complainant because of careless act of OP1. The degree of care, caution, and expected skill, which was higher in the present case was unfortunately lacking.

VI. The Hon'ble Supreme Court of India, in Dr. Laxman Balkrishna Joshi v. Dr. Trimbak Bapu Godbole AIR 1969 SC 128 and A.S. Mittal v. State of U.P. AIR 1989 SC 1570 reiterated the three-fold duty of care owed by a doctor, and held that breach of any of these duties constitutes negligence. The doctor owes to his patient certain duties, which are:

(a) a duty of care in deciding whether to undertake the case;

(b) a duty of care in deciding what treatment to give; and

(c) a duty of care in the administration of that treatment.

Also in Kusum Sharma v. Batra Hospital (2010) 3 SCC 480, the Hon'ble Supreme Court discussed that breach of the expected duty of care by a doctor, if not rendered appropriately, would amount to negligence. It was held that if a

doctor does not adopt proper procedure in treating his patient and does not exhibit reasonable skill, he can be held liable for medical negligence.

OP1's conduct demonstrates that OP1 not only failed to exercise reasonable care and due caution, but also committed sheer negligence and a serious breach of medical duties. OP1 failed to investigate the problem of the complainant with due diligence despite her known pregnancy and high-risk patient history and prescribed medicines blindly without ruling out complications. Such a casual approach in a high-risk pregnancy amounts to negligence.

A timely and appropriate treatment could have detected an ectopic pregnancy at an early stage, and permanent deprivation of future motherhood of the complainant could have been avoided. The complainant could have been spared physical and mental trauma and financial burden.

Therefore, this Commission, while applying Dr. Laxman Joshi, A.S. Mittal (supra), and Kusum Sharma (supra), concludes that OP1 breached:

i. duty of care in deciding investigations,
ii. duty of care in administration of treatment,
iii. duty of care in administration of treatment.

OP1's omissions, carelessness, and treating the complainant in a manner falling below the standard of reasonable medical care expected in high-risk obstetric cases, are the proximate cause of the complainant's severe injury and lifelong infertility. The removal of the fallopian tube has caused irreparable loss to the complainant.

VII. The Disciplinary committee findings are also concurring, as per order dated 05.09.2023, which reads: "it is noted from the antenatal prescription of Rehmani Nursing Home that Dr Kuljeet Kaur Gill has prescribed a list of medication without proper investigations for the complainant's complaint of having abdominal pain. It is observed that complainant had a ruptured ectopic pregnancy, which, as per medical literature, requires urgent surgical management, as the same poses a life-threatening risk to maternal health. The fact that the complainant was pregnant and the differential diagnosis of ectopic pregnancy should have been kept in mind by Dr Kuljeet Kaur Gill, so that timely requisite treatment could have been administered".

Well established principles in cases of negligence vis-a-vis the legal frame work are the Bolam Test (Bolam v. Friern Hospital Management Committee, 1957),

wherein it is held that a doctor is negligent if she acts in a manner not accepted as proper by a responsible body of medical professionals. The conduct of OP1 is contrary to Bolam, because no responsible body of medical opinion would consider it acceptable to:

i. ignore red flags;
ii. avoid an early ultrasound for 40 days in a suspected pregnancy;
iii. not mentioning the issues with which the patient is suffering;
iv. not recording a single diagnosis across five visits;
v. not conducting proper investigation;

Also, the Bolitho Addendum (Bolitho v. City & Hackney HA, 1997), states that even if some doctors support the conduct, it must satisfy judicial scrutiny of logic and defensibility. Applying this, OP1's conduct fails logical scrutiny; such omission fails the test of reasonableness under the Bolam principle and does not satisfy the Bolitho standard of logical defensibility. OP1 has violated basic obstetric standards. Therefore, based on the above analysis, this Commission finds OP1 guilty of breaching the duty to exercise due care in treating the complainant.

VIII. The Hon'ble Supreme Court in Poonam Verma v. Ashwin Patel (1996) 4 SCC 332, held: "If a person practices in a field without qualification, it is negligence per se."

DMC, in its order dated 05.09.2023, issued warning to Dr. Kuljit Kaur Gill (Delhi Medical Council registration number 12774), OP1 herein, for claiming herself to be a gynaecologist without holding any requisite medical qualification and was further directed to refrain from claiming herself to be a gynaecologist.

The said finding of DMC was never challenged and has attained finality.

The Bolam test, supra, was approved by Hon'ble Supreme Court, in Jacob Mathew v. State of Punjab (2005) 6 SCC 1, with the guiding factors that criminal negligence requires gross negligence and civil negligence requires proof on preponderance of probabilities. Hon'ble Supreme Court held that a professional may be held liable for negligence if he is not possessed of the requisite skill which he supposes to have or has failed to exercise the same with reasonable competence.

The facts on record and chain of events establish a clear, direct and uninterrupted casual nexus between OP1's failure to conduct timely investigations and rule out ectopic pregnancy, and the resultant emergency irreversible surgical outcome suffered by the complainant.

Therefore, based on above discussion, it is concluded that OP1 has treated complainant without having requisite medical qualification and therefore, is held liable for negligence.

IX. The DMC, in order dated 05.09.2023, also found that OP1 has been using M.S. as a suffix to her name, even though she was registered with the Delhi Medical Council with M.B.B.S. qualification only vide registration no. 12774 dated 13.07.2001, which has been appearing on letter head of her clinic as well as on the OP2 nursing home, and held that the qualification acquired by OP1 from Yemen State Medical University, Armenia, is not recognised qualification as per the IMC Act, 1956, hence OP1 is not entitled to use the suffix M.S./M.D. and was directed to stop projecting herself as a gynaecologist.

