

**BEFORE THE DISTRICT CONSUMER DISPUTES REDRESSAL  
COMMISSION : AT NALGONDA :**

PRESENT: SRI MAMIDI CHRISTOPHER,  
PRESIDENT.

SMT.S.SANDHYA RANI,  
FEMALE MEMBER.

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MONDAY, THE TWENTY FIFTH DAY OF JANUARY, 2021

**CONSUMER COMPLAINT No. 40 OF 2017**

**Between:**

Gundu Krishnaiah S/o Late Mallaiah, Age: 64 years, Occ: Retd.S.I.,  
R/o H.No.6-1-223/2/1, Srinivasa Nagar Colony, Opp: Raghavendra  
Degree College, Ramagiri, Nalgonda.

...COMPLAINANT.

**AND**

Dr.D.Narahari, Interventional Cardiologist, C/o Viswa Hrudaya  
Hospitals, R.T.C.Colony, Government Hospital Back side,  
Nalgonda.

...OPPOSITE PARTY.

This complaint coming on before us for final hearing, in the presence of Sri B.Narsimha Rao, Advocate for the Complainant, and Sri D.Amarendar Rao, Advocate for the Opposite Party, and on perusing the material papers on record, and having stood over for consideration till this day, the Commission passed the following:

**ORDER OF THE DISTRICT COMMISSION DELIVERED  
BY SRI MAMIDI CHRISTOPHER, PRESIDENT**

1. The Complainant filed this complaint Under Section 12 of Consumer Protection Act, 1986 to direct the Opposite Party to pay compensation of Rs.10,00,000/- along with interest @ 12% per annum and costs of the complaint.

2. The facts leading to the filing of this complaint are as follows:

The Complainant is the husband of G.Laxmamma, age 56 years, was brought to Viswa Hrudaya Hospitals, owned by the Opposite Party

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on 26/08/2016 with reported chest pain and uneasiness. The Opposite Party advised the Complainant to admit his wife G.Laxmamma and he conducted several tests on her and gave some medicines and other injections which were in Opposite Party medical shop. The Complainant paid Rs.47,300/-. The Opposite Party conducted ECG and 2D Echo on her. While the above said procedures were being conducted on the patient, the Opposite Party was not at the bed side of the patient and left his house by leaving the patient in serious condition. The Opposite Party did not inform anything to the Complainant about the condition of the patient and treatment undergoing. The patient was kept in the Opposite Party hospital for over five hours, but there was no improvement in her condition. Further, the Opposite Party hospital is neither well equipped nor the Opposite Party competent enough to treat the patient. The Opposite Party simply with a malafide intention to usurp exorbitant moneys from the Complainant feigned to treat the patient. The Opposite Party did not choose to come early to the hospital to take care of the above patient, due to the Opposite Party carelessness and negligence the patient died at about 3-30 p.m., which was confirmed by the Opposite Party. Further, the Opposite Party staff stole finger ring worn by the patient weighing about ½ tula gold. The Complainant asked the Opposite Party about the stolen article in writing, but the Opposite Party gave a lame excuse that the CC cameras were not working in the hospital at that time.

3. The Complainant suffered great loss on the death of his wife which cannot be compensated and he incurred heavy expenditure by admitting his wife in the Opposite Party hospital. The Opposite Party

did not discharge his professional duties nor did he refer her to a better equipped hospital. This shows the Opposite Party negligence and intention to usurp heavy money from the Complainant.

4. The Complainant got issued a legal notice to the Opposite Party on 16/09/2017 calling upon to pay an amount of Rs.10,00,000/- within ten days from the receipt of the legal notice. The Opposite Party received the same on 18/09/2017 and did not give any reply or pay the said amount to the Complainant. The Complainant is claiming an amount of Rs.47,300/- towards medical expenses, Rs.16,700/- towards gold ring finger, Rs.3,36,000/- towards mental agony and Rs.6,00,000/- towards compensation, total Rs.10,00,000/-. Hence, the present complaint is filed against the Opposite Party.

5. The Opposite Party filed written version, denying all the averments of the complaint. The Opposite Party admitted that the Complainant brought his wife by name G.Laxmamma to his Viswa Hrudaya Hospital, Nalgonda on 26/08/2016 as she complained chest pain and uneasiness. The Opposite Party examined the patient Smt.Gundu Laxmamma, measuring her blood pressure, took her ECG and 2D Echo. After coming to final conclusion that the patient was suffering from serious heart attack, the Opposite Party explained the Complainant the risk and consequences of heart attack including the sudden death that may happen to the patient. The Complainant after understanding the complications involved in the procedure during the heart attack, admitted his wife for treatment in the clinic of the Opposite Party and consulted for the treatment and signed in the consent letter out of his free will and consent without any pressure

from the side of the Opposite Party or his staff members. The Opposite Party administered RETEPLASE injection which was to be given within 30 minutes of heart attack as early as possible according to the protocol followed in the cases of heart attack. After giving the injection, the patient showed signs of improvement and it was also reflected in the second ECG.

6. The Opposite Party denied that the Complainant paid a sum of Rs.47,300/- on his advice. The receipts filed by the Complainant shows that the amount spent in the hospital is only for tests, procedures and medicines and the initial consultation fee of the Opposite Party is Rs.250/- which is collected at the counter from any out-patient. During the emergency treatment for heart attack, a doctor has to be by the side of the patient leaving all other general patients and out-patients and for that purpose and towards emergency charges a sum of Rs.5,000/- was charged. The amount is quite reasonable and commensurate to the consequences of the Complainant's wife suffering. The Opposite Party came to the conclusion that the patient should undergo angiogram and, therefore, advised the Complainant to take the patient to higher cardiac centre where the angiogram facility is available.

