

Date of Filing: 12.08.2021
Date of Order: 12.09.2022

BEFORE THE DISTRICT CONSUMER DISPUTES REDRESSAL
COMMISSION – I, HYDERABAD
P r e s e n t

HON'BLE MRS. B. UMA VENKATA SUBBA LAKSHMI, PRESIDENT
HON'BLE MRS. C. LAKSHMI PRASANNA, MEMBER
HON'BLE MRS. MADHAVI SASANAKOTA, MEMBER

On this the Monday the 12th day, of September, 2022

C.C.No. 502/2021

Between

Abid Hussain S/o Late Khaja Yousuf Hussain,
Aged about 52 years, Occ: Business,
R/o: H.No. 19-2-677, Doodhbowli, Hyderabad.
Through his G.P.A holder
Syed Moin S/o Syd Qayyum,
Aged about 42 years, Occ: Business,
R/o: H.No. 19-2-680,
Doodhbowli, Hyderabad 9948625315

....Complainant

AND

Metrocure Hospital,
(a unit of xenon anaesthesia critical care group)
H.No. 16-2-661/EFGH, Malakpet, Hyderabad,
Telangana-500 036 rep. by its Managing Director

....Opposite Party

Counsel for the Complainant
Counsel for the Opposite party

: M/s. Mohd. Nasrullah Khan
: Mrs. P. Santoshi Kumari.

O R D E R

(By HON'BLE MRS. C. LAKSHMI PRASANNA, MEMBER
on behalf of the bench)

1. The present complaint is filed U/Sec.35 of The Consumer Protection Act, 2019 alleging unfair trade practice on the part of the Opposite Party and seeking appropriate direction against the Opposite Party ;

- i) To pay an amount of Rs.10,00,000/- (Rupees Ten Lakhs Only) to the complainant herein towards compensation for the mental agony and anxiety suffered by the complainant.
- ii) To award costs of litigation.

Brief facts of the case are:-

2. The complaint is filed by the GPA Holder of the complainant (GPA dt. 08/10/2020 duly executed and notarized) and as per the Docket Proceedings, the I/A No.184/2021 filed Under Rule 32 Civil Rules of Practice along with the affidavit of the GPA Holder is allowed vide Order dt.07/09/2021.

3. As per the averments of the complaint, the complainant got admitted in O.P. Hospital in the evening of 16/07/2020 for treatment of Bilateral Pneumonia, Corads-5 and was kept in Intensive Care Unit and discharged on 25/07/2020 and the complainant paid an amount of Rs.4,10,000/- on various dates as given below and the total bill for Rs.5,40,518/- vide Bill No.2857 dt.25/07/2020 issued by the Opposite Party (Ex A-1).

SL No.	Dated	Description
1	16-07-2020	Rs. 20,000/- (Rupees Twenty Thousand only)
2	17-07-2020	Rs. 20,000/- (Rupees Twenty Thousand only)
3	18-07-2020	Rs. 20,000/- (Rupees Twenty Thousand only)
4	20-07-2020	Rs. 20,000/- (Rupees Twenty Thousand only)
5	21-07-2020	Rs. 20,000/- (Rupees Twenty Thousand only)
6	22-07-2020	Rs. 20,000/- (Rupees Twenty Thousand only)
7	23-07-2020	Rs. 20,000/- (Rupees Twenty Thousand only)
8	24-07-2020	Rs. 20,000/- (Rupees Twenty Thousand only)
9	25-07-2020	Rs. 50,000/- (Rupees Fifty Thousand only) Through bank card payment

It is the case of the complainant that the Opposite Party collected huge amounts for the treatment and services which is not only false representation but also amounts to unfair trade practice, for excessively charging during pandemic, in violation of the Government Directions fixing ceiling on the rates chargeable by the private hospitals towards covid related investigation tests and treatment. It is averred that the complainant and his wife and minor children suffered enormous trauma and mental agony in addition to the financial burden owing to the exorbitant medical expenses incurred during the complainant's

hospitalization in the Opposite Party Hospital. Aggrieved by the same, the present complaint is filed seeking appropriate relief.

