

**KARNATAKA STATE CONSUMER DISPUTES REDRESSAL COMMISSION  
BASAVA BHAVAN, BANGALORE.**

**Complaint Case No. CC/96/2012  
( Date of Filing : 08 Aug 2012 )**

1. Narayanaswamy

S/o. Late. Gangarangaiah, Aged about 44 years . R/at No.  
384, 17th Cross, 5th Phase, J.P. Nagar, Bangalore 78

2. Kum. N. Anusha,

D/o. Narayanaswamy, Aged about 14 years, Since Minor  
rep. by her fther & natural guardian Narayanaswamy - 1st  
complainant R/at No. 384, 17th Cross, 5th Phase, J.P.  
Nagar, Bangalore 78 .

.....Complainant(s)

Versus

1. KIMS Hospital and Research Centre

K.R. Road, V.V. Puram, Bangalore 560004 Rep. by Dr.  
Veeranna, Hospital Administrator .

2. Dr. H.V. Nataraj

Physician, II-Unit, Head of Department Doctors, II-Unit,  
KIMS Hospital & Research Centre, K.R.Road, V.V.  
Puram, Bangalore 560004 . .

3. Dr. Amar Kumar

Urologist, II-Unit, Head of Department Doctors, II-Unit,  
KIMS Hospital & Research Centre, K.R.Road, V.V.  
Puram, Bangalore 560004 .

4. Dr. Sanjeev Kiremat

Nephrologist, II-Unit, Head of Department Doctors,  
II-Unit, KIMS Hospital & Research Centre, K.R.Road,  
V.V. Puram, Bangalore 560004 .

5. Y. Pushpavathy

Staff Nurses, II-Unit, KIMS Hospital & Research Centre,  
K.R. Road, V.V. Puram, Bangalore 560004

6. Poorneswari

Staff Nurses, II-Unit, KIMS Hospital & Research Centre,  
K.R. Road, V.V. Puram, Bangalore 560004 .

7. Divya K. Chandran

Staff Nurses, II-Unit, KIMS Hospital & Research Centre,  
K.R. Road, V.V. Puram, Bangalore 560004

8. Dyna N.C.

Staff Nurses, II-Unit, KIMS Hospital & Research Centre,  
K.R. Road, V.V. Puram, Bangalore 560004

9. Samyuktha C.K.

Staff Nurses, II-Unit, KIMS Hospital & Research Centre,  
K.R. Road, V.V. Puram, Bangalore 560004 .

10. Mamatha B.H.

Staff Nurses, II-Unit, KIMS Hospital & Research Centre,  
K.R. Road, V.V. Puram, Bangalore 560004 .

11. Shubha K.H.

Staff Nurses, II-Unit, KIMS Hospital & Research Centre,  
K.R. Road, V.V. Puram, Bangalore 560004 .

12. Anitha H.S.

Staff Nurses, II-Unit, KIMS Hospital & Research Centre,  
K.R. Road, V.V. Puram, Bangalore 560004 .

13. Sumalatha H.M.

Staff Nurses, II-Unit, KIMS Hospital & Research Centre,  
K.R. Road, V.V. Puram, Bangalore 560004 .

14. Sreemathy

Staff Nurses, II-Unit, KIMS Hospital & Research Centre,  
K.R. Road, V.V. Puram, Bangalore 560004

15. Jiss Joseph

Staff Nurses, II-Unit, KIMS Hospital & Research Centre,  
K.R. Road, V.V. Puram, Bangalore 560004 .

16. Geethanjali

Staff Nurses, II-Unit, KIMS Hospital & Research Centre,  
K.R. Road, V.V. Puram, Bangalore 560004 .

17. Shruthi H.P.

Staff Nurses, II-Unit, KIMS Hospital & Research Centre,  
K.R. Road, V.V. Puram, Bangalore 560004 .

18. Jyothylakshmi

Staff Nurses, II-Unit, KIMS Hospital & Research Centre,  
K.R. Road, V.V. Puram, Bangalore 560004 .

