

DISTRICT CONSUMER DISPUTES REDRESSAL COMMISSION

SOUTH II

CONSUMER COMPLAINT NO. DC/AB1/670/CC/128/2016

Vishnu Dev Paswan & Ors

PRESENT ADDRESS - F-23 Gali no. Bhagwan Pura Samaypur Delhi-42SOUTH EAST,DELHI.

.....Complainant(s)

Versus

Health point Hospital & Anr

PRESENT ADDRESS - H-13 Ratiya Marg Sangam Vihar New Delhi-80SOUTH EAST,DELHI.

.....Opposite Party(s)

BEFORE:

MONIKA AGGARWAL SRIVASTAVA , PRESIDENT

DR. RAJENDER DHAR , MEMBER

RITU GARODIA , MEMBER

FOR THE COMPLAINANT:

NEMO

FOR THE OPPOSITE PARTY:

NEMO

DATED: 19/12/2025

ORDER

CONSUMER DISPUTES REDRESSAL COMMISSION – X

GOVERNMENT OF N.C.T. OF DELHI

Udyog Sadan, C – 22 & 23, Institutional Area

(Behind Qutub Hotel)

New Delhi – 110016

Case No.128/2016

1. Vishnu Dev Paswan, aged about 61 years, S/o Late Sh.Huro Paswan

- 2. Smt.Mala Devi, aged about 60 years, W/o Sh.Vishnu Dev Paswan**
- 3. Smt.Reena Devi, aged about 32 years, W/o Late Sh.Kanhaiya Paswan**
- 4. Master Vikram aged about 11 years,**
- 5. Master Vikas aged about 7 years,**
- 6. Master Vishal aged about 6 years,**
All three sons of Late Sh.Kanhaiya Paswan,
Complainant no.4 to 6 being minors
Through their natural mother/guardian
Smt.Reena Devi
All R/o F-23, Gali No.1, Bhagwan Pura,
Samaypur, Delhi-110042

.....COMPLAINANTS

VERSES

1. Health Point Hospital
H-13, Ratiya Marg, Sangam Vihar,
New Delhi-110080

2.Dr.Rajesh Aggarwal
MBBS, M.S. (Surgery)
Consultant Surgeon
DMC Reg.No.16411
Health Point Hospital
H-13, Ratiya Marg, Sangam Vihar,
New Delhi-110080

.....RESPONDENTS
Date of Institution-19.11.2016

O R D E R

RITU GARODIA-MEMBER

1. The complaint pertains to deficiency in service on part of OP.
2. The facts as stated in the complaint are that the deceased, Shri Kanhaiya Paswan, was experiencing difficulty in urination. On 08.10.2015, he consulted Patliputra Nursing Home, where he was advised to undergo a routine urine examination. It is alleged that the said report was found to be normal. The attending doctors thereafter prescribed medication for a period of three days.
3. It is stated that on 09.10.2015, the deceased visited OP-1 hospital where he was examined by Dr. Rajesh Aggarwal , OP-2, upon payment of a consultation fee of Rs.1,000/- . OP-2 allegedly collected urine and blood samples for investigation and instructed the deceased to refrain from passing urine for two hours. The mother and wife of the deceased were informed that a catheter pipe would be inserted through the urethra.
4. It is further stated that after the lapse of two hours, OP-2 called the deceased inside the examination room for the said catheter insertion. Within few minutes, the mother and wife of the deceased allegedly heard him crying out loudly from inside the room.
5. It has been alleged that shortly thereafter, the doctors emerged from the room and informed the family that the patient had expired. OP-2 is stated to have called the ambulance himself. The complainant's family allegedly requested that an MLC/Post-Mortem be conducted, but OP-2 informed them that conducting a post-mortem would not serve any purpose.
6. It is alleged that OP-1 hospital did not have rudimentary facilities/techniques like ICU.