7. The Opposite Party denied that throughout the procedure done to the patient in the hospital, the Opposite Party was not available and the same was dealt with by his staff. The procedure done to the patient is such which cannot be done by anybody than a qualified Cardiologist. The Opposite Party was by the side of the patient throughout the procedure. The Opposite Party advised the

Complainant to immediately arrange for an ambulance to shift the patient to the institution where the angiogram facilities available. But, he did not do so. When the patient condition started deteriorating, the Opposite Party gave Cardio Pulmonary Resuscitation (CPR) and did all the best available at his command, but unfortunately, the patient condition did not improve with CPR and she collapsed. The Opposite Party while doing the Resuscitation procedure, he found fluid collection around the heart due to cardiac free wall rupture and the patients of this kind will answer such symptoms 5-6% cases of heart attack.

8. The Opposite Party denied that he did not come early to the hospital as he was present during the procedure till her death and he never left the hospital. The Opposite Party denied that the staff of the Opposite Party stole finger ring worn by the patient which was ½ tula gold. The Opposite Party stated that when the patient was taken to the test of ECG and 2D Echo, advised the Complainant and other attendants of the patient to take away all the valuables from the body of the patient and accordingly they taken away all the valuables from her. The death of the deceased occurred on 26/08/2016 at 3.30 p.m. It was for the first time in the legal notice of the Complainant dated 15/09/2017 about the allegation of theft of gold ring was made after 11 months of the incident.

9. The Complainant is a retired Police Officer having knowledge of the consequences of the crime and not reported of the theft of the ring. The Opposite Party denied the allegation that the hospital is not well equipped. The hospital of the Opposite Party is a recognized one and the District Medical Officer and Health Officer, Nalgonda gave

certification of recognition to the said hospital and was valid as on the date of the procedure done to the patient. The Opposite Party stated that he gave reply notice on 10/10/2017 to the legal notice, dated 15/09/2019 which was received on 20/09/2017 and the reply notice was served on the Complainant on 13/10/2017. The Complainant without waiting for reply from the Opposite Party, lodged this complaint to corner and blackmail the Opposite Party. The Complainant filed this complaint with an intention to grab money from the Opposite Party at the cost of his reputation. The Opposite Party took care to save the deceased Laxmamma by using all his professional skills. The Opposite Party is a qualified Cardiologist and by virtue of the recognition of his hospital by the DMHO, Nalgonda, is entitled to do the procedure which he did and that he did not cross the limits of professional barricades imposed on him. The amount claimed by the Complainant is huge and unreasonable and the complaint is liable to be dismissed.

10. The Complainant was examined as PW-1 and got marked Exs.A-1 to A-15. The Opposite Party was examined as RW-1 and got marked Ex.B-1. Written arguments filed by the Complainant and the Opposite Party.

11. The points for consideration are:

- 1) Whether there is negligence and deficiency in service on the part of the Opposite Party?
- 2) Whether the Complainant is entitled for the claims as prayed for?
- 2) If so, to what extent?

12. POINT No.1:

The Complainant is the husband of G.Laxmamma, age 56 years, was brought to Viswa Hrudaya Hospitals, owned by the Opposite Party on 26/08/2016 with reported chest pain and uneasiness and was admitted in the Opposite Party hospital and the Opposite Party conducted several tests on her and gave some medicines and other injections which were in Opposite Party medical shop. The Complainant paid Rs.47,300/-. Exs.A-1 and A-2 are the Bunch of Receipts. The Opposite Party conducted ECG (Ex.A-12) and 2D Echo (Ex.A-9) on her. The Opposite Party did not inform anything to the Complainant about the condition of the patient and treatment undergoing. The patient was kept in the Opposite Party hospital for over five hours, but there was no improvement in her condition. The Opposite Party hospital is not well equipped. The Opposite Party did not choose to come early to the hospital to take care of the above patient, due to the Opposite Party carelessness and negligence the patient died at about 3-30 p.m., which was confirmed by the Opposite Party. Ex.A-8 is the Death Certificate issued by the Opposite Party and Ex.A-13 is the Death Certificate issued by Nalgonda Municipality. The Opposite Party staff stole finger ring worn by the patient weighing about ½ tula gold. The Complainant asked the Opposite Party about the stolen article in writing, but the Opposite Party gave a lame excuse that the CC cameras were not working in the hospital at that time.

13. The Opposite Party did not discharge his professional duties nor did he refer her to a better equipped hospital. This shows the Opposite Party negligence and intention to usurp heavy money from the Complainant.

14. The Complainant got issued a legal notice Ex.A-14 to the Opposite Party on 16/09/2017 calling upon to pay an amount of Rs.10,00,000/- within ten days from the receipt of the legal notice. The Opposite Party received the same on 18/09/2017 and did not give any reply or pay the said amount to the Complainant. The Complainant is claiming an amount of Rs.47,300/- towards medical expenses vide Ex.A-5, Rs.16,700/- towards gold ring finger, Rs.3,36,000/- towards mental agony and Rs.6,00,000/- towards compensation, total Rs.10,00,000/-.

