NATIONAL CONSUMER DISPUTES REDRESSAL COMMISSION
NEW DELHI

CONSUMER CASE NO. 140 OF 2014

1. SMT. SURESH RANI THROUGH SHRI ROHIT GOYAL,
W/o Shri Sat Paul Goyal, R/o 901, Vasto, Mahagun Mascot,
Crossing Republic,
GHAZIABAD. ....Complainant(s)

Versus

1. KAILASH HOSPITAL & HEART INSTITUTE & 6 ORS.,
Through its Chairman & Managing Director,, H-33, Sector-27,
NOIDA - 201301.
2. DR. NARENDER KUMAR, NEUROLOGIST,
Kailash Hospital, H-33, Sector-27,
NOIDA - 201301.
3. DR. KUNAL DAS, GASTROENTEROLOGIST,
H. No. D-35, Sector-52,
NOIDA - 201301.
4. DR. ANIL GURNANI, ICU INCHARGE,
Kailash Hospital, H-33, Sector-27,
NOIDA - 201301.
5. DR. TAJINDER KAUR, ICU DOCTOR,
Kailash Hospital, H-33, Sector-27,
NOIDA - 201301.
6. DR. ANUP AGARWAL, ICU DOCTOR,
Kailash Hospital, H-33, Sector-27,
NOIDA - 201301.
7. .
.
. ...Opp.Party(s)

BEFORE:

HON'BLE MR. JUSTICE A. P. SAHI,PRESIDENT

FOR THE COMPLAINANT : MR. ROHIT GOYAL, AUTHORISED REPRESENTATIVE

FOR THE OPP. PARTY : FOR THE OP-1, 2 & 4 TO 6 : MR. SUKUMAR PATTJOSHI, SR. ADVOCATE WITH
MR. ALOK KRISHAN AGARWAL, ADVOCATE
MR. RAMNESH JERATH, ADVOCATE
MS. TARU GUPTA, ADVOCATE
MR. PULKIT AGARWAL, ADVOCATE
FOR THE OP-3 : MR. PRADEEP KUMAR, ADVOCATE
MR. ARPIT SINGH, ADVOCATE

Dated : 22 July 2024

ORDER

1. This medical negligence claim arises out of an allegation against the Opposite Parties, particularly against the Opposite Party No.2 Dr. Narendra Kumar and the Opposite Party No.3 Dr. Kunal Das for medical negligence and deficiencies against the Opposite Party No.1 Kailash Hospital & Heart Institute. The allegations are regarding the treatment of late Smt. Suresh Rani, the mother of Mr. Rohit Goyal the legal heir and son of the deceased patient, who is stated to have died during the pendency of this Complaint on 28.09.2021. Mr. Goyal has himself argued this complaint.
2. The negligence which has been alleged in the treatment rendered by the Opposite Parties is that the administration of drugs, Lasix and Mannitol, was unregulated and incorrectly prescribed that gave rise to electrolyte imbalance and consequently, the deceased patient suffered permanent brain damage arising out of a rare and deadly neuro problem, Extrapontine Myelinosys (EPM)/Centralpontine Myelinosys (CPM). The allegation of the Complainant is that a wrong line of treatment was adopted which was a clear negligence as against the expected skill of the Opposite Party Nos.2 & 3 who were involved in the treatment along with the other Opposite Parties. It is also alleged that they adopted an extremely erroneous rapid correction method for maintaining the level of sodium deficiency (hyponatremia). The narration of facts as made by the Complainant Mr. Rohit Goyal who appeared in person and argued the matter alleges that right from the moment of the admission of the patient, she was administered absolutely wrong doses of the drugs mentioned above that should not have been done and which resulted in a heavy drainage of fluids from the body of the patient which in turn caused a severe electrolyte imbalance. The resultant impact was of of reduced sodium content. Thereafter, they attempted rapid correction measures which was carelessly deficient and was without the availability of a pathological report for at least 30 hours. The contention is that the detection itself of a low sodium level arrived after 30 hours of the admission of the patient by which time the brain had been permanently damaged and shortly thereafter the situation became irreversible. This came to be reflected later on with the MRI that was conducted and the report whereof was analyzed and repeatedly indicated in the symptoms and diagnosis recorded by the doctors themselves. Mr. Goyal urged that this permanent damage on account of wrong line of treatment and negligent approach was conclusively recorded by the Opposite Party No.1 Hospital in its discharge summary as "**CVA-Left Basal Ganglia Infarct** with **Metabolic Encephalopathy** with **Extrapontine Myelinolysis** with **HTN**".
3. To substantiate the aforesaid contention Mr. Goyal has urged that the deceased patient was suffering from gastrological problems and on 24.10.2012 the Complainant took her to Apollo Hospital wherein she was advised a treatment whereafter the same day, she was taken to Metro Hospital and Heart Institute where also her gastrological problems were attended to. It may be noticed that in both these prescriptions which are Annexure-P-3 and P-4 respectively, the blood pressure of the patient was noted as 180/100 and 170/90 respectively. On 25.10.2012, the patient was taken to the Opposite Party No.1 Kailash Hospital & Heart Institute where the Complainant alleges in the Complaint to have brought her to the Hospital at about 02.00 p.m. The Opposite Parties were at variance on this and the Complainant alleged an incorrect timing being mentioned in the Hospital sheet. This needs to be clarified as the Hospital assessment sheet mentions the timing as 08.10 a.m. This obviously is incorrect and learned Counsel for the Opposite Parties have also stated that she was brought to the Hospital post afternoon and in effect the parties have ultimately during the course of arguments arrived at a consensus that she was admitted at about 06.00 p.m. in the evening.
4. The Complainant alleges that the nurses' assessment sheet at the time of admission at 09.00 p.m. mentions the blood pressure to be normal which is recorded as 110/80. It is on the

strength of this that Mr. Goyal argued that the assessment sheet incorrectly records the blood-pressure of the patient at the time of admission as 190/110.

5. This also needs to be clarified at the outset in as much as the Opposite Parties have pointed out from the treatment chart which is on record that the patient was recorded to be registering a blood pressure of 190/110 at 06.50 p.m. when she was administered Lasix. This treatment and administration of Lasix 40 mg is said to have been advised by the Opposite Party No.3 Dr. Kunal Das who was the then Gastroenterologist in the Hospital. It is, therefore, urged that the recording of the blood-pressure of 110/80 by 09.00 p.m. was on account of the effect of the administration of the drug Lasix which is meant to tackle high blood-pressure. It may also be noted that the treatment chart refers to a reduced blood-pressure of 130/110 at 09.00 p.m. It is, therefore, clear that the recording of the blood-pressure at 09.10 p.m. to be 110/80 was after the administration of Lasix which was carried out at 06.50 p.m. on the admission of the patient on 25.10.2012.
6. Mr. Goyal advancing his submissions, therefore, urged that the negligence commenced with this incorrect line of treatment and administration of Lasix on the advice of the Opposite Party No.3 Dr. Kunal Das.
7. Inviting the attention of the Bench to the doctors assessment and advice-sheet, he urged that the fluids which were administered on the advice of the Opposite Party No.3 while being shifted to the ward was Normal Saline of a very low intensity that could not manage the balance of the discharge of water through urination of the patient as against the percentage of sodium that was required to be retained in the body of the patient. The contention, therefore, is that even the infusion of saline that was required in the body was carelessly managed and not in terms of the required medical protocols. The patient had been complaining of discomfort and ultrasound was also conducted, but her mind appeared to be confused and perplexed. According to the Complainant, the Opposite Party No.3 didn’t attend on her and the patient continued in the same state till 07.00 p.m. in the evening on 26.10.2012. It is also alleged by the Complainant that since she had been given a lot of water before conducting the ultrasound test, the same also resulted in adding to her misery.
8. It is pointed out that at the time of her admission, the patient was conscious and oriented, but this situation of confusion and perplexity became apparent with the frequent discharge of urine and drainage of water from the body of the patient. This continued on 26.10.2012 when she was again examined by Dr. Das who recorded her blood-pressure 130/90 and looking to her condition, advised the ultrasonography as well as an opinion from the Psychiatrist. The treatment chart on 26.10.2012 curiously records that the attendant of the patient refused to allow lepase injection to be administered to her, also refused for taking the physiotherapeutic opinion as advised by Dr. Das and simultaneously also refused for undertaking the electrolyte balance test as was advised.
9. From the hospital sheet dated 26.10.2012 it appears that a reassessment was carried out at 12.45 p.m. by doctors in consultation with Dr. Kunal Das where it is recorded that she responded to verbal commands and there were tremors in her upper and lower extremities. On the same day at about 03.15 p.m., the patient was recorded to have a blood-pressure of 140/100, the pulse rate of 84 that was intimated to Opposite Party No.3 Dr. Kunal Das who directed that an opinion from the neurologist should be taken and serum electrolyte test for sodium should be carried out. This is recorded in the Hospital sheet which is also available along with the Complaint.
10. It is, therefore, evident that the Opposite Party No.2 Dr. Narendra Kumar, the Neurologist of the Hospital arrived who examined her and recorded that the patient even though is conscious but is confused and her comprehension is poor and replies were inappropriate. On his advice, the patient was shifted to the ICU with a direction to conduct an MRI Brain

examination. The electrolyte balance test was accordingly conducted after the patient went into the ICU. The samples were collected at about 11.05 p.m. at night. The report is stated to have been given informally immediately thereafter at about midnight and the formal report also arrived the next day in the morning at 08.00 a.m. i.e. 27.10.2012. This laboratory report which is Annexure-P-10 records the level of sodium as 104 mEq/l. It may be noted that the biological reference normal level is 135-150. It is, thus, obvious that the sodium level had gone down as indicated in the pathological report.

