

STATE CONSUMER DISPUTES REDRESSAL COMMISSION

HARYANA

FIRST APPEAL NO. SC/6/A/398/2017

AASTHA HOSPITAL

PRESENT ADDRESS - MULTI SPECIALAITY HOSPITAL AND TRAUMA CENTRE DABWAI
ROAD, SIRSA,HARYANA.

.....Appellant(s)

Versus

MALKEET KAUR

PRESENT ADDRESS - W/O MEWA SINGH VILLAGE JAGATGARH BANDRAN TEHSIL
SARDULGARH DISTT.MANSA,HARYANA.

.....Respondent(s)

BEFORE:

MR. S . P . SOOD , JUDICIAL MEMBER

MR. SURESH CHANDER KAUSHIK , MEMBER

FOR THE APPELLANT:

MR. NITESH SINGHI, COUNSEL FOR APPELLANTS.

FOR THE RESPONDENT:

DR. NEETU GUPTA, PROXY COUNSEL FOR MR. TARUN GUPTA, COUNSEL FOR
RESPONDENT.

DATED: 09/01/2026

ORDER

**STATE CONSUMER DISPUTES REDRESSAL COMMISSION HARYANA,
PANCHKULA**

Date of Institution: 05.04.2017

Date of final hearing: 09.01.2026

Date of order: 09.01.2026

First Appeal No.398 of 2017

IN THE MATTER OF:-

1. Aastha Hospital, Multi Specialty Hospital and Trauma Centre, Dabwali Road,

Sirsa through its Director Dr. Sat Pal Narula.

2. Dr. Sat Pal Narula, M.D. (Medical and Heart Specialist), Director Aastha Hospital, Multi Specialty Hospital and Trauma Centre, Dabwali Road, Sirsa.
3. Dr. Rajneesh Narula, M.S., General Surgeon and Laparoscopic Specialist, Aastha Hospital, Multi Specialty Hospital and Trauma Centre, Dabwali Road, Sirsa.

...Appellants

Versus

Malkeet Kaur aged about 47 years wife of Sh. Mewa Singh, R/o Village Jagatgarh Bandran, Tehsil Sardulgarh, District Mansa.

.....Respondent

CORAM: SH. S.P. SOOD, JUDICIAL MEMBER.

SH. S.C. KAUSHIK, MEMBER.

Present:- Mr. Nitesh Singhi, counsel for appellants.

Dr. Neetu Gupta, proxy counsel for Mr. Tarun Gupta, counsel for respondent.

ORDER

PER: S.P. SOOD, JUDICIAL MEMBER:

Delay of 54 days in filing of present appeal stands condoned for the reasons mentioned in application seeking condonation of delay.

2. In present appeal No.398 of 2017; legality of order dated 09.01.2017 passed by learned District Consumer Disputes Redressal Forum, Sirsa (*In short "District Consumer Commission"*) in complaint case No.128 of 2014 has been assailed; vide

which complainant's complaint has been allowed.

3. Complainant approached OP No.2 with the complaint of pain in the right side of abdomen. After conducting various tests, OP No.2 diagnosed complainant as a patient of Cholecystitis (inflammation of the gall bladder) and also cholelithiasis (presence of gall stones in the gall bladder). OP No.2 referred complainant to OP No.3 who got conducted various tests on 13.07.2013 and opined that there was a necessity of removing the gall bladder because there was collection of gall stones therein. Complainant was admitted in the hospital on 22.07.2013 when her gall bladder was removed by OP No.3 through surgery. Complainant got discharged on 24.07.2013. Rs.25,000/- was deposited by husband of complainant with OPs. Just after four-five days of the operation, she felt severe abdominal pain and started vomiting. Husband of complainant brought her to OP No.1- hospital and contacted OP No.3 with the complaint of post-operational complications. She was admitted in the hospital on 30.07.2013. OP No.3 stated that such complications are bound to occur after removing of the gall bladder and advised her to consult with OP No.2 for medicines. OP No.2 prescribed some antacids and pain killers but things remained unchanged. As complainant got no relief, therefore, her husband took her to Bathinda where Dr. G.S. Shekhawat, M.D. (Radio-diagnosis), Director Adesh Diagnostics Centre Bathinda conducted some radio-logical tests (MRCP) and opined that there was bile leak from the stump side and the same got collected in the abdomen and opined that she should be taken to some higher institute as the bile leakage could cause death. Then she was taken to Dayanand Medical College & Hospital, Ludhiana where she was admitted on 07.09.2013. After conducting various tests, the doctors found that there was collection of bile in the abdomen and