15. Ex.A-3 is the Discharge Summary issued by the Opposite Party. Ex.A-4 is the Emergency Certificate and Ex.A-5 is the Essentially Certificate. Ex.A-6 is the Genuine Certificate, issued by the Opposite Party. Ex.A-7 is the Final Cash Bill. Ex.A-10 is the Medical Prescription and Ex.A-11 is the Bio-Chemistry Report. Ex.A-12 is the bunch of ECG Reports. Ex.B-1 is the Case Sheet of the deceased issued by the Opposite Party.

16. The Complainant, who is PW-1 spoke about admitting his wife in the Opposite Party's hospital at about 9-30 a.m. The doctor took ECG and 2D Echo of his wife and paid Rs.47,300/- for treatment. He denied that the doctor advised him to take the patient immediately to Hyderabad for better treatment and that the doctor was present by the side of the patient Laxmamma throughout the procedure. He denied the suggestion that the doctor was not negligent in treating the patient and also denied that the staff of the Opposite Party hospital stole a finger ring belonging to the patient. He denied the suggestion that the Opposite Party doctor was negligent for the death of his wife. Nothing



much has been elicited to prove that the Opposite Party doctor was not negligent in giving treatment to the deceased Laxmamma in the cross-examination.

17. The Opposite Party was examined as RW-1. In his chief examination, he repeated the version of the counter. The Opposite Party was cross-examined on 9<sup>th</sup> December, 2019. He admitted that he established the hospital in Nalgonda on 08-12-2012 by name Vishwa Hrudaya Hospital and he is the proprietor of the said hospital. He admitted that he has not filed any documents in the Forum on his behalf and he admitted that he issued Exs.A1 to A12. He admitted that the patient was admitted on 26-08-2016 at 10-10 AM and date of death of the patient on 26-08-2016 at 3-30PM, and the cause of death mentioned as Coronary artery disease with acute inferior wall and lateral wall myocardial infarction with moderate L.V. dysfunction T.L.T. with reteplace with L.V. free wall rupture with cardiac camnode. He admitted that the patient was in his hospital for five hours and that the patient came to him with chest pain and shortness of breath, patient was referred by outside qualified M.D., doctor to him for further management of the case. RW-1 confirmed that it is a case of heart attack with support of investigations including E.C.G., 2 D Echo cardiogram and lab investigations (troponine I). After confirmation he informed patient attendant regarding the case including all the complications of heart attack and treatment protocol at the district level (secondary medical level). After taken consent from patient attendant in written, he started treatment. The treatment given by him was that injections ( inj. Reteplease, Inj.Lupinox, Inj.Pan, tablets Disprin-300mg and Clopiudogrel and Atorvas) for dissolution of heart

vessel clot. After giving injections there was a clinical response and by investigations also there was a response to the injection which was confirmed by serial E.C.Gs and 2D Echo. After giving injections he kept the patient for 2 to 3 hours for observation and after that he referred her to higher centre i.e., Territory Care Centre, Hyderabad for further management of the patient. Meanwhile there was a sudden deterioration of the patient condition in the form the loss of consciousness and the decreased pulse rate and decreased respiratory rate, so he immediately resuscitated the patient and confirmed by Eco there was a large fluid collection around the heart, so the possible cause for fluid collection Left Ventricular free wall rupture, and he continued resuscitation procedure for an half an hour, but there was no response to resuscitation procedure. He explained regarding the complication of heart attack which was happened in this case to the patient attendant and he declared the death after confirmation to the patient attendant. RW-1 admitted that he has not filed till today referral letter to the higher hospital or consent letter from the attendant of the patient and further stated that the complications happened before shifting the patient to the higher centre so he did not give any referral letter, but he gave death summary. He further submitted that according to Indian Medical Council Act hospital has to maintain inpatient records for three years from the date of admission. It is true that Injection Reteplase has side effects. Injection has to give within one hour (golden hours) of the heart attack which saves the lives of the patient in spite of having side effects of injection two to five percent. He admitted that the patient attendant paid the bill amount of Rs.47,300/- including Pharmacy and doctor and emergency and hospital charges and that he has to follow inpatient case sheet.

He further admitted that he has not filed case sheet in the case. RW-1 admitted that he issued Ex.A3 is Discharge Summary and he mentioned date and time of the death of patient as 26-08-016 at 3-30PM. RW-1 admitted that he doesn't have angiogram facilities (cathlab). He denied the suggestion that the patient would have survived with this complications even if the cathlab facility available and also denied that for the sake of monetary benefit he kept the patient in his hospital for five hours since she was in critical condition. RW-1 stated that according to American Heart Association and European Cardiology Society that the injection mandatory for this patient for saving the life which has to be given within the golden hours to save the patient life. He further stated that there is no need of angiogram facility to give this injection it can be given on mobile ambulance for the benefit of the patient. He denied the suggestion that he left the patient on staff and stated that he was present in the hospital premises and he had taken serial E.C.Gs to see the response of the patient. He admitted that there are no C.C. cameras in his hospital at that time and he denied the suggestion that he was negligent in treating the patient and that he is liable to pay compensation to the attendant of the patient. He denied that he is giving this statement to avoid the payment of compensation.