11. The imaging of the brain in the MRI test carried out and recorded is as follows:

"Small focal area of altered signal intensity with restricted diffusion noted in the left lentiform nucleus- **suggestive of acute infarct**."

12. The Complainant alleges that damage to the brain had already been caused even though there was no clarity in the first MRI report referred to above. It is, however, alleged in the Complaint that the MRI was reviewed by another neurologist confirming that it was a normal MRI The clot was very tiny that could not lead to any further problem. The allegation in Para-IX of the Complaint is as follows:

"IX. After the MRI, Dr. Narendra told us that now we know the reason for her confused state. She has a clot in the brain, because of this her condition is very serious and he transferred her to the ICU at 9 pm (Same MRI has been reviewed by Top Neurologists, they have confirmed that this is a normal MRI and this clot is very tiny and cannot lead to any problem.) (First MRI report is annexed as ANNEXURE 'P7'). Respondents started wrong line of treatment for clot and started Lasix and Mannitol. Her condition kept on deteriorating."

13. It is further pointed out that the kidney function test was not carried out nor the basic test regarding electrolyte balance which ought to have been done at the time of admission was not conducted Lasix was administered without precaution and this worsened the sodium level content causing damage to the patient.
14. It is also alleged that apart from Lasix, Dr. Narendra Kumar, the Opposite Party No.2 advised Injection Mannitol 100 ml to be administered to her when she was shifted to the ICU. This was in addition to the Lasix Injection which had already been given to her. The Complainant, therefore, has alleged that the administration of Mannitol was also wrongly advised by the Opposite Party No.2 as it compounded the impact of Lasix which further resulted in the deterioration of the patient's condition. This allegation has been made in Para-X of the Complaint, which is extracted hereunder:

"X. In ICU, at 11.05pm, they did other blood tests like KFT. In Kidney Function Test, her sodium level was as low as 104. (Blood report showing her sodium level 104 is annexed as ANNEXURE 'P10'). This is a basic test and should been done at the time of admission. **Actually low sodium was the reason for her confused state.** Sodium level as 104 can be life threatening or patient can go to coma. (Normal range is 135-145) Giving her lots of water for ultrasound played a major role in decreasing her sodium level. It took doctors/Hospital 30 hours to find the low sodium. Respondents still continued with wrong line of treatment. Lasix and Mannitol were life threatening in her condition."

15. It is, then, alleged by the Complainant that after the low sodium had been detected, it ought to have been corrected but Dr. Narendra Kumar, the Opposite Party No.2 did not follow the medical standards and adopted a very careless rapid correction methodology which adversely affected the Complainant and for that Mr. Goyal relied on the contents of Para-XI along with the chart referred to therein to urge that the rate at which the correction was carried out in just 5 hours was beyond all medical protocols and consequently, the corrective measure adopted by the Opposite Party No.2 worsened the situation of the patient causing a permanent damage to the brain. It is urged that this management of corrective steps to maintain the level of sodium continued till 28.10.2012 and the sodium level within 29 hrs. rose to 150.
16. On 29.10.2012 a second MRI was done and it reflected the same status as indicated in the first MRI. The said report is Annexure-P8 on record and it states as follows:

"Small focal area of altered signal intensity with restricted diffusion noted in the left lentiform nucleus- **suggestive of acute infarct. No significant interval change is seen as compared to previous scan dated 26.10.2012**."

17. The Complainant alleges that this rapid increase of sodium was an over-correction and for which the allegations made are further pointed out with the help of Paragraph-9 and Paragraph-13 of the Rejoinder Affidavit. The contention raised is that the Opposite Parties ought to have used Hypertonic Saline of 3% rather than normal saline to improve the situation. Since the Complainant and the Opposite Parties have contested this issue hotly, it would be appropriate to extract Paragraph-9 and Paragraph-13 of the Rejoinder Affidavit, which are reproduced herein under:

> "9. The content of para 9 are false and hence denied. It is respectfully submitted that complainant's case is very clear open and shut category case. As per the medical expert opinion attached this is very much clear that opposite parties have done series of big mistakes like 'not doing electrolyte test for first 30 hours', doing the ultrasound, giving the Lasix, wrong decision of doing MRI, misdiagnosing the incidental infarct as stroke, fast and over correction of sodium from 104 to 150 in just 29 hours and finally medical record tampering. Any person with even elementary knowledge of medical science/practices will find the rapid pace at which her sodium was increased to be shocking, infact unbelievable. This cannot be called a mistake or negligence even, its gross overlooking the rules and playing with the life of the patient which is a criminal offence.
>
> …….
>
> 13. The content of para 13 are false, wrong and hence denied. It is respectfully submitted that opposite parties have surprisingly failed number of times to do necessary investigation and medications. It is submitted that opposite parties did number of wrong investigations like Ultrasound scan, MRI, starting Lasix at the admission of the complainant, even after finding the low sodium still they continued with Lasix and Mannitol. Opposite party's mind was working on how to make money out of complainant rather than thinking the welfare of the patient. It is further submitted that opposite parties failed do number of important investigations like Electrolyte test (Sodium Test) at the time of admission of

complainant into the hospital. When Complainant was in confused state after Ultrasound, opposite parties should have done Lumbar Puncture rather than going for MRI. Once the low sodium was detected in ICU, rather than giving Lasix and Mannitol, opposite parties should have done Urine Osmolality which could have helped them increase the sodium carefully. Opposite parties should have used 3% hypertonic saline rather than 5% saline to increase the sodium (ANNEXURE R2, Point 12). So this is important to mention here that opposite parties surprisingly failed number of times to follow any medical standard and medical ethics so this cannot be called a mistake or negligence even, its gross overlooking the rules and playing with the life of the patient which is a criminal offence."

18. The Complainant has also pointed out that the Hospital sheet records the status of the patient as being drowsy and arousing to respond to certain commands as recorded on 28.10.2012. It is also evident from the treatment sheets that the IV fluid Normal Saline of 0.9% was continued. Mr. Goyal while arguing the matter also pointed out that on 28.10.2012, the doctor has recorded Iatrogenic hypernatremia (stated to be induced by excessive infusion). The contention is that this recording itself indicates that incorrect infusion of saline was being carried out.
19. It is pointed out that a third MRI was directed and advised which was conducted and confirmed the damage to the brain caused in the above background. The said report dated 31.10.2012 is Annexure-P9 to the Complaint and the same records as follows:

"Altered signal intensity in the form of increase signals on FLAIR sequences is noted involving bilateral medial temporal lobes, caudate nucleus, bilateral lentiform nuclei and thalami. **Metabolic encephalopathy is a consideration**.

Tiny lacunar infarct is seen involving the left basal ganglia region."

20. Mr. Goyal urged that the said report even though confirmed the damage to the brain but this damage was also on account of EPM/CPM. He urges that the Complainant was not aware of these complications as it was not being explained but he points out from the recordings in the sheets that on 31.10.2012 the Opposite Party No.2 Dr. Narendra Kumar himself recorded a doubt about EPM along with Metabolic Encephalopathy. This opinion has been recorded, even though as a doubt yet it stands confirmed with the later recordings in the doctor's sheets.
21. It is pointed out that Dr. Narendra Kumar went on a vacation and the patient was, thereafter, being treated by his assistants who have continuously recorded the said opinion. The noting dated 31.10.2012 by one Dr. Deepak confirms the same. He has then pointed out that the same situation continued on 01.11.2012 and even thereafter, the patient remained critical but was not responding to any verbal commands.
22. The notings on the doctor's sheets to the same effect of EPM is seen endorsed on 10.11.2012 and again on 12.11.2012. The status quo continued even thereafter, but the patient didn't regain consciousness. The same endorsement is also found in the Hospital sheet dated 20.11.2012 that the patient was diagnosed to be suffering from EPM.
23. In the aforesaid background, the Complainant then alleged that this negligence ultimately led to the patient having attained a vegetative state and she was discharged from the Hospital on 23.11.2012. It is submitted that the discharge summary recorded the final diagnosis which has already been reproduced in para 2 hereinabove.

24. It is pointed out that the patient survived in this vegetative state for almost 10 years and she had to be looked after by the Complainant's sister and his wife who had very good careers but they had to give up their engagements in order to serve the patient as she had to be taken care of day in and day out which continued for almost 10 years. This not only caused loss of earnings to them but was a traumatic experience which was an outcome of negligence of the Opposite Parties. He, therefore, submits that compensation to the Complainant should be suitably and justly awarded as the Opposite parties have conducted themselves in a manner which calls for a heavy compensation that has been claimed to the tune of Rs.49,51,55,053/-. It is urged that the loss of life of the mother of the Complainant, the loss of company, emotional trauma, pain, suffering and all related damages need to be compensated.
25. It may be pointed out that this matter had been heard on 18.04.2024 briefly wherein it had been pointed out that the Complaints before the ethical committee of State Medical Council and the order of the Medical Council of India is on record. Not only this, a medical expert opinion was also called for from the Director, Maulana Azad Medical College which according to the Complainant did not reflect upon the exact nature of the grievance raised by the Complainant about the incorrect handling of the electrolyte balance of the patient and the infusion of correct percentage of fluid as well as the drugs which were wrongly administered. To contradict the said conclusions, the Complainant relied on the expert opinion of one Dr. B. Ravi Kumar through his Affidavit dated 14.05.2014.
26. In order to recapitulate the submissions raised on 18.04.2024, the Order is extracted hereunder:

"Heard Mr. Rohit Goyal, Authorized Representative on behalf of the complainant who has invited the attention of the Bench to the reports that have intervened during the pendency of this complaint. The First is dated **02.12.2014 of the Uttar Pradesh Medical Council Ethical Committee**, which is extracted herein under:

"RECOMMENDATION OF ETHICAL COMMITTEE

Complainant - Mr. Rohit Goyal,

Flat-B 901, Vasto,

Mahagun Mascot,

Crossing Republik,

Ghaziabad

Respondent - Dr.Narendra Kumar.,

Kailash Hospital & Heart Instt,

H-33, Sector- 27,

Noida-201301.