4. In the written version filed on behalf of the Opposite Party, while denying the allegations, it was contended that the complainant was admitted on 16/7/2020 with serious health condition of cough, fever and having uncontrolled blood sugar levels and was kept in ICU after necessary tests revealed that he was infected with Carona Virus. It was also contended that the complainant was discharged on 25/7/2020 after providing treatment for LRTI with bilateral pneumonia, corads-5, HRCT and DM type-2 and was treated with appropriate antibiotics, antivirals, antiplatelet, anticoagulants, MVIs, steroids and other supportive drugs and was kept on NIV support. It is also contended that the hospitalization charges were reasonable/affordable when compared to other hospitals and the complainant cleared the medical bill without a demur. With the above contentions, the Opposite Party sought dismissal of the complaint, as there is no unfair trade practice as alleged by the complainant.

5. In the enquiry, the evidence affidavit was filed by the GPA holder reiterating the averments of the complaint supporting the complainant's claim with Ex.A1 comprising of 27 pages of various receipts and Ex.A-2 the final bill of the patient-complainant herein. The Evidence affidavit of Dr.V.Chakravarty as authorized signatory of Opposite Party is filed on their behalf and Ex B-1 to B-5 including the payment receipts, final bill, pharmacy details report and the Discharge Summary of the complainant are filed.

6. Based on the facts and material on record, and written/oral arguments of the complainant, the following points have emerged for consideration-

- Whether the complainant could make out the case of deficiency of service on the part of the opposite party?
- Whether the complainant is entitled for the claim/compensation made in the complaint.? To what relief?

7. Point No.1:-

At the outset, it is worth mentioning that Coronavirus Disease 2019 (COVID-19), which is caused by a novel coronavirus, causing severe acute respiratory syndrome coronavirus-2 (SARS-CoV-2), has led to a global pandemic resulting in more than 180 million cases and almost 4 million deaths as of July 2021. Treating it as “Notified Disaster” under the Disaster Management Act, 2005, Telangana government has fixed a ceiling on rates to be charged by private hospitals and laboratories for COVID-19 treatment and testing (vide G.O. Nos. 248, 281, 491, 539 & 401 issued by HM & FW(D) Department dt. 15/06/2020, 06/07/2020, 18/11/2020, 21/12/2020 and 22/6/2020.) The Government of Telangana vide G.O.Rt.No.248 Dated:15.06.2020 fixed the following maximum rates chargeable by private hospitals for various services provided by them for COVID-19 treatment and for testing (RT-PCR) by the private laboratories:

Package	Rate in INR per day	Inclusions	Exclusions
Charges for Routine ward + Isolation	4000	This includes Monitoring and Investigations like CBC, Urine routine, HIV spot, Anti HCV, Hbs Ag, Serum Creatinine, USG, 2D ECHO, XRay, ECG, Drugs, Consultations Bed , Charges, meals. Procedures like Rylestube insertion, urinary tract catheterization.	Does not include: 1 . PPE 2. Interventional procedures like, but not limited to, Central line insertion, Chemoport insertion, bronchoscopic procedures, biopsies, ascitic / pleural tapping, etc, which may be charges at a rack rate as on 31 st Dec 2019. 3. COVID-19 testing - to be done as per actual cost as fixed by the state Government i.e., Rs.2,200. 4. High end investigations like CTSCAN, MRI, PET scan or any lab investigation not included in the previous column - to be charged at rack rates of hospital as on 31 st December 2019.
Charges for ICU without ventilator + Isolation	7500		
Charges for ICU with ventilator + Isolation	9000		
Maximum Rates Chargeable for RT-PCR TEST			
Samples which are collected at the Labs/ Hospitals			Rs.2,200
Samples which are collected from home			Rs.2,800

Subsequently, Government of Telangana vide G.O.Rt.No.491Dated:18.11.2020 revised the maximum rates chargeable for testing (RT-PCR) by private NABL & ICMR approved laboratories as follows:

Sl. No.	RT-PCR Test	Maximum Rates Chargeable for RT-PCR TEST
1	Samples which are collected at the Labs / Hospitals including all charges—test cost +PPE etc.	Rs.850
2	Samples which are collected from home (including all charges — test cost + VTM + PPE etc.	Rs.1200

In the instant case, it is evident from Ex A-2, the In-Patient Final Bill dt. 25/07/2020, the charges under various heads are shown as below-