18. RW-1 filed Ex.B-1 on 27/02/2020 on recalling, and he was further cross-examined by the counsel for the Complainant. RW-1 admitted that he filed Ex.B-1 after thought after previous cross-examination and that there are loose sheets in the Case Sheet and admitted that at the time of the admission, the patient Laxmamma was in conscious condition and he scribed Ex.B-1. RW-1 admitted that

according to medico legal manual, it is required to be obtained the clear and specific consent of the patient or the attendant and admitted that without taking the consent of the patient or attendant, it amounts to medical negligence. RW-1 admitted that when if there is no proper diagnosis, then also it comes under medical negligence. RW-1 stated that he explained the condition of the patient's disease to the patient and the treatment, but he has not explained the complications of the patient's disease (heart attack). RW-1 admitted the patient can refuse the treatment at any time after knowing the complications and she has right to refuse and admitted that the patient was admitted as in-patient (Day Care) on 26/08/2016 at 10-10 a.m. in his hospital. In Ex.B-1 the date of admission and registration number are over written. RW-1 admitted that in the identification column in Ex.B-1 is not written. RW-1 admitted that he has not mentioned in Ex.B-1 regarding the blockage of valves and what percentage of blockage. He denied the suggestion that consent obtained in Ex.B-1 is not in correct procedure. RW-1 denied the suggestion that in Ex.B-1 on second page, i.e. consent it is mentioned as 'Aayana' and that Ex.B-1 shows that the treatment was given to the male person. RW-1 is admitted that the heart attack is a 'disease' and denied the suggestion that he has not properly diagnosed, properly take consent and properly not treated the patient and that he is liable for compensation. RW-1 admitted that case sheet should contain visiting time and treatemtn given and admitted that Ex.B-1 is written in the form of a story. RW-1 denied the suggestion that even though they do not have Cathlab facility, he treated the patient without referring the patient to the higher centre. He further added that it is not mandatory of Cathlab to give this heart attack treatemtn for patient in early

hours. RW-1 admitted that Ex.B-1 does not contain the Registration number or doctor's name. He denied the suggestion that Ex.B-1 is fabricated one for the purpose of this case and denied that due to my negligence the patient died. RW-1 denied the suggestion that for the monetary benefit only he treated the patient even though he doesnot have proper equipments.

19. The Complainant filed written arguments that his wife Gundu Laxmamma was taken to the Opposite Party hospital as she complained chest pain and uneasiness. She was admitted in the Opposite Party hospital on 26/08/2016 at 10.10 a.m. The Opposite Party conducted several tests and gave some medicines and injections available in the medical shop of the Opposite Party. The Opposite Party also conducted ECG and 2D Echo on her. The Opposite Party also administered Reteplase injection, but the patient's condition did not improve and finally she died at about 3-30 p.m. The Complainant also stated that finger ring on his deceased wife was stolen in the hospital. The Complainant alleged that his wife due to carelessness and negligence of the Opposite Party and not referring the patient in time to the higher centre, where the required equipments are found. The Opposite Party did not discharge his professional duties in giving proper treatment to his wife, but to usurb heavy money from the Complainant. The Complainant was examined as PW-1 and got marked Exs.A-1 to A-15 to prove his claim regarding the negligence of the Opposite Party.

20. As per the written version filed by the Opposite Party, the Complainant's wife was admitted in his hospital on 26/08/2016 as she complained chest pain and uneasiness. The Opposite Party examined

the patient, took the blood pressure, ECG, 2D Echo and came to the conclusion that the patient was suffering from serious heart attack and explained the Opposite Party explained the Complainant the risk and consequences of heart attack including the sudden death that may happen to the patient. The Complainant after understanding the complications involved in the procedure during the heart attack, admitted his wife for treatment in the clinic of the Opposite Party and consulted for the treatment and signed in the consent letter out of his free will and consent without any pressure from the side of the Opposite Party or his staff members. The Opposite Party administered RETEPLASE injection which was to be given within 30 minutes of heart attack as early as possible according to the protocol followed in the cases of heart attack. After giving the injection, the patient showed signs of improvement and it was also reflected in the second ECG. The Opposite Party admitted that he had taken Rs.47,300/- towards fees and also Rs.5,000/- towards emergency charges and consultation fee of Rs.250/-.

21. The Opposite Party came to the conclusion that the patient should undergo angiogram and, therefore, advised the Complainant to take the patient to higher cardiac centre where the angiogram facility is available.

22. The Opposite Party denied that throughout the procedure done to the patient in the hospital, the Opposite Party was not available and the same was dealt with by his staff. The procedure done to the patient is such which cannot be done by anybody than a qualified Cardiologist. The Opposite Party was by the side of the patient

throughout the procedure. The Opposite Party advised the Complainant to immediately arrange for an ambulance to shift the patient to the institution where the angiogram facilities available. But, he did not do so. When the patient condition started deteriorating, the Opposite Party gave Cardio Pulmonary Resuscitation (CPR) and did all the best available at his command, but unfortunately, the patient condition did not improve with CPR and she collapsed. The Opposite Party while doing the Resuscitation procedure, he found fluid collection around the heart due to cardiac free wall rupture and the patients of this kind will answer such symptoms 5-6% cases of heart attack.

23. The Opposite Party denied that he did not come early to the hospital as he was present during the procedure till her death and he never left the hospital. The Opposite Party denied that the staff of the Opposite Party stole finger ring worn by the patient which was ½ tula gold. The Opposite Party stated that when the patient was taken to the test of ECG and 2D Echo, advised the Complainant and other attendants of the patient to take away all the valuables from the body of the patient and accordingly they taken away all the valuables from her. The death of the deceased occurred on 26/08/2016 at 3.30 p.m. It was for the first time in the legal notice of the Complainant dated 15/09/2017 about the allegation of theft of gold ring was made after 11 months of the incident. The Opposite Party stated that the patient should undergo angiogram and advised the Complainant to take the patient to higher cardiac centre where the angiogram facility is available. The patient died on 26/08/2016 at 3-30 p.m. The Opposite Party examined himself as RW-1 and got marked Ex.B-1 case sheet.