<u>Complaint</u> - *Allegation of medical negligence*

and inapt treatment

<u>Proceeding</u>

Complaint against Dr. Narendra Kumar (U.P.M.C. Reg No.12860) has been received by this Council through Medical Council of India, New Delhi. Complaint was made by Mr. Rohit Goyal.

During the course of investigation Dr. Narendra Kumar, who is working as Neurologist with Kailash Hospital, Noida; appeared personally twice before the Ethical Committee. ***<u>A second Ethical Committee comprising of a senior neurologist as expert for the case was convened.</u>***

The Ethical Committee perused the complaint, statements of Dr. Narendra Kumar and of the complainant, copy of records and other documents. The Ethical Committee after interaction with both the parties concluded that Dr. Narendra Kumar came into picture when the patient was in confused and disoriented state.

After due deliberations, discussions and going through the records It was resolved that <u>first report of Nat showed the value of 104 and</u> second report past five hours was 129. Patient was put on NS for this period only. As per the records 3% saline was never given to the patient. Also the attendant refused to administer serum electrolytes. Extrapontine Myelinolysis (EPM) of patient ***<u>was confirmed not in the first but later MRI</u>****.* ***Though the probable reason for EPM is rapid correction of Sodium, but as per the treatment records, <u>rapid correction is not evident. However, despite all precautions she developed features of EPM.</u> Patient was detected with hyponatraemia and hypokalaemia****. As per the literature shown by Dr. Narendra Kumar,* ***there could be sudden rise of Sodium even without correction.***

<u>Decision</u>

The Ethical Committee <u>assessed and reassessed the case</u> and concluded that <u>there had been no negligence on the part of Dr. Narendra Kumar</u>. The patient management by collective efforts of the ICU team, critical care specialists, neurologists and gastroenterologists; the patient was discharged with stable vitals. Thus Dr. Narendra Kumar cannot be held guilty of medical carelessness and inappropriate treatment of the patient.

Registrar

For Ethical Committee"

The second is the order of the **<u>Delhi Medical Council dated 30.01.2017</u>**, which examined the complaint and came to a conclusion which would be evident from the same, that is extracted herein under:

"DMC/DC/F.14/Comp.1408/2/2016 258628 30th January, 2017

ORDER

The Delhi Medical Council through its, Executive Committee examined a complaint of Shri Rohit Goyal, Flat No.901, Vasto, Mahagun Mascot, Crossing Republik, Ghaziabad, Uttar Pradesh, alleging medical negligence on the part of doctors of Kailash Hospital, in the treatment administered to the complainant's mother Smt. Suresh Rani at Kailash Hospital, Noida, Uttar Pradesh

The Order of the Executive Committee dated 22nd December, 2016 is reproduced herein- below:

"The Executive Committee of the Delhi Medical Council examined a complaint of Shri Rohit Goyal, Flat No.901, Vasto, Mahagun Mascot, Crossing Republik, Ghaziabad, Uttar Pradesh (referred hereinafter as the complainant), alleging medical negligence on the part of doctors of Kailash Hospital, in the treatment administered to the complainant's mother Smt. Suresh Rani(referred hereinafter as the patient) at Kailash Hospital, Noida, Uttar Pradesh (referred hereinafter as the said Hospital).

The Executive Committee perused the complaint, written statement of Dr. Tajinder Kaur, Dr. Anup Aggarwal, Dr. Anil Gurnani, Dr.Kunal Das, Dr. Vijay Ganju, Medical Superintendent of Kailash Hospital & Heart Institute, copy of medical records of Kailash Hospital & Heart Institute and other documents on record.

The Executive Committee notes that the patient Smt. Suresh Rani had come to the Kailash Hospital, Noida on 25th October, 2012 with some stomach problem, where she was examined by Dr. Kunal Das, Consultant-Gastroenterologist and was asked for an Ultrasound (Upper abdomen) along with some other blood tests. After the ultrasound she developed some neurological problems and was examined by Dr. Narendra Kumar, Consultant-Neurologist and was advised MRI (brain) and was shifted to Medical ICU. ***She was found to have a low sodium levels and thereafter developed Extra-pontine Myelinolysis. Patient was discharged successfully from the Hospital and is on follow up.***

*The Executive Committee further observes that the patient had presented with stomach complaints to the casualty of Kailash Hospital after visiting Apollo Hospital and Metro Hospital****. Dr. Kunal Das correctly prescribed blood tests of S.Amylase and S. Lipase which are tests to detect Acute Pancreatitis.*** *He also prescribed USG (Abdomen) perhaps to detect Gall stones as the symptoms were dyspeptic in nature. She has been examined by at least 3-4 doctors in 3 hospitals and all of them prescribed PPI'S and* ***none of them thought of low sodium since there was no neurological symptoms. Hence, there is no negligence diagnosed by on the part of the Gastroenterologist Dr. Kunal Das.*** *Referring a patient to a psychiatrist cannot be medical negligence. Also Dr. Kunal Das had advised both blood tests and a USG-Abdomen.* ***Since the patient had presented with gastric symptoms and had no vomiting or loose motions, it was not necessary to do Serum Sodium Levels****. During Ultrasound-Abdomen patient fasts and may be given some amount of water around 400-500ml (2-3 glasses) just before*

*starting the ultrasound. **This does not cause hyponatremia**. After the USG report was normal, the patient had neurological symptoms. Dr. Kunal Das has mentioned in his reply that he had asked for the Serum Electrolyte sample but the **patient relatives had refused the sample to be taken**. Also it is important to note that the patient was already on Normal Saline maintenance infusion, so it is highly unlikely. Dr. Narender Kumar Neurologist had made a diagnosis of acute stroke, and he had probably started inj. Lasix and Inj. Mannitol to reduce Brain edema which usually accompanies stroke patient's. These two drugs are not contraindicated in Acute Brain Stroke. Lumbar puncture is never done in cases of hyponatremia as it may be dangerous and invasive procedure and result in conning Lumbar puncture is not a diagnostic test for hyponatremia. MRI (Brain) which is the appropriate test for diagnosis of cerebrovascular Accident was done in this patient*

*It is further observed that low sodium cannot by diagnosed by checking BP in right posture and lying posture. The patient had severe hyponatremia (Serum Sodium -104 Meq/l). She was given maintenance intravenous fluids with normal concentration of Sodium (NS=0.95% Sodium Chloride). The hypertonic saline (3% Sodium Chloride) as per the records, was never used to treat hypnatremia, so, **the abnormal rise in the sodium levels are most likely due to body response leading to CNS; system for which, she is under treatment**;*

In view of the observation made hereinabove, it is, therefore, the decision of the Executive Committee that prima facie no case of medical negligence is made out on the part of doctors of Kallash Hospital, in the treatment administered to the complainant's mother Smt. Suresh Rani at Kailash Hospital.

Complaint stands disposed."

Sd/: *(Dr. Arun Kumar Gupta)* *Chairman, Executive Committee*	*Sd/:* *(Dr. Ajay Gambhir) Member,* *Executive Committee*	*Sd/:* *(Dr. Satendra Singh) Member,* *Executive Committee*
Sd/: *(Dr.Vinay Aggarwal)* *Member* *Executive Committee*	*Sd/:* *(Dr. Vishnu Datt) Expert Member* *Executive Committee*	*Sd/:* *(Dr. P.Kar) Expert Member* *Executive Committee*

*The Order of the Executive Committee dated 22nd December, 2016 **was confirmed by the Delhi Medical Council in its meeting held on 19th January 2017**.*

By the Order & in the name of

Delhi Medical Council

Sd/-

(Dr. Girish Tyagi)

Secretary"

Against the said order, the complainant appears to have filed appeal before the **Medical council of India** and the order of the Delhi Medical Council was upheld by the following order:

*"The above matter was considered by the Ethics Committee at its various meetings and lastly at its meeting **held on 30th & 31st August, 2018.** The operative part of proceedings of the said meetings reproduced as under:*

*".... The Committee further deliberated upon the matter at length and after detailed deliberation noted that the patient Smt. Suresh Rani approached the Kailash Hospital, Noida with complaints of Nausea, uneasiness for which she was examined by Dr. Kunal Das, Gastroenterologist and later by a team of doctors of Kailash Hospital, Noida, Uttar Pradesh. The Ethics Committee deliberated upon the matter at length and after detailed perusal of the statements submitted by both the parties, **the Committee is of the view that the patient Smt. Suresh Rani was treated as per the standard medical treatment guidelines. The Committee is of the opinion that the Delhi Medical Council has investigated the case thoroughly and there is no infirmity in the decision passed by the Delhi Medical Council in their order dated 30.01.2017.***

*After perusal of the documents available, the Ethics Committee observed that **the record keeping and documentation by the doctors at Kailash Hospital, Noida, Uttar Pradesh was not adequate**. The Committee after detailed deliberation decided to direct the Medical Superintendent, Kailash Hospital, Noida to ensure that in future proper records are maintained by the doctors, as the same are integral part of the good medical practice.*

In view of the aforesaid, the Committee decided to upheld the order dated 30.01.2017 passed by the Delhi Medical Council.