bile leak was present due to injury to the bile duct. The doctors opined that there was serious threat to the life of the complainant and advised immediate surgery for draining the bile from the abdomen initially and repairing of the CBD injury in second stage. The further investigation conducted by the doctors revealed that at the time of conducting operation, OP No.3 ligated the CBD (cystic bile duct), which hampered the flow of bile and it started flowing into abdomen directly because of such injury which ought not to have been done. Due to the leakage of bile in the abdomen severe pain occurred and she could not eat as ulcers developed. Accordingly, surgery was done at Dayanand Medical College & Hospital, Ludhiana and in order to drain the bile passage was created. Complainant remained in the said hospital from 07.09.2013 to 24.09.2013. For second stage i.e. for repairing injury to the bile duct, she was taken to Post-Graduate Institute of Medical Education and Research, Chandigarh. As per the tests conducted there, the post cholecystectomy status was diagnosed as CBD injury (tight stricture there) and choledodudinal fistula i.e. peptic ulcers developed due to bile duct injury and free flow of bile juice in the abdomen. Complainant remained there from 02.12.2013 to 22.12.2013 in a private ward and underwent a major operation for repairing the bile duct. It can be said as bye-pass surgery of the abdomen. OP No.2 & 3 remained negligent in handling the case of complainant. OP No.3 failed to exercise the care and caution, which is required from the expert, not only at the stage of operation but also after the operation. OP No. 3 failed to diagnose the negligence committed by him in ligating the CBD even after the operation. Act of OPs amounts to gross deficiency in their service. On the treatment of complainant, Rs.1,81,580/- were spent at DMC Ludhiana, Rs.1,00,000/- were spent towards medicines and fee at PGI Chandigarh and Rs.25,000/- were

spent at the OPs hospital for surgery and doctor fee etc.

4. Upon notice, OPs filed written statement and submitted that complainant has not produced any document or any expert opinion showing the deficiency on the part of OPs in treating the complainant. OP No.3 is a well qualified M.S. General Surgery and is laparoscopic specialist and has been carrying out the surgeries for the last more than ten years. The hospital is well equipped with the operation theatre and all necessary equipments. All the precautions were taken before conducting the surgery and the hospital is having well qualified staff physician, anesthetist as well as the nursing staff. Complainant was diagnosed as having stones in the gallbladder and inflammation and as such she was advised to undergo the surgery for removing the gallbladder and after surgery she was discharged. The surgery was done according to the accepted procedure through laparoscopy. Complainant was discharged from the hospital as the post operative recovery of complainant was smooth and uneventful. She was admitted on 30.07.2013 as she was complaining of some chest pain as she has been a heart patient previously as well. So, OP No.2 who is a physician M.D. prescribed medicines accordingly. Even the ultrasound was also conducted and there was no free fluid and there was no dilation of bile ducts. Complainant being of panicky nature went to Bathinda. No doctor has given any such opinion that the operation was not conducted according to accepted medical practice. Had it been so the liver of the complainant definitely would have failed immediately within 24 hours. It is only the cystic duct which is to be legated with clips at its stem. As a matter of fact the bile is stored in the gallbladder and it passes through the hepatic duct and thereafter the gallbladder release the same into the common bile duct which further takes it to the duodenum and in this type of surgery

the cystic duct is legated with clips and the gallbladder is removed. The hepatic duct is not touched. OP No.3 has not legated the common bile duct. Even the records of Daya Nand Medical College, Ludhiana do not depict whatever has been stated by complainant and do not depict any negligence on the part of OP No.3.

5. Parties led their respective evidence. On analyzing the same; learned District Consumer Commission-Sirsa has allowed the complaint vide order dated 09.01.2017 and directed OPs to pay Rs.5,10,755/- to complainant jointly and severally within a period of two months, failing which complainant will be entitled to interest on the said amount @9% per annum from the date of order till actual payment.

6. Feeling aggrieved; OPs have filed this appeal.

7. Learned counsel for the parties have been heard at length. With their able assistance; record too has been perused.

8. Learned counsel for appellants has urged that there is no medical negligence or deficiency in service on part of appellants. Complainant did not produce any evidence against the appellants to prove the medical negligence or unfair trade practice on part of the appellants. Affidavit of Dr. Chiranjiv Singh Gill has not confirmed or explained any negligence on part of treating doctors who conducted surgery and took care of patient afterwards.