24. The contention of the Complainant is that the Opposite Party has not given Reteplace injection within 30 minutes of the heart attack as per the protocol in cases of heart attack. The patient was admitted in the hospital on 26/08/2016 at 10.10 a.m., but the treatment was started at 11.40 a.m. as per Ex.B-1 and there is no mention of time when the Reteplace injection was administered. If the Reteplace injection was given in golden hours, the Complainant's wife would have survived. The Opposite Party after giving Reteplace injection, the condition of the patient improved, but suddenly the patient's condition deteriorated as the Opposite Party was not available at the time when the patient requires his presence. The consent letter reflects that the treatment was given to a male person. The resuscitation by the Opposite Party was not done properly, due to which there was large fluid collection around the heart and there was left ventricular free wall rupture which caused the death of the patient. The Opposite Party did not issue any referral letter to higher centre. The Opposite Party admitted that Reteplace injection had side effects which should have taken proper precautions and not cautioned the patient before administering to the patient. The Opposite Party admitted that Ex.B-1 had overwritten and was written in a story. Ex.A-3 issued by the Opposite Party mentioned as 'referred to higher centre for coronary angiogram', but in his cross examination, he stated that there is no need of angiogram facility, as such both the statements are contradictory and the treatment of the patient is doubtful. The Complainant further contended that there is no display outside the hospital with regard to the requirements and facilities available in the hospital of the Opposite Party, i.e. Viswa Hrudaya Hospital, Nalgonda. The Opposite Party was not informed the Police with regard to the



death of the patient as per the medical manual. The Complainant contended that if the Opposite Party explained about the complications and implications about the heart attack and the risk involved or sudden death, the Complainant would have taken an appropriate decision in saving his wife. The Opposite Party was not mentioned with regard to the blockage of valves and what percentage of clottage in Ex.B-1. The Opposite Party intentionally concealed the facts. The Complainant further contended that no document was filed nor marked till 27/02/2020 and was admitted that it was afterthought previous cross examination that Ex.B-1 was filed. Ex.B-1 had loose sheets in the case sheet and the date of Admission Number was overwritten and also signature of the attendant. The Opposite Party without referring the patient to higher centre gave treatment and did not have the equipment which lead to the death of the patient. Ex.B-1 is created for the purpose of the case and is filed to fill up the gaps in the cross examination of the Opposite Party. The patient was admitted at 10.10 a.m. on 26/08/2016, but the treatment was started at 11.40 a.m., thereby kept the patient idle without any treatment for more than 1 ½ hour. The Opposite Party did not attend the patient immediately and given the treatment, due to the negligence the patient died. The Opposite Party was negligent and careless towards the patient.

25. Ex.A-3 is a Discharge Summary, issued by the Opposite Party, wherein it is mentioned as "referred to higher centre for Coronary Angiogram". The Opposite Party in the cross examination stated that there is no need of angiogram facility to this injection, both the statements are contradictory to each other, and had given a doubtful discharge summary that the patient was conscious at the time of

discharge, but it is mentioned as died at 3.30 p.m. There are several clouds of suspicion on the treatment given by the Opposite Party which was not explained by the Opposite Party.

26. The Complainant relied on the judgments of the Hon'ble Supreme Court and Hon'ble National Commission reported in:

- 1) IV (2004) CPJ 40 (SC)  
Between: Smt.Savitha Garg Vs.The Director of National Heart Institute.
- 2) II (2009) CPJ 61 (SC).  
Between: Nijam Institute of Medical Sciences Vs. Prasanth S.Dhananka and others.
- 3) IV (2010) CPJ 268 (NC).  
Between: C.V.Unneen and another Vs. C.Sudha and others.
- 4) II (2010) CPJ 242 (K.S.C.D.R.C)  
Between: Augustine T.D. and others Vs.M.P.Bhanumathi.
- 5) II (2010) CPJ 128 (NC)  
Between: M.C.Katारे Vs.Bombay Hospital and Medical Research Centre and others.
- 6) I (2010) CPJ 176 (NC)  
Between: Dinesh Jaiswal and others Vs. Bombay Hospital and Medical Research Centre and another.
- 7) I (2019) CPJ 106 (TN)  
Between: S.Ramesh Babu and another Vs. Kanya Kumara District Co-operative Society Hospital Ltd. and others.
- 8) IV (2019) CPJ 546 (NC).  
Between: Pankaj R.Toprani and others Vs. Bombay Hospital and Medical Research Centre and others.
- 9) I (2020) CPJ 3 (SC)  
Between: Maharaja Agrasen Hospital and others Vs. Master Rishabh Sharma and others And Pooja Sharma and others vs.Maharaja Agrasen Hospital and others.