The above recommendations of the Ethics Committee have been approved by the Board of Governors at its meeting held on 20.12.2018.

(Dr. Parul Goel)

\Deputy Secretary"

It appears that on 15.07.2019, the matter was examined by this Commission and it was found fit to refer the matter for an expert opinion, for which the **Director, Maulana Azad**

Medical College was requested to constitute a committee and submit a **report dated 04.10.2019**. The said report is extracted herein under:

> *"Expert opinion in the case of Smt. Suresh Rani Vs. Kailash Hospital & Heart Institute & ors (Case No. C-140/2014) referred by National Consumer Disputes Redressal Commission.*
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> ***The committee examined. 13 sets of document*** *forwarded with the case file of National Consumer Disputes Redressal Commission, vide order dated 15.7.19 in complaint case No. C-140 of 2014 titled Smt. Suresh Rani Vs. Kailash Hospital & Heart Institute & Ors.*
>
> *As per complainant Smt. Suresh Rani used to take Neksiun 40 daily for acidity problem. On* ***October 24, 2012*** *evening she had uncomfortable feeling in stomach with decreased appetite and subsequently visited Apollo Hospital Casualty, NOIDA at 9.30 PM where some tests and ECG tests were done and she was prescribed medicine by Dr. Anil Bhalla. However, she did not get any relief and there was no Gastroenterologist at* ***Apollo Hospital****. She left the Apollo Hospital and visited the* ***Metro Hospital****, NOIDA at 11.30PM for Gastroenterology consultation. As there was no Gastroenterologist in Metro Hospital also, she left the Metro hospital after receiving some injection and* ***came back home.***
>
> *On the next day on* ***25.10.2012,*** *as she was not feeling well, son of the patient took her to* ***Kailash Hospital at 2.00 PM*** *where she was attended by the Casualty doctor who prescribed her medication for 7 days and told the patient's relatives about non-availability of a gastroenterologist at that time and patient* ***came back home****. As patient was still not getting any relief she visited the hospital again on* ***25.10.12 evening*** *and was admitted under the care of Gastroenterlogist for further evaluation.*
>
> *After her admission on 26.10.12 patient became confused and disoriented and was shifted to ICU. She was investigated further for her disoriented condition and a Neurologist opinion was sought, who advised MRI Brain.*
>
> *MRI Brain revealed an acute Lacunar Infarct in left basal ganglion. Serum electrolyte report was suggestive of* ***hyponatremia and hypokalemia****. The patient was managed by a team of Neurologists, Gastroenterlogist and ICU Specialist for her medical condition. On 27.10.12, her mental condition deteriorated and another* ***MRI brain was repeated on 29.10.12 along with Serum electrolytes. Third MR Brain was done on 31.10.2012*** *which showed changes* ***suggestive of metabolic encephalopathy****. The patient remained in the hospital till 23.11.12 and was discharged from the hospital when she showed improvement in her condition.*
>
> *Conclusion:*
>
> *The Committee scrutinized all the documents made available keeping in view the management of the medical illness of the patient and also the aspect of medical negligence as alleged by the relatives of the patient.*
>
> *The Committee is of the view that the team of doctors involved in the treatment managed her clinical condition to the best of their medical knowledge and prudence*

<u>and no negligence is apparent on the part of the treating doctors</u>.

Sd/- *Dr. Arun Koul, Neurologist, GIPMER Member*	*Sd/-* *Dr. Swati Gupta, Radiologist, MAMC Member*
Sd/- *Dr. R.S. Ahlawat, Director Professor & Head* *Medicine Department, MAMC* *Chairman"*	

With the aforesaid four reports/ orders at hand the complainant urged that the same do not reflect upon the exact nature of the grievance raised by the complainant with regard to the treatment of low sodium content of the patient which was conducted on 26.10.2012. The contention is that the incorrect medicines were administered and consequently the condition of the patient deteriorated, which resulted in her downfall in health when she was discharged from the hospital.

The contention therefore appears to be that the said treatment with regard to the controlling the content of sodium was, according to the complainant, mismanaged that resulted in the consequences giving rise to this complaint.

The complainant also pointed out to an expert opinion which has been obtained by him and filed as an affidavit of the doctor, namely, Dr. B. Ravi Kumar from Kerala. The said affidavit is dated 14.05.2014.

Apart from this the complainant proceeded with his narration by inviting the attention of the Bench to the laboratory report dated 27.10.2012, regarding the sample that was taken on 26.10.2012, indicating the level of sodium at 104. The contention therefore is that the manner in which the level of sodium was handled, according to the complainant, should have been supplemented by the infusion of three percent hypertonic saline very carefully as stated in paragraph XI (c) of the rejoinder affidavit at page 28.

The submission therefore appears to be two fold. Firstly that the administration of saline in order to achieve correct level was not done carefully nor any corrective measures were taken, and consequently incorrect medicines namely, Lasix and Mannitol were administered, that was contrary to the medical protocol causing adverse effects. This further compounded the deteriorating condition of the patient.

No objections have been filed till date with regard to any of the medical reports referred to hereinabove.

Since no time is left today, the complainant may advance his submissions on the next date.

As agreed by the complainant and the learned counsel for the opposite parties, let the matter be listed on 22.06.2024 (Saturday)."

27. Mr. Goyal has cited medical literature on Furosemide i.e. Lasix and Mannitol to urge that if a high dose of Lasix is administered, it reduces sodium content and increase excretion which results in electrolyte imbalance and dehydration. The literature on Furosemide is a publication from the bookshelf of the National Library of Medicines written by Tahir M. Khan, Roshan Patel and Abdul H. Siddiqui. He urges that when an individual receives the drug either early or intravenously, it increases sodium excretion in urine. It results in metabolic disorder including kalemia. It should, therefore, be used cautiously as it is diuretic causing loss of water and electrolytes. This increases risk and, therefore, there should be a cautious monitoring. Mr. Goyal urged that in the present case, these protocols were not followed and there was no constant monitoring.
28. The second literature relied on by him is again from the National Library of Medicines on Mannitol, which is authored by Steven Tenny, Roshan Patel and William Thorell. It is urged that this drug causes cerebral edema and before administering the same, electrolyte imbalance should be corrected. It is urged that without correcting the electrolytes imbalance, Mannitol was administered which resulted in worsening of an imbalanced sodium content. This also requires careful monitoring, which was not done and the drug was administered casually.
29. Mr. Ramesh Jerath, the learned Counsel for the Opposite Party No. 3, Dr. Das, urged that the patient had been visiting two earlier hospitals on her gastro entrological complaints and therefore, it is in this background that she was admitted in the Opposite Party No. 1 Hospital and was taken care of by him. The patient was observed to be hypertensive and her blood pressure was recorded as 190/110 at about 6.50pm and accordingly Lasix is one of the standard practice drug which is administered for reducing hypertension. This was as per medical protocol, keeping in view the high blood pressure of the patient. With its administration, the blood pressure came under substantial control, which has been recorded in the nurses treatment chart as 130/90 and later on 130/70. Thus, there was no error or negligence in the assessment made by the Opposite Party No. 3 while recommending Lasix. He further submitted that normal saline was advised as there were no symptoms at that point of time requiring any other test or fluids. The said Opposite Party, therefore, had advised the medicines as per her gastronomical complaints and Lasix was advised only to control her blood pressure. He has further pointed out from the reports that the MRI conducted on 31.10.2012 does not report any impact of EPM or CPM as alleged by the Complainant. It is urged that the allegations, therefore, made against Dr. Das are unfounded and that there is no element of any medical negligence on his part. It is submitted that the Opposite Party No. 3 very promptly advised reference to the Neurological Department and also for the serum electrolyte test, which was refused by the attendants of the Complainant.
30. He then submits that on his advice, the Neurologist namely Dr. Narendra Kumar, the Opposite Party No. 3 was consulted, who diagnosed the patient and then he advised administration of Mannitol as well. The patient was looked after according to medical protocols and no error or negligence crept in causing any negligence in the treatment of the patient. She was timely admitted to the ICU where all protocols were followed. It is, therefore, submitted that the contentions raised on behalf of the Complainant and the

medical literature relied on by them do not in any way substantiate the contentions. It is urged that the expert opinion already available on record and the decisions of the Ethical Committee of Delhi Medical Council and the Medical Council of India clearly establish that there is no medical negligence and hence, the Complaint has no foundation.