.....Opp.Party(s)

**BEFORE:**

**HON'BLE MR. Ravishankar PRESIDING MEMBER**

**HON'BLE MRS. Smt.Sunita Channabasappa Bagewadi MEMBER**

**PRESENT:**

**Dated : 19 Aug 2021**

**Final Order / Judgement**

**BEFORE THE KARNATAKA STATE CONSUMER DISPUTES REDRESSAL  
COMMISSION, BANGALORE. (ADDL. BENCH)**

**DATED THIS THE 19<sup>th</sup> DAY OF AUGUST 2021**

**PRESENT**

**SRI RAVI SHANKAR – JUDICIAL MEMBER**

**SMT. SUNITA C.BAGEWADI - MEMBER**

**COMPLAINT NO. 96/2012**

1. Sri.Narayanaswamy

S/o Late.Gangarangaiah,

A/a 44 years,

2. Kum. N.Anusha

D/o Narayanaswamy,

Aged about 14 years,

Since minor represented by her

Father and Natural Guardian

Narayanaswamy, 1<sup>st</sup> Complainant

Both the complainants are residing at

No.384, 17<sup>th</sup> Cross, 5<sup>th</sup> Phase,

J.P.Nagar, Bangalore-78.

.....Complainant

**(By Sri. T.N.Gururaj, Adv.,)**

V/s

1. KIMS HOSPITAL & RESEARCH CENTRE

K.R.Road, V.V.Puram, B'lore-560 004.

Represented by Dr.Veeranna,

Hospital Administrator.

2. Dr. H.V.Nataraj, Physician, II-Unit,  
Head of the Department
3. Dr.Amar Kumar, Urologist, II-Unit,  
Head of the Department.
4. Dr.Sanjeev Kiremat,  
Nephrologists, II-Unit,  
Head of the Department.

O.P.Nos. 2 to 4 are Doctors,  
II-Unit, KIMS Hospital and  
Research Centre, K.R.Road,  
V.V.Puram, Bangalore-560 004.

5. Smt. Y.Pushpavathy,
6. Smt. Poorneswari,
7. Smt.Divya K.Chandran,
8. Smt. Dyna N.C.

9. Smt. Samyuktha C.K.
10. Smt. Mamatha B.H.
11. Smt.Shubha K.H.
12. Smt.Anitha H.S.
13. Smt. Sumalatha H.M.
14. Smt.Sreemathy
15. Smt.Jiss Joseph,
16. Smt. Geethanjali
17. Smt. Shruthi H.P.
18. Smt. Jyothylakshmi

O.P. Nos. 5 to 18 are Staff Nurses,

II-Unit, KIMS HOSPITAL &

RESEARCH Centre,

K.R.Road, V.V.Puram,

Bangalore-560 004.

19(a) The Manager,

Oriental Insurance Co., Ltd.,

Thammaiah Towers,

No.3, 1<sup>st</sup> Floor, 1<sup>st</sup> Cross,

Gandhi Nagar, Bangalore-09.

19(b) The Manager,

New India Assurance Co., Ltd.,

Do.14(671400) No.202,

North Wing, II Floor,

Brigade Plaza, Subedar Road Circle,

Gandhinagar, Bangalore-560 009.

**(Opposite Parties 1 to 6, 7 to 11, 13, 15 and 18 .Ps by Sri. B.R.Srinivas,**

**O.P. No.1 – by Sri. H.V.S, O.P.- by Sri. P.R.N., O.P.4 Joga Rao, Advs.,)**

**(O.P.19(a) – Sri. Manoj Kumar, Adv.,)**

**(O.P. 19(b) Ravishankar, Adv.,)**

.....Opposite Parties

**:ORDERS:**

**BY SRI RAVISHANKAR – JUDICIAL MEMBER**

The complainant Nos. 1 & 2 filed this complaint against the Opposite Party Nos. 1 to 18 alleging medical negligence in treating the wife of the 1<sup>st</sup> complainant/Mother of the 2<sup>nd</sup>

complainant and hence prays for compensation to the tune of Rs.95,00,000/- for medical negligence along with other reliefs.

**2. The brief facts of the complaint are as under:-**

The wife of the 1<sup>st</sup> complainant and Mother of the 2<sup>nd</sup> complainant during February – 2008 had a complaint of joint-pain, fever and general discomfort and she was taken to Manipal North Side Hospital, Bangalore and found that she has Systemic Lupus Erythematosus (SLE) and the said hospital referred her to undergo clinical tests at Pathocon Diagnostics, Bangalore and found her kidney was functioning normal as per the report dated:22.05.2010. During July 2010, the wife of the 1<sup>st</sup> complainant developed vomiting sensation and as such she took treatment at Vegus Hospital, Bangalore where she was advised for blood transfusion and discharged on 16/08/2010 and advised to get bed rest for two months. Subsequently, she suffered uneasiness as well as restlessness and she was admitted to KIMS Hospital and Research Centre, Bangalore on 21/09/2010 as an inpatient No.18816/2010 with history of one month back she developed swelling of lower limbs, fever and chills, for which she was under medication. The Doctor who examined at Opposite Party's hospital prescribed some medicines and on that day the creatinine level was 1.1 mg per deciliter, but after treatment the same continue to rise as there was no proper medication or administering wrong injections by the staff nurses during her hospitalization. The Opposite Party Nos. 2 to 4 are not at all visited and monitored the wife of 1<sup>st</sup> complainant Adilakshamma since from admission and have not taken any due care to cure the complications found in the wife of the 1<sup>st</sup> complainant.