27. The Opposite Party filed written arguments that the Complainant brought his wife by name G.Laxmamma to his Viswa Hrudaya Hospital, Nalgonda on 26/08/2016 at around 10-30 a.m. as she complained chest pain and uneasiness. The Opposite Party conducted several

tests, gave some medicines and injections and taken an amount of Rs.47,300/- towards charges. The Opposite Party conducted ECG and 2D Echo. The patient kept in the hospital for five hours. The Opposite Party denied the allegation that due to his carelessness and negligence, the patient died. The Complainant denied the allegation that the Opposite Party has stolen 5gm. gold finger ring of the patient and the Complainant incurred heavy expenditure towards treatment and hospital charges. The Opposite Party after reviewing the reports and patient condition concluded that the patient was suffering from heart attack and advised the Complainant to admit the patient in the hospital. The Complainant was counseled about the complications of the patient and prognosis of the patient. After taking the consent of the Complainant, the Opposite Party started the treatment and advised the Complainant to purchase Reteplase injection which has to be given to the patient within 30 minutes or as early as possible. The injection being costly one, the Complainant took considerable time of two hours to purchase the injection. After administering the said injection, the condition of the patient was improved, but the patient had another complication of "free wall rupture of the heart", inspite of the treatment, the patient condition deteriorated and developed cardiac arrest. The Opposite Party performed Cardio Pulmonary Resuscitation (CPR), but the condition of the patient did not improve and finally she breath her last at around 3.30 p.m. The Opposite Party filed the case sheet of the patient and got marked Ex.B-1.

28. The Opposite Party contended that he has maintained the standard protocols and procedures when a patient comes to him complaining of chest pain. The Opposite Party as per the standard

protocol and procedures as per the medical literature followed the procedures in treating the patients suffering with heart attack. The Opposite Party was also given the detailed medical procedures to be followed in treating the patients suffering with heart attack. The Opposite Party contended that the patient was suffering with severe heart attack and the options available to the Opposite Party are very limited for the reason that in Nalgonda Town, there is no full fledged cardiac hospital having cathlab and ICCU and other required equipment. The cost of the equipment runs to 20 to 30 crores for full fledged cardiac hospital, which are situated at Hyderabad. It takes more than two hours to take the patient to Hyderabad. The Opposite Party in order to stabilize the patient, gave the treatment of "Fibrinolysis". The patient was suffering from acute ST Elevation Myocardia Infarction (STEMI) and as it was emergency nature, the Opposite Party administered the drug Reteplase injection to the patient. It is a life saving injection to be given as early as possible. The Complainant took more than two hours to get the injection and was administered immediately and the patient gradually stabilized. The ECGs showed signs of improvement and at this juncture, suddenly the patient's condition started deteriorating and she collapsed. The Opposite Party came to know that the patient had Post STEMI Cardiac "Free Wall Rupture" which could cause the death of the patient in 30 minutes. The Opposite Party gave CPR (Cardio Pulmonary Resuscitation) investigation, but the condition of the patient did not improve and she finally breath her last at around 3.30 p.m.

29. The Opposite Party contended that he is no way responsible for the occurrence of Cardiac Free Wall Rupture, it may occur before or

after treatment irrespective of management protocol. The risk cannot be reduced by any other treatment. The death of the patient was due to the complications of Cardiac Free Wall Rupture. It is a complication associated with Myocardial Infarction.

30. The Opposite Party denied being negligent in treating the patient as the burden of proof lies on the Complainant. The Complainant did not establish where exactly the doctor failed to discharge his duties by committing negligence in treating the patient. The Complainant failed to establish the negligence by the Opposite Party for any deviation and standard protocol procedures and negligence or the line of treatment and the drugs used and the circumstances leading to the death of the patient and intrinsic medical aspects involved in the treatment of the patient with support of standard medical literature. The Complainant has to substantiate evidence of medical literature and expert opinion to prove the negligence of the Opposite Party.

31. The Opposite Party has given the detailed definitions of negligence supporting several judgments. The Opposite Party also relied on a decision of the Hon'ble Supreme Court in the case of Kusum Sharma Vs. Batra Hospital (2010) 3 SCC 480 regarding the medical profession to adopt procedure with reasonable skill and competence. He also relied on the decisions with regard to expert evidence with medical literature.

- 1) 2003 (1) CPR 238 (NC)  
Between: Kiran Bala Rout Vs. Christian Medical College.
- 2) 2007 (1) CPR 258 (NC)  
Between: Raj Kumar Gupta and Others Vs. Dr. P.S. Hardia and another.
- 3) II (1996) CPJ 1 (SC)  
Between: Poonam Verma Vs. Ashwin Patel and others.

32. The Opposite Party again repeated the written version contents in his reply to the allegations of the Complainant and further contended that the Complainant suppressed the fact that he took more than two hours to get the injection and that he does not have sufficient money to purchase the injection and the Complainant is responsible for delay in giving the injection to the patient which has to be given within 30 minutes of the heart attack. The Opposite Party contended that he had all requisite qualifications and experience in treating the patient suffering with heart disease. The Opposite Party clinic is not full fledged hospital. To do angiogram, the hospital requires cathlab and other equipments which cost about Rs.20-30 crores along with ICCU facility and required several experts and technicians and no such facilities are available in Nalgonda. The Opposite Party in order to save the patient administered reteplase injection to reestablish blood flow within the arteries of the heart by way of reperfusion therapy. The Opposite Party contended that he was very much present besides the patient. The Opposite Party contended that he gave Discharge Summary-cum-Referral Letter to shift the patient to higher centre in Hyderabad and that there is no contradictory aspects with regard to the patient referring to the higher centre for Coronary Angiogram and that there is no need of angiogram facility to give this injection. The patient condition was deteriorated only due to full wall rupture and lead to the death of the patient. There is no negligence as alleged by the Complainant and has not been substantiated by any expert opinion questioning the line of treatment or mode of treatment. The Complainant failed to prove the negligence of the Opposite Party and hence the complaint is liable to be dismissed.