7. The complainant prays for a compensation of Rs.18,00,000/-and Rs.35,000/- towards litigation.
8. OPs in their reply has stated that Shri Kanhaiya Paswan, the husband of Reena Devi, was brought to OP-1 hospital with primary complaint of urinary difficulty. The deceased showed the urinary report and the prescription of Patliputra Nursing Home as well as a six-month old ultrasound report.
9. It is further stated that the said ultrasound report clearly recorded a significant post-void residual urinary volume, indicative of urinary retention. As the symptoms continued to persist, a provisional diagnosis of urethral stricture was made, and the treatment plan was formulated accordingly. It is alleged by OP that the complainant has deliberately withheld the ultrasound report and film from the Commission.
10. It is stated that after the examination of the patient, an injection '*Dynapar*' for pain relief and injection '*Mikacin*'; a urinary antiseptic was given to the patient. The patient was also given water to drink to enable him to pass the urine. However, the patient failed to pass urine in the next two hours.
11. It is stated that the failure to pass urine and the resulting pain in the urinary tract is acute on chronic retention of urine and there a probable diagnosis of Urethral Stricture. It is medical emergency and the standard treatment in such cases is emptying of bladder with a catheter.
12. The aforesaid procedure i.e., Urethral Catheterization Procedure was attempted to empty the bladder and give relief to the patient. A thin 8F Foley's Catheter Tube with liberal use of lubricant was used by the treating surgeon himself. While the procedure was being conducted, the patient complained of pain and hence the procedure was immediately aborted.
13. It is stated that the patient immediately showed signs of unconsciousness followed by acute generalised tonic clonic convulsions and development of

cerebral anoxia. Immediate emergency measures were taken, which included maintaining the airway, providing oxygen inhalation followed by ambu-bag ventilation and oronasal suction. Since the patient was gasping for breath and pulse rate was low, cardiac massage was also done and intra-cardiac inj. Adrenaline was also given. However, the patient died despite all efforts.

14. OP has denied that the family of the deceased asked for MLC/post mortem. The family members of the deceased only asked for the certificate declaring that the deceased has died. It is stated that the deceased's last rites were performed in Delhi two days later.
15. It is stated that the deceased's father himself met the treating doctor two weeks after the death and got the life insurance policy Claim Forms duly signed and attested by the treating doctor.
16. It is stated that I.C.U. is not a mandatory facility and small medical establishments usually function without an I.C.U. However, the treating doctor was maintaining all necessary equipment like pulse oximeter, oxygen cylinder, ambu-bag ventilation, suction machine, etc.
17. The complainant has filed rejoinder in consonance with the averments made in the complaint.
18. The complainants have filed the evidence by way of affidavit. The complainants have enclosed medical prescription and death certificate with the complaint.
19. The complainant No.1 filed evidence by way of affidavit and exhibited the following documents as under:
 - i) Copy of medical prescription is exhibited as Ex.CW1/1.
 - ii) Copy of death certificate is exhibited as Ex.CW1/2.

- iii) Copy of medical prescription issued by Patliputra Nursing Home with lab report is exhibited as Ex.CW1/3.
- iv) Copy of death certificate by SDMC concerned is exhibited as Ex.CW1/4.
- v) Copy of Aadhar card is exhibited as Ex.CW1/5.
- vi) Copy of driving licence is exhibited as Ex.CW1/6.
- vii) Copy of 10th certificate is exhibited as Ex.CW1/7.

20. The complainant No.2 has filed the evidence by way of affidavit and exhibited the same as under:

- i) Copy of ration card is exhibited as Ex.CW2/1.

21. The complainant No.3 has filed evidence by way of affidavit and exhibited the same as under:

- i) Copy of Aadhar card is exhibited as Ex.CW3/1.
- ii) Copy of ration card is exhibited as Ex.CW3/2.
- iii) Copy of school I card of children of the deceased is exhibited as Ex.CW3/3.

22. OP-2 has filed evidence by way of affidavit.

23. The Commission has sent the documents to LNJP Hospital for expert medical opinion. A report has sent from the said hospital. OP has filed written synopsis.

24. The Commission has considered the pleadings and documents on record.

25. Prescription of Patliputra Nursing Home dated 08.10.2015 indicates that complainant was treated for *Dysurea*.

26. Prescription dated 09.12.2015 indicates that complainant was *suffering from anal pain for 2 days, history of bleeding per rectum, history of constipation and dribbling with ----, history of Fistulectomi in 2014, history of UTI on 29/07. P/A....Suprapubic tenderness, P/R 2 ... hamerroids*

Following tests were advised:

CBC with ESR, urine RE/BE,

BloodUrea/S.cretanin.

? ureteral stricture.

27. The death certificate issued by OP-1 and OP-2 is as follows:

This is to certify that Mr. Kanhaiya Paswan S/o Mr.Vishnu Das Paswan, aged about 35 years, R/o BG266, Sanjay Gandhi Transport Nagar, Samaipur Badli, New Delhi-110042 was declared dead by me at 1.00 p.m. on 09.10.15 following cardiac arrest in case of chronic retention of urine with episode of Generalised tonic colonic convulsions.

28. The death certificate by Municipal Corporation reveals that Mr. Kanhaiya Paswan died on 09.10.2015 at Health point hospital.

29. OP has filed an application for interrogatories regarding *dysuria*

suffered by the deceased. The complainant has replied that the deceased was not treated for dysuria prior to 08.10.2015.