HOSPITALIZATION CHARGES FROM 16-JUL-2020 7: 47 PM

Service code	Service / Investigation	Qty	Rate	Amount
Admission charges	Admission charges	1	300.00	300.00
Accommodation I.C.U Charges	Bed charges	6	3500.00	21000.00
	Cardiac Monitor Charges	6	1000.00	6000.00
	Charges	6	1500.00	9000.00
	Critical Care Charges	6	300.00	1800.00
	DMO Charges	6	300.00	1800.00
	Drug Administration charges	6	300.00	1800.00
	Nursing charges	6	700.00	4200.00
	Pulse Oximeter charges	6	250.00	1500.00
	Service charges			
Single Non A/c Charges	Bed charges	3	1250.00	3750.00
	DMO Charges	3	350.00	1050.00
	Drug Administration charges	3	300.00	900.00
	charges	3	300.00	900.00
	Nursing charges	3	250.00	750.00
	Service charges			
			Amount	54,450.00

Service charges IP Services				
Services	BIPAP	7	4500.00	31500.00
Services	Foleys Cathiter	1	1000.00	1000.00
Services	Glucometer charges	70	100.00	7000.00
Services	Infusion Pump	3	600.00	1800.00
Services	Oxygen Charges	9	2000.00	18000.00
Services	Service Charges	1	276150.00	276150.00
Services	Syringe Pump	3	600.00	1800.00
Consultation charges	Dr. Chakravarthy - critical care	10 10	700.00 900.00	7000.00 9000.00
	Dr. Ravindra - Pulmonology	1 5	700.00 500.00	2500.00 2500.00
	Dr. Sitaram - Cardiology	8	500.00	4000.00
	Lakshmi Prasanna Reddy-Dietary		Amount	23200.00
	Mohammed Fouzia (Physiotherapy)			
Pharmacy			Amount	87649.00
Pharmacy Returns			Amount	(4746.86)
Investigation charges	RFT	8	900.00	7200.00
BIO Chemistry	Serum Ferritin	1	1080.00	1080.00
Pathology	Serum Procalcitonin (Qualitative)	2	3000.00	6000.00
Raiology U/s	Ultrasound Abdomen	1	960.00	960.00
Pathology	Urine For C&S	1	1200.00	1200.00
Radiology	X-Ray Besides single exposure	7	600.00	4200.00
Radiology (X- Ray)	X-Ray Chest	1	360.00	360.00
Hameatology	E.S.R	1	120.00	120.00
Cardiac	ECG	1	120.00	120.00
Serology	HBSAG	1	480.00	480.00
Pathology	Hepatitis C Virus	1	480.00	480.00
Serology	HIV I & II Test	1	660.00	660.00

BIO-Chemistry	Liver Function Test	1	600.00	600.00
Procedure	LP Procedure	1	2160.00	2160.00
Pathology	Malaria Parasite F&V Blood for C &S	1 1	360.00 1800.00	360.00 1800.00
Haematology	C.B.P(Complete Blood Picture)	8	240.00	1920.00
Pathology	C.U.E (Complete Urien Examination)	1	96.00	96.00
Procedure	Covid -19 Test	1	3360.00	3360.00
Pathology ABG APTT	ABG Analysis APTT	7 2	840.00 300.00	5880.00 600.00
Bio-Chemistry CPK	CPK(Creatinine Phosphokinase)	1	600.00	600.00
Pathology DD	D-Dimer	1	1860.00	1860.00
Cardiac ECHO-2D	2D-ECHO	1	1440.00	1440.00
BIO-Chemistry LDH	LDH	1	600.00	600.00
Pathology PTINR	PROTHROMBINB Tine with INR	8	420.00	3360.00
			Amount	47616.00
			Gross Amount	545,718.41
			Concession	2700.00
			Total receipt amount	55,4018.41
			Refund amount	-11,000.00