33. The wife of the Complainant G.Laxmamma, age 56 years reported to have chest pain and uneasiness and she was taken to the hospital of the Opposite Party by name Viswa Hrudaya Hospitals, Nalgonda which is exclusively gives treatment to patients suffering from heart diseases. The Opposite Party on admitting the patient, i.e. the Complainant's wife, conducted several tests and gave some injections and medicines. The Complainant paid an amount of Rs.47,300/- to the Opposite Party towards charges. The Opposite Party also conducted ECG and 2D Echo. The Opposite Party left the patient and went to his house, in the meanwhile the condition of the patient worsened and she died at 3-30 p.m. The Complainant's wife finger ring was also stolen. There are no CC Cameras in the hospital. The patient died due to the carelessness and negligence of the Opposite Party in treating the patient.

34. The Opposite Party admitted that the Complainant's wife came to his hospital with chest pain and uneasiness and she was conscious and walked into the hospital on 26/08/2016 at 10.10 a.m. The Opposite Party conducted tests and confirmed that the patient was suffering with severe heart attack. The Opposite Party administered Reteplase injection which has to be given within 30 minutes as per the condition of the patient, but the Opposite Party gave the injection after two hours. According to his version, the Complainant delayed in getting the Reteplase injection and was administered after two hours which was not mentioned in the written version or in his evidence. After giving the injection, the condition of the patient was improved,

but suddenly had other complications of "free wall rupture of the heart". The Opposite Party performed Cardio Pulmonary Resuscitation (CPR), but the patient failed to respond and died at 3.30 p.m.

35. The documents marked by the Complainant, i.e. Exs.A-1 to A-13 are issued by the Opposite Party and Ex.B-1 is the Case Sheet of the patient marked by the Opposite Party. As per Ex.B-1, the patient was brought to the hospital at 10.10 a.m. on 26/08/2016, but the Reteplese injection was administered after two hours. This fact was not mentioned either in the written version nor in the evidence of the Opposite Party. The Opposite Party has not mentioned in Ex.B-1, when the Reteplese injection was given to the patient and Ex.B-1 is drafted in the form of a story as admitted by the Opposite Party.

36. The Opposite Party has not given the details of the treatment or the medical literature, procedure and protocols to be followed by a doctor in treating the patient suffering with heart diseases neither in his written version nor in the evidence. It is for the Opposite Party to explain why there was sudden deterioration of the condition of the patient when he knows that there was serious heart attack he should have immediately referred the patient to higher centre as admitted that the hospital does not have the equipments such as angiogram and cathlab facilities. The Opposite Party kept the patient in his hospital for five hours without referring the patient to higher centre. It is for the Opposite Party to advise the patient what best treatment can be given to save the life.



37. Ex.A-3 is a Discharge Summary issued by the Opposite Party, wherein the final diagnosis is mentioned as 'Coronary Artery Disease' IWMI & LAT Wall MI, MOD Lv Dysfunction, TIT with Reteplese, LV Free Wall Rupture, Cardiac Tamponade and further mentioned as 'Patient admitted with chest pain' and patient condition at the time of discharge 'Pt.conscious and coherent, PR: 80/min, BP: 130/80, Heart: s1 + s2 + lungs clear. Below it is mentioned as 'Referred to Higher Centre for Coronary Angiogram'. The time when the Discharge Summary was issued is not mentioned and the date of admission is mentioned as 26/08/2016 at 10.10 a.m. and date of died mentioned as 26/08/2016 at 3.30 p.m. The Discharge Summary Ex.A-3 shows that the patient was conscious, but it is also mentioned as the patient died at 3.30 p.m., how can a dead person will discharged for higher centre when the patient had already died. The Opposite Party had not disclosed how the patient died and referred the dead person to higher centre for his lacunas and negligence of the treatment. The Opposite Party should have immediately referred the patient to higher centre as the patient was suffering with serious heart attack, but was kept in the hospital for five hours.

38. In a decision reported in IV (2004) CPJ 40 (SC), it was observed that the doctrine of res ipsa loquitur apply the onus lay on the hospital authority to prove that there had been no negligence on its part or on the part of anyone for whose acts or omissions it was liable and that onus has not been discharged. Once an allegation is made by the patient was admitted in a particular hospital and the evidence is produced to satisfy that he died because of lack of proper care and negligence, then the burden lies on the hospital to justify that there

was no negligence on the part of the treating doctor or hospital. Therefore, the hospital which is in better position to disclose 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.

39. In the decision reported in IV (2010) CPJ 268 (NC), it has been observed that "in the opinion of this court before forming an opinion that expert opinion is necessary, the Fora under the Act must come to a conclusion that the case is complicated enough to require opinion of the expert or that the facts of the case as such that it cannot be resolved by the Members of the Fora without the assistance of expert opinion.

40. In the decision reported in II (2010) CPJ 242, it is observed that the patient was not referred to higher centre for better treatment though she was in serious condition. It has been noted in the judgment of the Hon'ble Supreme Court in the case of Jacob Mathew Vs. State of Punjab and another III (2005) CPJ 9 (SC) elaborating the general principles relating to medical negligence, and that of the English Court in the case of Bolam Vs. Friern Hospital Management Committee, (1957) summarized the relevant principles that the Practitioner must bring to his task a reasonable degree of skill and knowledge, and must exercise a reasonable degree of care. Neither the very highest nor a very low degree of care and competence is what the law requires.