31. Appearing for the Opposite Party No. 2, Dr. Narendra Kumar, learned Counsel Mr. Aggarwal, advanced his submissions contending that the noting of EPM as urged by the Complainant in the hospital sheets and finally in the discharge summary are incorrect and contrary to the MRI report dated 31.10.2012. He submits that the MRI report is final and conclusive and no symptoms of EPM or CPM were found, even though EPM was suspected and doubtful, hence the Complaint does not have any foundation.
32. He then submits that the expert reports have clearly held that there was no medical negligence either in the plan of treatment or its execution including the administration of drugs, fluids and the monitoring of the patient. These expert reports including the report dated 04.10.2019 of the Maulana Azad Medical College nowhere found any negligence much less medical negligence on the part of the Opposite Parties. He, therefore, submits that since there is no challenge to the said expert reports, the bald allegations coupled with the alleged opinion of Dr. B. Ravi Kumar dated 14.05.2014, is of no avail to the Complainant.
33. He then points out that apart from these expert opinions, the Opposite Parties were called upon to file the details of IV infusions on normal saline, glucose etc. that was administered to the patient by the hospital, vide Order dated 30.05.2023, which has been filed along with the written submissions dated 07.07.2023. It is submitted that apart from details of said infusions, the chart explaining the monitoring of the sodium level of the Complainant has also been placed, demonstrating that this level was being maintained with the infusion .9% normal saline. The contention is that if the suggestion of the Complainant as indicated in the rejoinder is accepted, then in that event, the monitoring would have resulted in a collapse of the patient. The submission is that when with .9% normal Saline, the reflexes were demonstrating a significant fluctuation then in that event infusions of 3% Hypertonic saline as suggested would have been fatal. The contention, therefore, is that the IV infusions and the monitoring of the sodium level was in accordance with protocols and was based on sound medical judgment. With the aid of literature and diagrams, he submits that the entire contention raised is incorrect. His argument is that even assuming for the sake of argument that the discharge summary mentions EPM as well, the treatment rendered by the Opposite Parties Nos. 2 and 3 was as per medical protocol. The 3rd MRI report dated 31.10.2012 being final and conclusive, it records the existence of Metabolic Encephalopathy only. The MRI report dated 31.10.2012 and the Maulana Azad Medical College report dated 04.10.2019 confirms the same.
34. He has also handed out a list of dates with a copy of the same to Mr. Goyal, the Complainant and also a one page note explaining the medical terminologies along with diagram. He has then handed three hand outs in respect of the management of the sodium level to contend that the saline infusion was justified and did not suffer from any medical infirmity. He has explained it with the chart, which has been appended along with the written arguments dated 07.07.2023.
35. He has then given three hand-outs on the issue of whether Lasix is a proper medication or not and another three hand-outs on drug Mannitol of being an appropriate medication. With the help of these documents and literature, he contends that none of the contentions raised are substantiated and therefore to conclude that this was a case of negligence would be against the medical record referred to hereinabove.

36. Mr. Pattjoshi, learned Senior Counsel appearing on behalf of the Opposite Party No. 1 Hospital and supplementing the arguments already advanced has contended that there is no proof to substantiate the allegations regarding the negligence as alleged by the Complainant. He then submits that there is no challenge raised to the expert opinion and the finding of the Medical Councils. The opinion of Dr. Shiv Kumar relied by the Complainant is bereft of contents. In the absence of any such challenge, this Commission may not overrule the same to arrive at a different conclusion. He then submits that the allegations of manipulation of record is incorrect and false and the administration of drugs as well as fluids have already been explained by the learned Counsel, who have advanced their submission earlier on behalf of the Opposite Parties Nos. 2 and 3. He, therefore, contends that in the absence of any contradiction to the expert reports, no argument should be entertained and the Complaint deserves to be dismissed.
37. Mr. Pattjoshi has relied on the following judgements to substantiate his submissions:

i. **Bombay Hospital & Medical Research Centre vs. Asha Jaiswal & Ors.**, 2021 SCC OnLine SC 1149, decided on 30.11.2021

ii. **Vinod Jain vs. Santokba Durlabhji Memorial Hospital & Anr.**, (2019) 12 SCC 229, decided on 25.02.2019

iii. **Dr. Harish Kumar Khurana vs. Joginder Singh & Ors.**, (2021) SCC Online SC 673, decided on 07.09.2021

iv. **Bar of Indian Lawyers vs. D. K. Gandhi PS National Institute of Communicable Diseases & Anr.** and other connected cases, Civil Appeal No. 2646 of 2009 & Ors., decided on 14.05.2024

38. Having heard learned Counsel for the parties and having considered the submissions raised, the hospital sheets clearly record the admission of the patient with a high Blood pressure rate. In order to contain the high blood pressure of the patient, the Oppsoite Party No.3 Dr. Kunal Das who was treating her for her gastro problems advised the administration of Lasix which was given to her. This dose of 40MG is recorded in the sheet that was injected at the time of admission. The contention of the Complainant with the help of the medical literature cited by him states that it increases excretion of Urine which also possibly results in the passing on of sodium content which may cause an imbalance. The literature relied on by the learned Counsel for the Opposite Party No.2&3 states that Lasix is one of those medicines which is administered to control high blood pressure. It is undisputed that Lasix is the trade name for Furosemide. The drug prevents water reabsorption which is diuresis. According to the said literature, only 20% of the filtered sodium is excreted in this process. The clinical process of the drug is to control the blood pressure and is also a standard form of drug which is prescribed as per medical protocol. Learned Counsel has placed a hand out explaining this as follows:

> *“”Furosemide is a Diuretic, also called a water pill, that is commonly used to reduce edema (fluid retention) caused by the following conditions.* ***Furosemide may also be used to treat high blood pressure (hypertension).*** *Furosemide may also be used for other conditions as determined by your health provider.”*

39. Comparing the literature that has been cited by the Complainant, with the same, it is evident that the administration of the drug is for the said purpose and it has to be administered with cautious monitoring. Thus, it is not a prohibited drug and rather is an advisable drug as per medical protocol to reduce Hyper Tension. The contention on behalf of the Complainant that Lasix was incorrectly advised therefore does not seem to be correct. There is no adverse comment regarding the drugs in the expert opinions referred to above.
40. Thus, so far as the Opposite Party No.3 is concerned, it cannot be said that he had advised the administration of Lasix against medical protocol for reducing the Hyper Tension of the patient which was recorded at the time of her admission as 190/110.
41. The hospital sheets further indicate that the blood pressure of the deceased patient was controlled to 130/90 at 9.00 PM and 130/70 by 10.00 PM. On 25.10.2012. The impact of the injection was therefore clearly visible in helping the patient to recover from high blood pressure. As such the administration of Lasix that was also continued on 26.10.2012 indicated the control of the blood pressure. Lasix was, however, stopped on 28.10.2012.
42. The contention of the Complainant again relying on the literature produced by him was an allegation regarding the addition of the drug Mannitol that was advised by the Opposite Party No.2 Dr. Narendra Kumar, the Neurologist, who prescribed this medicine after he had seen the patient. This advice of Mannitol was added by Dr. Narendra Kumar which stands recorded at about 10.30 PM on 26.10.2012. It appears from the literature as cited by the Complainant that Mannitol is a drug meant for reduction of intracranial pressure and cerebral edema as well as intraocular pressure. The literature advises that before administering Mannitol fluid and electrolyte imbalances should be corrected. Consequently serum electrolytes need to be monitored. The drug seems to have been prescribed looking to the mental state of the patient on 26.10.2012. There is no material to accept that the administration of the drug was wrongly prescribed.
43. On 27.10.2012, the blood pressure of the patient was again recorded as 150/100. Her serum tests were received and as noted in the hospital sheet, she had been shifted to the ICU unit on the advice of the Opposite Party No.2 late at night on 26.10.2012 itself. The serum test was undertaken in the ICU by the Hospital and the report was admittedly received which is on record. The electrolyte levels have been recorded in the note sheet dated 27.10.2012 at 11.00 AM when the patient was reviewed and her condition was recorded as critical. The sodium level was indicated as 139. The process of controlling the electrolyte balance had commenced and according to the Opposite Parties, the administration of 0.9% Saline was the only appropriate protocol in the given situation keeping in view the sodium levels which were fluctuating. It is at this stage that the chart provided by the learned Counsel for the Opposite Parties needs to be mentioned as it reflects the monitoring of the first three days of the sodium level. The said chart is extracted hereinunder:

“CHART FOR THE FIRST THREE DAYS –ICU PERIOD

OF HOSPITALIZATION (ICU) BEING THE SUBJECT MATTER BETWEEN THE PARTIES

					TARGET 133 to 150 mEq/L of Sodium in Body	
BZSE.	A. OF INFUSION	PHYSICAL AMOUNT OF SODIUM	A. STARTING VALUE OF	(B) RISE OF SODIUM IN	(C) (A+B) TOTAL INCREASE OF	D. HOWEVER ERRATIC

		IN LIQUID (mEq)	SODIUM IN THE BLOOD OF PATIENT	BLOOD WHICH SHOULD TAKE PLACE DUE TO INFUSISON AS PER MEDICAL STANDARDS (mEq/L)	SODIUM IN BLOOD WHICH SHOULD HAVE TAKEN PLACE AS PER MEDICAL STANDARDS TILL 08.00 AM NEXT	BODY RESPONSE READING OF THE PATIENT
1.	1. 500 ML…SF	150 mEq 72 mEq 222 mEq in liquid = 7 mEq/L in blood	104 mEq/L	7 mEq/L	111 mEq/L	127 mEq/L @4AM MDWT.
1.	1. 500 …SF	225 mEq 72 mEq 297 mEq in liquid = 9 mEq/L in blood	111 mEq/L	9 mEq/L	120 mEq/L	150 mEq/L @4AM MDWT.
1.	500 ML…N/2 1500 ML…N/4 500 ML…SF	38 mEq 57 mEq 72 mEq 167 mEq in liquid = 5 mEq/L in blood	120 mEq/L	5 mEq/L	125 mEq/L	149 mEq/L @4AM MDWT.

Note:1. 30 mEq of external administration of Sodium in Liquid can only give rise to 1 mEq of sodium in blood.