**2(a)** The complainants further submitted that the rest of the Opposite Party Nos. 5 to 18 have continued medication during her hospitalization which were not at all prescribed by any of the Doctor including Opposite Party Nos. 2 to 4. This goes to show that there is negligence on the part of Opposite Party Nos.1 to 18. The complainants noticed that names of injections were re-written or overwritten or scratched off in the case sheet of the deceased Adilakshamma during her hospitalization. The nurses have not monitoring the prescriptions made by duty Doctors. The complainants also noticed that the Nurses have administered B-long Tablet even it was stroked out and this goes to show that there is negligence on the part of Opposite Parties while treating the said Adilakshamma. The complainant also noticed that there is an initiation of Anti TB medication in the treatment chart from the 1<sup>st</sup> date of admission to the hospital, but there is no diagnosis of TB or mention in the discharge summary issued by Opposite Party No.1. This also goes to show that there is negligence on the part of Opposite Parties in treating the wife of the complainant No.1 Adilakshamma.

**2(b)** The complainants further submitted that they noticed in the chart that there was raise in Urea and Creatinine level was very high during hospitalization of the Adilakshamma, whereas the Opposite Parties have told that the Urea and Creatinine level shown very high and further they have referred the said Adilakshamma to Nephrologists Dr.Sanjeev Kiremat who not at all visited the patient even though the patient was in the hospital as an inpatient nearly one month. Hence, there is negligence on the part of the Opposite Parties in not treating the wife of the 1<sup>st</sup> complainant Adilakshamma.

**2(c)** The complainant further submitted that they filed an application under RTI and sought for information with respect to the medical records with regard to the treatment provided during the hospitalization of Adilakshamma, but the Opposite Parties have failed to provide all the details

and gave false information to the queries made by the complainant No.1. Neither complainant No.1 nor any of the attendants of the said Adilakshamma have signed any consent form at any point of time, but they have provided information to the application under RTI Act that they have obtained signatures and permission for surgeries. The Opposite Parties have conducted surgery for 3 times for the purpose of implanting D.J.Stent for the reasons best known to the Opposite Parties and at the time of 4<sup>th</sup> Surgery DJ stent was done and the same was also not fixed properly and thereby the patient has to undergo dialysis and the Opposite Parties have failed to manage the kidney problems during her hospitalization. Due to the negligence on the part of the Opposite Parties, the health condition of Adilakshamma deteriorated and in spite of transfusion of blood on four times from 22/10/2010 to 25/10/2010, no success was found and finally she died due to the medical negligence committed by the Opposite Parties.

**2(d)** The complainants further submitted that during hospitalization, the complainant requested the Opposite Party No.3 to discharge his wife Admilakshamma as they were not treating her properly and her health condition was deteriorated, but the Opposite Parties have not discharged the patient, but after demand made by the complainant on 25/10/2010, the Opposite Parties have discharged and immediately the complainant was took his wife Adilakshamma to Institute of Nephro-Urology, Victoria Hospital Campus, Bangalore, where she was diagnosed that she was suffering from “Post SLE Nephritis with ARF with Obstructive Uropathy” . The said ailment is with respect to the kidney, whereas the Opposite Parties have done surgery for implantation DJ stent negligently. Even the DJ stent was not properly inserted and they were unable to place DJ stent in Situ. Further, the said Adilakshamma was underwent for surgery on 10/11/2010 **under short G.A. B/L percutaneous nephrostomy tubes removed, she was managed for her renal failure with thrice weekly hemodialysis.** After the said surgery and recovery, she was discharged from Victoria Hospital on 13/11/2010. After discharge she suffered Breathlessness, cough and infection at the site of surgery conducted at KIMS Hospital and as such she died on 27/12/2010. Death of the wife of the 1<sup>st</sup> complainant is only due to wrong treatment and also not treating the said Adilakshamma in proper way during her hospitalization between 19/11/2010 and 09/12/2010.