41. In the decision reported in I (2020) CPJ 3 (SC) between Maharaja Agrasen Hospitals and others Vs. Master Rishabh Sharma and others, it was observed as follows:

Medical Negligence – Expert evidence – Court is not bound by evidence of an expert, which is advisory nature – Court must derive its own conclusions after carefully sifting through medical records, and whether standard protocol was followed in treatment of patient.

42. As per the documents and evidence of the Complainant, it is revealed that the deceased, i.e. the wife of the Complainant went to the hospital of the Opposite Party with chest pain and uneasiness on 26/08/2016 at 10.10 a.m., but was declared dead at 3.30 p.m. on 26/08/2016. Though the Opposite Party knew that the patient was suffering with serious heart attack had failed to refer the patient to higher centre for better treatment with the equipment available. The Opposite Party failed to perform his professional duty in treating the patient due to his negligence and carelessness. The deceased is 56 years old woman, the Complainant lost his wife's love and affection due to the untimely death in the hospital of the Opposite Party who would have survived if the Opposite Party given proper treatment, i.e. administering the Reteplase injection within 30 minutes which has been admitted by the Opposite Party. Therefore, there is negligence and deficiency in service on the part of the Opposite Party in giving treatment to the Complainant's wife and her fundamental right to life has been curtailed due to the negligent treatment given to the patient. The Opposite Party has failed to prove a valid informed consent obtained from the Complainant before subjecting his wife for the treatment. The Opposite Party had himself admitted that there was a

delay of two hours in administering Reteplace injection to the patient who was in serious condition of heart attack and delayed the treatment which caused the death of the patient, as the principal of res ipsa loquitor applies.

43. POINT Nos.2 & 3:

In the light of the findings under Point No.1, the Complainant is entitled for an amount of Rs.6,00,000/- towards compensation, Rs.1,00,000/- towards mental agony, Rs.47,300/- towards medical expenses and Rs.10,000/- towards costs of the litigation.

In the result, the complaint is allowed in part, directing the Opposite Party to pay to the Complainant, an amount of Rs.6,00,000/- [Rupees Six Lakhs only] towards compensation, Rs.1,00,000/- [Rupees One Lakh only] towards mental agony, Rs.47,300/- [Rupees Forty Seven Thousand and Three Hundred only] towards medical expenses with interest @ 9% p.a. from the date of filing of the complaint till realization along with costs of Rs.10,000/- [Rupees Ten Thousand only] within 45 days from the date of receipt of this order.

Dictated to Steno-Typist, transcribed by him, corrected and pronounced by us in the open Commission on this 25<sup>th</sup> day of January, 2021.

FEMALE MEMBER

PRESIDENT

**APPENDIX OF EVIDENCE**  
**WITNESSES EXAMINED**

**For Complainant:**

Affidavit of the Complainant.  
PW-1: The Complainant.

**For Opposite Party:**

Affidavit of Opposite Party.  
RW-1: The Opposite Party.

Contd...29

**EXHIBITS MARKED**

**For Complainant:**

Ex.A-1:	Dt.26/08/2016	Original Bunch of Receipts (5 Nos.), issued by Viswa Hrudaya Hospitals, Nalgonda.
Ex.A-2:	Dt.26/08/2016	Original Bunch of Cash Bills (5 Nos.), issued by Viswa Hrudaya Hospitals, Nalgonda.
Ex.A-3	Dt.26/08/2016	Original Discharge Summary, issued by Viswa Hrudaya Hospitals, Nalgonda.
Ex.A-4	Dt.26/08/2016	Original Emergency Certificate, issued by Viswa Hrudaya Hospitals, Nalgonda.
Ex.A-5	Dt.26/08/2016	Original Essentially Certificate, issued by Viswa Hrudaya Hospitals, Nalgonda.
Ex.A-6	Dt.26/08/2016	Original Genuine Certificate, issued by Viswa Hrudaya Hospitals, Nalgonda.
Ex.A-7	Dt.26/08/2016	Original Final Cash Bill, issued by Viswa Hrudaya Hospitals, Nalgonda.
Ex.A-8:	Dt.26/08/2016	Original Cause of Death Certificate, issued by Viswa Hrudaya Hospitals, Nalgonda.
Ex.A-9	Dt.26/08/2016	Original 2D Echo Report, issued by Viswa Hrudaya Hospitals, Nalgonda.
Ex.A-10	Dt.26/08/2016	Original Medical Prescription, issued by the Opposite Party.
Ex.A-11	Dt.26/08/2016	Original Bio-Chemistry Report, issued by Viswa Hrudaya Hospitals, Nalgonda.
Ex.A-12	Dt.26/08/2016	Original Bunch of ECG Reports, issued by Viswa Hrudaya Hospitals, Nalgonda.
Ex.A-13	Dt.01/09/2016	Original Death Certificate of the deceased, issued by Nalgonda Municipality.
Ex.A-14	Dt.15/09/2017	O/c of Legal Notice, issued by the counsel for the Complainant to the Opposite Party along with Postal Receipt.
Ex.A-15	Dt.03/10/2017	Original Complaint-Settled Reply given by Superintendent of Post Offices, Nalgonda Division.

**For Opposite Party:**

Ex.B-1	Dt.26/08/2016	Original Case Sheet pertaining to the deceased G.Laxmamma, issued by Viswa Hrudaya Hospitals, Nalgonda.
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PRESIDENT  
DISTRICT CONSUMER DISPUTES  
REDRESSAL COMMISSION,  
NALGONDA