2.A 500 ML of DNS(Dextrose Normal Saline)=75 mEq of Liquid. This is equal to 2.41 mEq of sodium in the blood in body.

2B. 500 ML of SF (Stero Fundin)= 72 mEq of sodium in Liquid. This is equal to 2 mEq of sodium in the blood in body.

2C. 500 ML of N/2=38 mEq of Sodium in Liquid. This is equal <1 mEq of sodium in the blood in body.

2D. 500 ML of N/4=19 mEq of Sodium in Liquid. This is equal <0.5 mEq of sodium in the blood in body.

3. As per the infusions on the three consecutive dates, rise in sodium in blood should have been 7 mEq, 9 mEq and 5 mEq respectively. WHEREAS THE ACTUAL RISE OF SODIUM IN BLOOD DUE TO BODY RESPONSE OF THE PATIENT WAS 127 mEq, 150 mEq and 149 mEq respectively.

4. The above chart is illustrative in nature. It does not taken into account the sodium which is daily utilized by the body of the patient. This chart takes into account an extreme situation where the patient is not using sodium on a daily basis in his body.

5. On 26.10.2012, Serum sodium was 104 mEq/L. This is a life threatening parameter. A stable/normal parameter would be 133-150 mEq/L. Thus, the normal target of 133-150 mEq/L was sought to be achieved in the ICU. Accordingly, calibrated infusions were given for 3 days to achieve this target.

6.On 28.10.2012 at 8 a.m., the Sodium level read as 150 mEq/L. Thus, a tapering down lighter concentration does was given on 29.10.2012, and the infusion was stopped for 30.10.2012 to maintain the target. It was further resumed in a watchful manner from 31.10.2012 onwards. Hence, a constant, active and daily monitoring and management was done to achieve and maintain a stable and target parameter."

44. The contention of the Complainant is that the Opposite Parties ought to have infused hypertonic saline of 3%. The Opposite Parties contend that if the sodium level was fluctuating as indicated above, then if 3% saline would have been induced, the same would have produced disastrous results. The level of correction of sodium therefore could not have been monitored in a better way according to the learned Counsel for the Opposite Parties as was done in the manner indicated above. No material is brought forth by the Complainant to establish that hypertonic saline of 3% was necessary with the level of fluctuation as recorded above.
45. In order to verify the correctness of the infusion of the fluids to the patient, the Commission had also passed an order on 30.05.2023 for bringing on record the details of the fluids administered to the Complainant. The said details have also been filed along with the convenience compilation dated 07.07.2023. The chart is on record and can be perused. To indicate it the extract of the readings of the infusion of fluids from 25.10.2012 to 29.10.2012 is reproduced hereinunder:

Patient Name: Suresh Rani MRD No IPD/12/20957	Patient Name: Suresh Rani

IV Infusion & Input & Output Chart During Hospitalization									Sr. Electrolyte Estimated During Hospitalization			
•	DNS	1.	MS.	1.	N/4	○	• IV. ■	Total output		○	○	Calcium
25.10.12 (8:23 pm) – 26.10.12 (10:15 pm)	500.		1000.				1500.	○ ○		MA.	MA.	MA.
26.10.12 (10:15 pm) – 27.10.12 (8:00 am)	1000.					500.	1500.	2210.		104.	2.	0.
Date: 8.00 am -8:00 am												
1.	1500.					500.	2000.	2200.		127. 139.	2. 2.	1. 1.
1.				500.	1500.	500.	2500.	1575.		150. 149.	3. 3.	1. 1.
1.				500.	1500.		2000.	1085.		144. 143.	3. 3.	1. 1.

46. The said infusion of fluids matches with the directions given in the doctor's sheet and the treatment sheet prepared by the nurses. The question is as to whether such administration of fluid was appropriate and had been administered as per medical protocols to contain the electrolyte imbalance or otherwise. It is correct that the attempts were made by the Opposite Party No.2&3 to organize the administration of drugs and medicines in a way so as to appropriately treat the patient. But at the same time, the impact of such treatment also needs to be observed. The expert reports extracted above have held the said protocols to have been observed correctly.
47. The administration of Mannitol has been explained by the learned Counsel for the Opposite Party No.2 with the help of certain handouts which indicates that the said medicine is administered for treating brain swelling (Oedema). It has also been urged that the caution given for not using the said drug indicates certain symptoms which was not the case in respect of the patient in question. The Opposite Party No.2 being a neurologist advised the said medicine keeping in view the status of the patient as observed by him. The administration of the medicine therefore does not appear to be against protocol.
48. Thus the remaining contentious issue therefore appears to be as to whether the electrolyte balances that emerged were managed appropriately or not or did they result in causing EPM or CPM as alleged by the Complainant.
49. From the progress sheets maintained by the Doctors, it appears that the Opposite Party No.3 Dr. Kunal Das, who was the Gastroenterologist and attending to the patient at the outset on the basis of clinical examination including the symptoms of high blood pressure, rightly advised administration of Lasix. It is at this stage that it would be appropriate to refer to the first MRI report dated 26.10.2012 that has been extracted hereinabove. It only indicates a suggestion that does not lead to any medical conclusion of having caused any damage to the brain. This seems to have again been confirmed by the second MRI on 29.10.2012. Dr. Das was attending on the patient and to say that he did not attend to the patient himself does not appear to be correct. The hospital sheets indicate care being taken at 11 a.m. by Dr. Das and then again at 3:15 p.m. on 26.10.2012 by Dr. Narendra Kumar who informed Dr. Das.

As per his orders Dr. Das immediately advised consultation with the Neurologist and with a direction to get the serum electrolytes tested. Even if the endorsement in the treatment sheets, that the attendants had refused the suggestion of electrolytes being managed or tested is incorrect, the fact remains that the MRI report did not indicate anything to the contrary.

50. It is at 3:15 p.m. on 26.10.2012 that disorientation was observed even though the patient was conscious, it is this information that seems to have been passed on to Dr. Kunal Das who immediately advised for a consultation with a Neurologist as also pathological tests for electrolytes. The Neurologist, namely, Opposite Party No.2 attended the patient at 16:30 p.m. on 26.10.2012 and MRI brain was recommended, report whereof has already been indicated hereinabove. Dr. Kunal Das had also attended the patient at 7 p.m. and had immediately recommended the patient to be shifted to the ICU that was done. The Neurologist again visited at 10:30 p.m. and the MRI report was viewed by him and the a recommendation was made to shift the patient to the ICU. Simultaneously, all profiles and pathological tests were advised and Injection Mannitol was added by the Opposite Party No.2 Dr. Narender Kumar. The Neurologist also could not come to any conclusion on the basis of the MRI report that the patient was suffering from EPM.
51. The balancing of electrolytes and its correction was carried out as per the decision taken by the Opposite Party No.2 and the other attending Doctors, namely, Dr. Gurnani. Learned Counsel for the Opposite Party No.2 and 3 have urged that even though the attendants had resisted the electrolyte tests on 26.10.2012, which fact has been disputed by the Complainant, yet after having gone into the ICU, no consent was required and the electrolyte tests were carried out. It is evident that on 27.10.2012, the hospital sheets clearly record the status of the electrolyte balance tests.
52. The contention of the Complainant is that this imbalance of sodium had occurred due to a frequent urination experienced by the patient which is corroborated by the amount of the urine discharge recorded. It is urged that this excessive discharge of volume of fluids from the body resulted in sodium imbalance.
53. The aforesaid contention has to be examined from the point of view of its assessment by the experts in the background that the second MRI conducted on 29.10.2012 did not reflect any further infirmity or any damage to the brain. These facts have been noted by the Executive Committee of the Delhi Medical Council dated 22.12.2016 as confirmed by the council on 19/30.01.2017 extracted hereinabove. The Committee records that after assessment of the case, there did not appear to be any medical negligence, more particularly, with regard to the correctional methods adopted for balancing the sodium level coupled with the MRI report. It is also evident that the Executive Committee of the Delhi Medical Council passed a detailed order that has been highlighted hereinabove after examining the details of the administration of the medicines as also the manner in which the patient was handled. It was observed that abnormal rise in the sodium levels was most likely due to body response. The Executive Committee comprising of six Doctors confirmed the fact that a case of medical negligence was not made out as the line of treatment did not indicate any fault. It was observed that an appropriate test of MRI Brain was carried out and hence, negligence cannot be attributed to the treatment process. The order of the Executive Committee dated 22.12.2016 was confirmed by the Delhi Medical Council in its meeting dated 19.01.2017. The Complainant aggrieved by the said order filed an Appeal before the Medical Council of India and the order of Delhi Medical Council was affirmed but at the same time, a comment was made on the Hospital that the record keeping and documentation by the Doctor was not adequate. It was observed that the Hospital and the Doctors should take care to maintain proper records as the same are an integral part of good medical practice.