9. Learned counsel for respondent has contended that impugned order dated 09.01.2017 passed by learned District Consumer Commission does not warrant any interference. All facts have been dealt with by learned District Consumer Commission in proper legal perspective

10. Admittedly, on 22.7.2013 complainant was admitted in the hospital of appellants and her gall bladder was removed by appellant No.3/doctor by way of surgery. Admittedly, she was discharged from the hospital on 24.07.2013. Complainant was advised bed rest for 10 days and was asked to come again for check-up on 30.07.2013. After four-five days from the operation, complainant felt severe abdominal pain and started vomiting. Complainant was again admitted in the hospital on 30.07.2013 but when complainant got no relief, she was taken to Dr. Gagandeep Goyal of Bathinda who got conducted report of CECT abdomen from Dr. G.S. Shekhawat, M.D. (Radio Diagnosis) on 05.09.2013. As per the said report there was significant amount of free fluid in perihepatic, perisplenic region, paracolic gutters and pelvis and after MRCP of complainant on 06.09.2013 reported that bile surrounding the CHD near cystic duct stump. Complainant was taken to Dayanand Medical College & Hospital, Ludhiana on 07.09.2013 where after various tests, the doctors found that there was collection of bile in the abdomen and bile leak was present due to injury to the bile duct. Dr. Chiranjiv Singh Gill, Professor of Surgery, General Surgery Department, Dayanand Medical College and Hospital Ludhiana, who treated the complainant at the said hospital has tendered his affidavit on 26.05.2016 and has testified that the patient Malkeet Kaur wife of Sh. Mewa Singh was admitted in their hospital on 07.09.2013 with complaint of distension and pain of abdomen for past 20 days. On examination of the entire medical record of the patient, it revealed that she was operated upon for removing gall bladder at Aastha Hospital, Sirsa, Haryana. At Bathinda the patient was diagnosed with Ultra Sound and C.T. Scan of abdomen and it was found that there has been massive collection in abdomen. Somebody has tried ERCP (Endoscopic Retro Cholangiogram

Pancratogram) but failed to cannulate common bile duct. He has further testified that on 08.09.2013, the patient was operated upon by him for draining the bilious fluid approximately four liters collected in the abdomen. As it was a case of bile leak from common bile duct so definitive procedure i.e. repairs of CBD is always done at a later stage, however, before it the life saving draining is done with immediate effect. Patient remained sick and on ventilator for few days but was saved and discharged on 24.09.2013 with drains in side abdomen. Since there had been a need of repair of CBD, the patient was advised to come for the same later on as per protocol. He has further testified that on the perusal of entire earlier medical record of the patient, the deponent found that there had been CBD injury/ clipping but the doctors at Sirsa failed to diagnose the same. It was the duty of the doctor to get the patient diagnosed through some Specialist Radiologist. At the time of removal of gall bladder only cystic duct was to be clipped whereas the common bile duct was clipped and injured which led to leakage of bile juice. There had been failure of diagnoses post operational complications. A perusal of the history/treatment record of complainant and affidavit of Dr. Chiranjiv Singh Gill reflects that appellant No.3 was negligent while conducting operation of complainant as at the time of removal of gall bladder. There was medical negligence on the part of appellants in not taking proper post-operative care of the complainant. In wake of above discussion, this Commission has arrived at an inescapable conclusion that learned District Consumer Commission has examined all relevant facets/evidence brought on record. There is no fallacy, legal or factual committed by learned District Consumer Commission while passing impugned order dated 09.01.2017. This order is affirmed, maintained and upheld. Present appeal is hereby dismissed being devoid of merit.

11. Statutory amount of Rs.25,000/- deposited by appellants at the time of filing of this appeal be refunded to appellants, after due identification and verification as per rules.

12. Application(s) pending, if any stand disposed of in terms of the aforesaid judgment.

13. A copy of this judgment be provided to the parties free of cost as mandated by the Consumer Protection Act, 1986/2019. The Judgment be uploaded forthwith on the website of the Commission for the perusal of the parties.

14. File be consigned to record room.

09th January, 2026

S.C. Kaushik

S.P. Sood

Member

Judicial Member

Addl. Bench

Addl. Bench

D.K.

.....
S . P . SOOD
JUDICIAL MEMBER

.....
SURESH CHANDER KAUSHIK
MEMBER