30. A medical expert opinion received from medical board of Lok Nayak Hospital is as under :

· The concerned was qualified and registered, for treating the patients with this type of problem.

- *It is unlikely that Convulsions were complication of the procedure (urinary Catheterisation).*
- *Exact cause of Convulsions cannot be ascertained without proper history, examination and relevant investigations.*
- *According to the documents produced patient had sudden onset of Convulsions (GTCS type) which were not controlled by Inj. Midazolam and then patient went into Cardio Respiratory Arrest. In spite of CPR patient could not be revived.*

31. Website ncbi.nlm.nih.gov/book/NBK549918/ explains Dysuria as under:

Dysuria, a commonly encountered medical symptom, refers to the painful or uncomfortable sensation experienced during urination. It is a very prevalent urinary symptom experienced by most people at least once in their lifetime. The causes of dysuria can be divided into 2 categories: infectious and noninfectious. The discomfort associated with dysuria can significantly impact an individual's quality of life and necessitates prompt evaluation and appropriate management. Understanding the potential causes and seeking timely medical attention is crucial to alleviate discomfort and address any underlying health concerns associated with dysuria. Treatment varies depending on the etiology. This activity describes the evaluation and treatment of dysuria and explains the role of the interprofessional team in improving care for patients with this condition.

32. The Urethral Stricture Care by Mayo Clinic Care Team in <https://www.mayoclinic.org/diseases-conditions/urethral-stricture/diagnosis-treatment/drc-20556091> is as follows :

- *Treatment options at Mayo Clinic include:*
- **Catheterization.** *Inserting a small tube (catheter) into your bladder to drain urine is the usual first step for treating urine blockage. Your doctor might also recommend antibiotics to treat an infection, if one is present. Self-catheterization might be an option if you're diagnosed with a short stricture.*
- **Dilation.** *Your doctor inserts a tiny wire through the urethra and into the bladder. Progressively larger dilators pass over the wire to gradually increase the size of the urethral opening. This outpatient procedure may be*

an option for recurrent urethral strictures.

- ***Urethroplasty.*** *This involves surgically removing the narrowed section of your urethra or enlarging it. The procedure might also involve reconstruction of the surrounding tissues. Tissues from other areas of the body, such as your skin or mouth, may be used as a graft during reconstruction. The recurrence of urethral stricture after a urethroplasty is low.*
- ***Endoscopic urethrotomy.*** *For this procedure, your doctor inserts a thin optical device (cystoscope) into your urethra, then inserts instruments through the cystoscope to remove the stricture or vaporize it with a laser. This surgical procedure offers a faster recovery, minimal scarring and less risk of infection, although recurrence is possible.*
- ***Implanted stent or permanent catheter.*** *If you have a severe stricture and choose not to have surgery, you may opt for a permanent artificial tube (stent) to keep the urethra open, or a permanent catheter to drain the bladder. However, these procedures have several disadvantages, including a risk of bladder irritation, discomfort and urinary tract infections. They also require close monitoring. Urethral stents are often a measure of last resort and are rarely used.*

33. Hon'ble Supreme Court in ***Dr.(Mrs.) Chanda Rani Akhouri and others Vs Dr. M.A. Menthusethupathi and others 2022 SCC Online SC 481*** has observed as follows:

After going through the finds which have been returned by the Commission in the order impugned, we see no reason to differ with the view expressed by the Commission keeping in mind the tests enunciated above. Taking note of the fact that treating doctors, OP Nos.1, 2 & 5 are medical experts in the field of nephrology and so far as OP No.6 hospital where the patient was admitted for transplantation was duly registered under the Act, 1994 and all post-operative medical care protocol available at the command of the respondents was administered to the patient, still his physical condition deteriorated and finally he could not be saved, which is really unfortunate, but there cannot be a legal recourse to what is being acceptable to the destiny.

34. The complainant was treated for Dysurea in Patliputra Nursing Home on 08.10.2015. The complainant visited OP on 09.12.2015 regarding anal pain.

There was a provisional diagnosis of Urethral Stricture. The complainant died on the same day during catheterization procedure

35. The expert opinion from medical board of Lok Nayak Hospital states that the convulsions were unlikely to be a complication of urinary catheterization procedure. The medical literature also revealed that catheterization is one of the treatment options. Hence, there is no deficiency on the part of OPs in providing medical treatment. The complaint is dismissed with no Order as to costs. Copy of Order be sent to parties free of cost and file be consigned to record room.

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MONIKA AGGARWAL SRIVASTAVA
PRESIDENT

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DR. RAJENDER DHAR
MEMBER

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RITU GARODIA
MEMBER