54. It is on the basis of these reports that this Commission on 15.07.2019 found it appropriate to obtain an expert opinion and accordingly, Maulana Azad Medical College was called upon to submit a report.
55. It is at this stage that it would be relevant to mention that the status of the patient continued with the same symptoms on 28.10.2012 when an issue seems to have been raised of Iatrogenic Hypernatremia. This seems to have been a suggestion and not an opinion or recording of any symptom. It was also not diagnosed and therefore, in order to confirm the same, second MRI was recommended/advised. The said MRI was conducted on 29.10.2012 which reiterated the earlier report dated 26.10.2012 with a further observation that there was no significant change as compared to the earlier report. Thus, this doubt is nowhere confirmed nor does the chart of IV fluids reflect over-infusion as alleged.
56. With the aforesaid developments, it is observed that the medical protocol including the MRI Brain Scan Test was carried out that did not indicate any adverse symptom relating to EPM or CPM. The sodium imbalance was fluctuating on correction as indicated in the chart filed on behalf of the Complainant and extracted hereinabove. There is no material to contradict the aforesaid process adopted by the Doctors in order to construe that appropriate medical protocol was not followed and that they were deliberately negligent. It is equally true that the patient's condition did not improve but there was nothing to indicate that the patient was at that moment suffering from any excessive infusion, as alleged to accept the suggestion of Iatrogenic Hypernatremia.
57. The condition of the patient was again noticed to be continuing at the same level with the same indication that at times the patient was responding to verbal commands on 29.10.2012 but inspite of being conscious, it has been noted at about 4 p.m. that she had neurologically slightly deteriorated and was not moving her limbs. It is in these conditions that a third MRI was conducted on 31.10.2012 and it is here that the report reflected Metabolic Encephalopathy. It may be mentioned that this report does not record Extrapontine Myelinolysis (EPM). The report of UP State Medical Council dated 02.12.2014 wrongly records of confirmation of EPM through the subsequent MRI report.
58. Learned Counsel for the Opposite Parties have submitted that this MRI report is final and the same has been taken into consideration by the experts of the Delhi Medical Council and their opinion has been affirmed by the Medical Council of India. Not only this, the report of the Maulana Azad Medical College dated 04.10.2019 has approved the same holding that the Doctors have exercised their skill to the best of their capacity, knowledge and prudence and therefore, no negligence is made out.
59. From the discussions above, it is correct that the said reports have been attempted to be contradicted by the Complainant by an affidavit of Dr. B. Ravi Kumar. The said affidavit which runs into two pages simply narrates an opinion and is from a Doctor in Kerala. The veracity of such an opinion, as against the opinion of the Delhi Medical Council affirmed by the Medical Council of India and the opinion of the Maulana Azad Medical College rendered by three Doctors including the Director, therefore, does not appear to be acceptable given the detailed opinion independently given by the Maulana Azad medical College. Such opinion of Dr. Ravi Kumar, therefore, cannot be counted upon to contradict the evidence that has been led on behalf of the Opposite Parties including the experts' report that could not be successfully controverted by the Complainant.
60. In this background, the other side of the coin is as to why did the Hospital in the discharge summary dated 23.11.2012 record in its conclusion of final diagnosis about EPM being also as one of the symptoms along with ME and hypertension. The said discharge summary is on record and the final diagnosis recorded therein has already been noted in paragraph (2) of this order. Assuming that the expert opinions of the Medical Councils of Delhi and

India, and that of Maulana Azad Medical College are correct, as urged on behalf of the Opposite Parties, the discharge summary reflects partly to the contrary and indicates a final diagnosis of EPM as well recorded by the Hospital itself. The question is did the Doctors and the Hospital manage the patient with care and precaution and as to whether their own final diagnosis was medically correct. On a specific question being put to the learned Counsel for the Opposite Parties, particularly, Opposite Parties No.2 and 3 as well as Mr. Pattjoshi appearing for the Hospital, no explanation could be given by them about the said conclusion drawn and recorded in the discharge summary of the Hospital itself. The said conclusion records hypertension and ME with Extrapontine Myelinolysis (EPM).

61. It may be mentioned that EPM, according to the medical literature and the submissions made, is caused on account of electrolyte imbalance. The electrolyte imbalance is evident from the fact that the Opposite Parties themselves have come up with a case that all corrective measures were adopted to secure the balance of the sodium level. It is this which is being defended by the Opposite Parties contending that they could not have managed it in a better way in their assessment and judgment to correct the imbalance that was done, as per medical protocol.
62. To justify the time period for adopting the correct protocol is being defended with the aid of the two MRI reports dated 26.10.2012 and 29.10.2012 to urge that since there was no confirmed symptom of either ME or EPM in these two MRI reports, therefore, the electrolyte balance and sodium level was being monitored on the assumption that no such symptom had set in so as to adopt any other medical protocol. In such a situation, the suggestion of the Complainant to infuse hypertonic saline 3% could not have been adopted as that would have been fatal. It is correct that there is no such material adduced on behalf of the Complainant to demonstrate that the infusion of hypertonic saline 3% was essentially the only way out in these circumstances when the sodium level of the patient was admittedly fluctuating. The opinion of the experts of the Delhi Medical Council, the Medical Council of India and the Maulana Azad Medical College is clearly indicative that no negligence can be inferred on that count.
63. In this situation, the electrolyte imbalance and the methods adopted for the corrective level of sodium that seems to have been adopted was done at a stage when the patient seems to have become critical.
64. The conclusion drawn in the summary discharge by the Hospital, even, though not noted and commented upon subsequently by the Medical Council and the expert opinion of Maulana Azad Medical College, has been practically overruled.
65. The conclusion, therefore, drawn by the Hospital in its discharge summary about EPM seems to be not in tune with the subsequent expert opinions or the defence and the argument which has been advanced in the present Complaint. Learned Counsel for all the Opposite Parties have not been able to give any explanation as to why the discharge summary records the symptom of EPM also existing along with hyper tension and ME. The facts and the evidence filed on behalf of the Opposite Parties have not come up with any explanation except relying on the expert reports referred to above.
66. The question is as to the nature of the negligence alleged. The Complainant has maintained that the manner in which the patient was treated led to her failures that have been diagnosed by the Opposite Party Hospital itself as EPM along with ME and hypertension.
67. The Opposite Parties started off by taking steps to check the hyper tension of the patient and to administer drugs which seem to have been in accordance with the protocol for arresting the deterioration of the patient which in turn developed the complication of electrolyte imbalance and reduction of sodium level. On this aspect of the contention that the attendants of the complainant had refused to get the tests conducted, if the patient

refuses to give consent consciously and within his frame of mind, the same cannot be ignored but on the other hand, the doctor must also consider the impact of such a refusal and inform the patient of its consequences. A patient or his attendant may not have the capacity to take a decision on such issues and if the Doctor has any doubt about such a capacity and the consequences of withholding a test might cause serious damage to the patient's health, then the doctor ha to take a call. The reason is that such a refusal or resistance may be due to reduced or incorrect understanding of the patient or the attendant. At both ends, the communication should be careful and when it comes to the decision of the Doctor, it is expected that such refusal would be dealt with carefully.

68. In the instant case, the doctor has taken care after the patient was moved to the ICU and therefore even if it is assumed that the note sheets incorrectly recorded the refusal by the attendant, the Doctor as soon as the patient was brought under the direct care in the ICU carried out the test the reports whereof were received in the ICU at midnight.
69. The Opposite Parties have come up with a plea that it was the attendants of the patient who refused to get the tests conducted on 26.10.2012. The Complainant alleges this to be an absolute manipulation to contend that the noting in the nurses sheet is incorrect as there was no reason for them to have refused these tests which were financially very insignificant as compared to the MRI already conducted. The MRI reports are subject to clinical confirmations and the pathological tests. There is no gainsaying that the said tests were advised by the Opposite Party No.3 which stands recorded on 26.10.2012 but it was not conducted at that moment till the patient was moved to the ICU where the said tests were conducted and protocols were observed for maintaining the electrolyte imbalance as well as the sodium level.
70. The Complainant has alleged that this gap of more than 24 hours after admission on 25.10.2012 in getting the tests conducted were belated attempts by which time the patient had already been impacted and affected which was a deficiency to take due care. It is this which according to the Complainant amounted to a clear negligence, and then followed by incorrect rapid correction methods.
71. So far as the correction methods are concerned, the same has been explained by the Opposite Parties through the charts referred to above and therefore, the only question that remains is as to whether these corrections were attempted belatedly which, the Complainant alleges, ought to have been done on 25/26.10.2012. The issue, therefore, is as to whether there was any delay on the part of the Opposite Parties to promptly handle the patient that resulted in the deterioration of the patient.
72. This aspect of the matter on any delay being caused in adopting the correct protocols promptly has not been dealt with in detail by the Medical Council or even by the Maulana Azad Medical College experts. It is quite probable, that had the electrolyte balance been pathologically tested at the time of admission on 25.10.2012 or even on 26.10.2012, there was a possibility of correlating it to the MRI report dated 26.10.2012 which according to the Opposite Parties and the experts did not indicate any such symptom impacting the brain. Nevertheless, such step is being contested by the Opposite Parties on the ground as if the Complainant had refused or resisted such tests to be carried out. This endorsement of the refusal coupled with the fact that the tests had been advised indicates that the Doctors were apprehensive and aware of such complications that could give rise to the patient's missing her consciousness and entering into a disoriented estate. Weighing the probability, there does not seem to be any probable reason for the attendants of the patient to have resisted or refused the pathological tests that were advised on 26.10.2012. It can be argued that no necessity was felt by the attendants for the tests because of the MRI report dated 26.10.2012 that did not suggest any impact to the brain due to imbalance of sodium but that

is not the case. The MRI Brain Scan Test is confirmatory but at the same time, the fact remains that the electrolytes tests of the sodium level was not verified through any pathological method and it was done only after the patient had entered the ICU late at night on 26.10.2012.