Regulation 1.4.2 of the Indian Medical Council (Professional Conduct, Etiquette and Ethics) Regulations, 2002, mandates that a doctor must not claim a qualification she does not possess, "Physicians shall display as suffix to their names recognised medical degrees or such certificates or diplomas and memberships / honours which confer professional knowledge or recognise any exemplary qualification / achievements"

Since OP1 did not have a recognised degree and was registered only with an M.B.B.S. degree, this Commission is of the view that displaying M.S. with her name by OP1 amounts to professional misrepresentation and constitutes actionable negligence per se as per settled judicial precedent.

X. So far as OP1's contention that OP2 is vicariously liable for any alleged act or omission is concerned, this Commission is of the view that OP2 is liable for the acts, omissions, and commissions of OP1 as per the well-settled law that when a patient goes to a hospital, he/ she relies on the institution, not an individual doctor. If the hospital fails to discharge its duty through its doctors, it is the hospital which has to justify the acts of commission or omission on behalf of its doctors. The Hon'ble Supreme Court in Savita Garg v. National Heart Institute (2004) 8 SCC 56 held that "…… in any case, the hospital is in a better position

to disclose that what care was taken or what medicine was administered to the patient. It is the duty of the hospital to satisfy that there was no lack of care or diligence. The hospitals are institutions; people expect better and efficient service, if the hospital fails to discharge its duties through their doctors being employed on job basis or employed on contract basis, it is the hospital which has to justify….."

Also, in Spring Meadows Hospital v. Harjol Ahluwalia (1998) 4 SCC 39, the need for strict standards in medical care and accountability in private hospitals was emphasized. It brought out the importance of informed agreement, qualified supervision in treatments, and the duty of care by which hospitals are bound to their patients.

Recently, Hon'ble Supreme Court in Dr. Reba Modak v. Sankara Nethralaya 2022 SC Online NCDRC 528 held that it is well established that a hospital is vicariously liable for the acts of negligence committed by the doctors engaged or empanelled to provide medical care and it is common experience that when a patient goes to a hospital, he/she goes there on account of reputation of the Hospital, with the hope that proper care will be taken by the hospital authorities. If the hospital fails to discharge its duty through its doctors, it is the hospital which has to justify the acts of commission or omission on behalf of their doctors.

This principle is further fortified by the Constitution Bench decision of the Hon'ble Supreme Court in Indian Medical Association v. V.P. Shantha (1995) 6 SCC 651, which recognises that patients availing treatment in private hospitals are consumers under the Consumer Protection Act.

From the above, it is crystal clear that the hospital, OP2, is vicariously liable for the negligent acts of OP1, and has been under duty to verify the qualifications of its doctors, monitor treatment and ensure adherence to medical standards, in which OP2 failed and is therefore vicariously liable for negligent acts and omissions of OP1 committed in the course of medical treatment rendered under its aegis.

XI. Liability of OP3 (Government)

As no material has been produced showing deficiency in service or dereliction of statutory duty by OP3, accordingly, the complaint against OP3 is dismissed.

20. After determining that medical negligence was conclusively attributed to OP1, which led to the permanent loss of motherhood suffered by the complainant, and OP2 is vicariously liable for the same, the component of relief to compensate the complainant comes into consideration. Though no amount of money can reduce the lifelong pain and emotional suffering that the complainant has to endure, yet, the same may provide some solace to meet future treatment or alternatives to have child.

21. Compensation must place the complainant, as far as money can, in the position she would have been in but for the wrong. The Hon'ble Supreme Court has clarified the situation very clearly in Malay Kumar Ganguly v. Sukumar Mukherjee, (2009) 9 SCC 221, wherein it is held that there is no restriction that courts can award compensation only up to what is demanded by the complainant(s). The grant of compensation to remedy the wrong of medical negligence is within the realm of the law of torts. It is based on the principle of restitutio in integrum. The said principle provides that a person is entitled to damages which should, as nearly as possible, get such a sum of money which would put him in the same position as he would have been if he had not sustained the wrong.

22. Given the severity, considered thought, nature of injury that has caused irreparable harm and deprivation of her legitimate expectation of motherhood, and the evidence on record, and considering that the complainant suffered:

i. Loss of reproductive ability (irreversible);
ii. Loss of future motherhood;
iii. Physical trauma and surgery;
iv. Long-term pain;
v. Immense mental agony;
vi. Medical expenditure;
vii. Loss of amenities of life;
viii. Loss of pleasure of life;
ix. Legal battel;

23. This Commission is of considered opinion that an amount of ₹ 20,00,000/- (twenty lakh) is fair, proportionate, legally justified, and commensurate with the nature, gravity, and irreversible consequences of the injury suffered by the complainant. The above stated amount includes litigation cost and miscellaneous expenses. OP2, the hospital, is directed to pay the above stated amount to the complainant within six weeks from the date of this order i.e. by 29.01.2026, failing which the amount shall carry an interest @ 9% per annum from 30.01.2026

until the actual realisation by the complainant. OP2 is at liberty to recover the said amount from the OP1 as per law.

24. OP3 is discharged from the complaint, as no deficiency is made out.

25. Office is directed to supply the copy of this order to the parties as per rules. Thereafter, file be consigned to the record room.

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Divya Jyoti Jaipuriar, President

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Dr. Rashmi Bansal, Member