For Intensive Care Unit, an amount of Rs.47,100/- for 10 days i.e. from 16/07/2020 to 25/07/2020, i.e Rs.4710/- per day is charged which is Rs.710/- per day more than the charges stipulated under the above mentioned G.O. Secondly, it is mentioned that Rs.47,616/- are collected towards investigation charges and Page No.2 under Ex B-2 shows that Rs.3,360/- is charged for Covid-19 test, Rs.1860/- for D-Dimer and Rs.1440/- for 2D Echo and other various pathological tests. As per the G.O. Rt.No.248 Dated:15.06.2020 mentioned above, the ICU charges very include Monitoring and Investigations like CBC, Urine routine, HIV spot, Anti HCV, Hbs Ag, Serum Creatinine, USG, 2D ECHO, XRay, ECG, Drugs, Consultations, Bed Charges, meals, Procedures like Rylestube insertion, urinary tract catheterization. Hence, the excess charges towards investigations collected by the Opposite Party are in violation of the said

Government Order. Similarly, the pharmacy charges of Rs.82,902.41/- (Rs.1,03,849.27/- - Rs.20,946.86p (pharmacy returns) was collected from the complainant which is in violation of the G.O. Rt.No.248 Dated:15.06.2020, wherein it is specifically mentioned that the treatment in ICU includes drugs and procedures. It is also seen from Page-3 of Ex B-4 that an amount of Rs.2,76,150/- is exclusively charged towards services, which is in addition and over and above the charges collected for nursing, drug administration, cardiac monitor charges, DMO charges, bed charges, pulse oximeter charges, syringe pump, infusion pump under various heads as shown in Page-3 of Ex B-4. An amount of Rs.23,200/- is collected towards consultation charges, which is again included in the ICU charges as per the Government Directions mentioned above. It is pertinent to mention that the exclusions under G.O. Rt.No.248 Dated:15.06.2020 are 2. Interventional procedures like, but not limited to, Central line insertion, Chemoport insertion, bronchoscopic procedures, biopsies, ascitic / pleural tapping, etc, which may be charges at a rack rate as on 31/12/ 2019. It is abundantly clear from a bare perusal of Ex A-2 and Ex B-4, that the charges collected by the Opposite Party are in gross violation of G.O. Nos. 248, 281, 491, 539 & 401 issued by HM & FW(D) Department dt. 15/6/2020, 6/7/2020, 18/11/2020, 21/12/2020 and 22/6/2020, which are issued by the Telangana government capping the rates to be charged by private hospitals and laboratories for COVID-19 treatment and testing. Hence, this point is answered in favour of the complainant.

8. In view of the above findings, the complainant is entitled for compensation for the amounts excessively collected by the Opposite Party as against the charges fixed by the Government of Telangana through the orders mentioned above and the Opposite Party is liable to pay the same along with reasonable compensation for the mental agony and loss incurred by the complainant and his family.

9. In the result, the complaint is allowed in part and the Opposite Party is directed ;

- i) To pay an amount of Rs.2,00,000/- (Rupees Two Lakhs Only) towards compensation.
- ii) To pay an amount of Rs.10,000/- (Rupees Ten thousand Only) towards costs of litigation.

This order be complied with by the opposite parties, within 45 days from the date of receipt of the Order, failing which the amounts mentioned (i) & (2) above shall carry interest @9% per annum from the date of this order till actual payment.

Dictated to steno, transcribed and typed by him, pronounced by us on this the 12th day of September, 2022.

MEMBER

MEMBER

PRESIDENT

APPENDIX OF EVIDENCE

WITNESS EXAMINED FOR THE COMPLAINANT:

(PW1) Abid Hussain

WITNESS EXAMINED FOR THE OPPOSITE PARTY

DW1 Dr.V. Chakravarthy

EXHIBITS FILED ON BEHALF OF THE COMPLAINANT:

- Ex.A1 Original final bill vide bill No. 2827 dated 25.07.2020.
- Ex.A2 Copy of discharge summary dt. 17.07.2020.

EXHIBITS FILED ON BEHALF OF THE OPPOSITE PARTY

- Ex.B1 Copy of payment receipts.
- Ex.B2 Copy of diagnostic reports 17.07.2020.
- Ex.B3 Copy of discharge summary dt. 25.07.2020.
- Ex.B4 Copy of IP final bills dt. 25.07.2020.
- Ex.B5 Copy of pharmacy details report

MEMBER

MEMBER

PRESIDENT

PSK
Read by:-
Compared by :-