73. The question is as to whether the patient had gone beyond retrieval by this stage or not. The sodium level had fluctuated and had lowered down to 104 which was sought to be corrected but at the same time the MRI Scan report dated 29.10.2012 reiterated the previous position. Can this situation be considered to be reflecting on any medical negligence on the part of the Doctors or not?
74. The two MRI reports of 26.10.2012 and 29.10.2012 nowhere indicated any symptom so as to suspect the commencement of any EPM. At this stage it can be presumed that in order to arrive at any such conclusion, the Doctors relied on the MRI Scan Reports. The standard to assess the possibility of any such symptoms of EPM were therefore tested as per medical standards and therefore the attending Doctors had taken care with the aid of these MRI reports to rest their judgment accordingly. The attending doctors otherwise appear to be reasonably competent professionals and cannot be said to be careless in arriving at their conclusion. The question therefore of any delay in the conduct of pathological tests has to be viewed in the background that the MRI Scan was not indicative of any such deterioration in the brain. The judgment at that moment on 26.10.2012 therefore cannot be suspected as a fundamental negligence in getting pathological tests done. The contention of the Complainant is as noted above that the pathological tests ought to have been carried out on admission of the patient or immediately thereafter which according to him was delayed till the patient arrived in the ICU on 26.10.2012 at that stage, the source for analysing the situation was the MRI report the correctness whereof has not been challenged. This line of treatment has been confirmed by the expert reports.
75. The issue therefore is as to whether the gap of period prior to the admission of the patient in the ICU was the fatal cause and whether the negligence was not a simple error or mistake. As noticed above the MRI report dated 26.10.2012 was not indicated of any such complications in the brain. Subsequently, the same was reaffirmed by the MRI dated 29.10.2012. In this background, it cannot be said that the pathological tests that were not conducted on admission or on 26.10.2012 before going to the ICU was an unreasonable error or mistake but a doubt does lurk in the mind that had the tests been carried out earlier the same would have been eliminated any suspicion of potential risks.
76. The circumstances as discussed above therefore do raise an expectation about the pathological tests for electrolyte balance to be taken but the fact remains that the complication as alleged by the Complainant was not reflected in the MRI report on both occasions.
77. As already indicated above, the procedure for correction of the balance of sodium contents has been approved by all medical experts as discussed above. The judicial approximation of such medical expert advice has therefore to conform to the same unless anything to the contrary can be shown. The suggestion of the Complainant that the electrolyte balance ought to have been controlled by infusion by hypo-tonic saline of 3% is not borne out by any expert evidence and the suggestion as incorporated in the affidavit of Dr. B Shiv Kumar does not dislodge the expert evidence as rendered by the medical experts of the Delhi Medical Council and the Maulana Azad Medical College.
78. However, the fact remains that Dr. Narendra Kumar, the Opposite Party No.2 on 30.10.2012 recorded his doubt of EPM that was not followed by any confirmation. He therefore was exercising his skill to confirm the same but the MRI dated 31.10.2012 only confirmed ME and not EPM. Nonetheless, the discharge summary as indicated above noted

the symptom of EPM as one of the causes of death. The discharge summary is a medical opinion based on the treatment given by the same Doctors but in the instant case it was prepared by some other medical professional and issued by the Hospital. It is not the case of the Opposite Parties that the discharge summary incorrectly or inadvertently recites EPM as also one of the causes of death. The contention is that the medical experts have completely ruled out the said symptom. At this juncture, it may be observed that medical reports including discharge summaries, death reports and postmortem reports are presumed to be possessed of probative and confirmatory value unless dislodged by any other evidence. The discharge summary of the patient which records the symptoms of EPM is not a document which has been denied. In effect there is no explanation as to why the symptom of EPM was recorded in the discharge summary.

79. The complainant therefore was justified in founding its claim presuming the said recital to be correct and then linking it with the negligence in the procedure of treatment. This also has to be viewed from the doubt expressed by Dr. Narendra Kumar who has noted EPM with a question mark during the treatment on 30.12.2012. This therefore might have been taken into consideration while preparing the discharge summary. The same symptom has not been referred to as a doubt but has been conclusively recorded in the final opinion of the discharge summary along with the other symptoms of hyper tension and PE. This therefore leads to an indicator that suspicion of EPM might have been noticed but was confirmed in the discharge summary. The symptoms of EPM are expected from patients who are being treated in the manner as in the present case but the Opposite Parties in spite of having taken due care to treat the patient have recorded the symptom of EPM at the time of discharge and not prior to that.
80. Nonetheless, they have demonstrated the possible treatment having been carried out to maintain the sodium balance of the patient.
81. The discharge summary has been prepared with a definite conclusion and is a report expressing the opinion about the symptoms of the patient the medical expert reports discussed hereinabove are correct, and there is no reason to doubt the same, then, can it be said that the conclusion drawn in the discharge summary is erroneous. The conclusion of EPM as one of the symptoms in the discharge summary confirms the suspicion raised earlier, nonetheless if the same is in contrast with the final medical reports and expert opinions sought by this Commission, then can it be termed as conclusive. Such a recital cannot be termed as an error of judgment as it is not a symptom suggested in the alternative, but is recorded along with PE and hyper tension but if this recording of an opinion in the discharge summary is erroneous then in that event this is also negligence inasmuch as without confirming the cause, the fact being reported by the Hospital finally is not an error of judgment but is negligence as no such opinion can be rendered casually.
82. On the other hand, if the opinion is correctly recorded, then the claim set up by the Complainant right from the beginning cannot be doubted. Either way if the recording of the EPM in the discharge summary is negligence or otherwise if it is correct, then even if the medical protocols were observed while treating the patient, this recording of the symptom in the discharge summary by the Hospital is clear negligence. May be it is for this reason that the Medical Council commented upon a faulty record keeping of Hospital papers by the Opposite Parties.
83. To this extent, the hospital has allowed itself to be held responsible for the same. Learned Counsel for all the Opposite Parties as noted

above were unable to explain the recording of EPM in the final conclusion of the discharge summary.

84. Having observed as above, even though the recording of EPM in the discharge summary could not be explained by the learned Counsel for the Opposite Parties, the fact remains that the reports of the Medical Councils and the expert report/opinion obtained from the Maulana Azad Medical College have ruled out the possibility of medical negligence on the part of the doctors. There is no clear opinion by the experts as to why the discharge summary records the possibility of EPM yet on its own the experts have opined that the diagnosis and the treatment by the doctors was in accordance with protocol and did not suffer from any deficiency or negligence. These expert opinions which are on record were sought to be countered with the affidavit of Dr. B. Shiv Kumar which as already indicated above did not contain any material sufficient enough to dislodge or nullify the findings recorded by the experts. Apart from this, there was no other material on the basis whereof a conclusive finding on EPM could be confirmed. Thus, it is not possible with the aforesaid evidence on record to hold the Doctors to be negligent in following the medical protocols for diagnosing and treating EPM. Nonetheless, the issuance of the discharge summary recording EPM cannot be overlooked.
85. Having arrived at the conclusion that the mystery of recording EPM in the discharge summary issued by the Hospital could not be explained by the Hospital or by the learned counsel appearing for the opposite parties, the same reflects upon the manner in which the discharge summary was deficiently issued. This seems to have been one of the major elements for raising a challenge by the Complainant and therefore the hospital is directly and vicariously liable for those who recorded the discharge summary indicating that one of the causes of the death of the patient was due to EPM. The Hospital therefore cannot be absolved of its liability in a complete absence of any explanation on that score. No right of silence is available as the Hospital was obliged to disclose as to how the discharge summary consciously included EPM as one of the causes of death. There could be a myriad number of explanations but the medical journey of the deceased and the symptoms cannot be conclusively said to be unconnected with EPM. This could have been explained by the Hospital either before the experts or before this Commission, but the learned counsel expressed their helplessness to explain the recording of such a fact.
86. In the above circumstances, the complaint deserves to be partly allowed for negligence and deficiency in service by the Opposite Party/Hospital that has issued the discharge summary recording EPM as also one of the symptoms causing brain damage. The issuance of a discharge summary in the circumstances above therefore renders it to be an opinion on EPM which remains unexplained. This lack of explanation about the correctness or otherwise of the recital of the symptom of the EPM in the discharge summary is an avoidance that creates a great disadvantage to the Complainant who had founded the Complaint believing the said recital to be correct. The document therefore according to the Opposite Parties results in a deception or otherwise attempts a deliberate conclusion which in the opinion of this Commission is a gross negligence and an unpardonable serious deficiency on the part of the Hospital.
87. Coming to the quantum to be computed in this peculiar case, in the background of the nature of the negligence found, the deceased had filed the complaint through the legal representatives, as she was in a vegetative state and was aged about 59 years. She passed away during the pendency of this complaint after being bed-ridden in that state for almost 10 years. She had to be looked after day and night. Mr. Goyal submits that he, together with his wife and sister, had to continuously take care of her as a result whereof his wife and

sister had to virtually give up their carriers. The aforesaid contentions would have been more relevant for being assessed for award of compensation had this Commission found negligence on the part of the doctors. This is a case where according to the findings recorded hereinabove, the deficiency is about recording of the discharge summary, where the cause of death has been shown as EPM. As already observed above, the experts have opined otherwise and have not located any negligence in the doctors either for their diagnosis or line of treatment.

88. Accordingly for this negligence and deficient conduct on the part of the hospital a lump sum amount of Rs.25 lakhs is imposed on the Opposite Party No.1 for the aforesaid reasons coupled with 6% interest thereon from the date of the issuance of the discharge summary till the date of actual payment of the amount quantified above with in a period of 3 months from today.

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A. P. SAHI
PRESIDENT