**2(e)** The complainant further submitted that he had paid nearly 56,847/- to the Institute of Nephro-Urology for treatment and he spent more than Rs.2,66,000/- towards the incidental charges during her hospitalization at Opposite Party Nos. 1 to 18. The said deceased Adilakshamma was working as an Administrative Officer of LIC of India, P & G.S. J.C. Road, Bangalore and during her lifetime she was drawing a salary of 47,108/- Per Month and she was aged about 47 years at the time of her death and she was having 14 years of service. Due to the medical negligence by the Opposite Party Nos. 1 to 18, the said Adilakshamma was died and due to the death of Adilakshamma the complainant No.2 who is a daughter was put in trouble and complainant No.1 suffered mental agony and huge financial loss. Hence, the Opposite Party Nos. 1 to 18 are liable to pay compensation of Rs.95,00,000/- along with interest and other relives as prayed above.

**3.** After service of notice, the Opposite Party Nos. 6, 8, 10, 11, 13, 15, 18, 5 & 9 and Opposite Party No.4 have filed their version.

**3(a)** The Opposite Party Nos. 6, 8, 10, 11, 13, 15, 18, 5 & 9 in their version have contended that the complainant No.1 during hospitalization of deceased Adilakshamma was not at all present in the hospital of Opposite Party No.1 at the time of admission and during the entire duration of treatment. The said Adilakshamma was admitted by her parents for her treatment and she had

informed during her admission that complainant No.1/husband of the said Adilakshamma abandoned the relationship of complainant No.1 and they were already not in talking terms. The said Adilakshamma was aggrieved with the complainant No.1 and his parental family to such an extent and she executed a will excluding him from inheriting her property and bequeathed all her property to her only daughter i.e. complainant No.2 specifically excluding her husband. The complainant is a greedy person, who never cares for well being of the said deceased Adilakshamma, whereas now he came up with the claim of compensation before this Hon'ble Commission in order to gain wrongfully.

**3(b) The Opposite Parties further contended that the Smt.Adilakshamma's medical history prior to the admission in Opposite Party No.1 hospital is as follows:-**

**Smt.** Adilakshamma, A/a 46 years, was admitted on 21.09.2010 with a complaint of swelling of legs and face, fever, haematuria (red blood cells in the urine). She had a history of systemic Lupus Erythematosus and was already undergoing treatment by steroids. She had a long standing Bilateral Gross Hydronephrosis (water inside the kidney) with thinning of the Renal Parenchyma. The patient was already being treated for tuberculosis with antitubercular treatment since 08.08.2010. She had undergone treatment for the above illness at Northside Manipal Hospital and at Vagus Hospital. Systemic Lupus Erythematosus is a systemic autoimmune disease more often occurring in women, wherein the immune system attacks the body cells and tissue, resulting in inflammation and tissue damage. It is a type III hypersensitivity reaction in which antibody immune complexes precipitate and causes a further immune response. It harms the heart, joints, skin, lungs, blood vessels, liver, kidneys and nervous system. The course of the disease is unpredictable, with periods of illness (flares) alternating with remissions. There is no cure for systemic Lupus Erythematosus, it can be treated and contained to a certain extent. Hence, on admission, the Opposite Party No.2 referred the case to the Opposite Party No.3 for the treatment of B/L Hydronephrosis of the patient along with the team of doctors inclusive of the Opposite Party Nos. 2 & 4. Accordingly the Opposite Party No.3 after diagnosing the patient, informed the patient about the treatment she had to undergo i.e., Cystoscopy & Retrograde Pyelogram & Double JJ Stenting. Further it was informed to the patient if technically not possible a bilateral percutaneous Nephrostomy would be performed. The patient's Serum Creatin level was 1.8. The third Opposite Party before beginning the above treatment, enquired the patient about her husband and the need for the consent for performing the above mentioned treatment/procedure on her. The patient/Smt. Adilakshamma responded by informing the Opposite Party No.3 that her husband had deserted her and that she was with her aged parents who were taking care of her since a long time. Hence, the patient herself signed the required papers for consent in sound state of mind and all the treatments were performed on the consent of the patient.

The first surgery was performed on **29**. 09.2010, A Cystoscopy was performed, which showed that the patient had severe inflamed bladder and only right orifice was seen. Subsequently a retrograde pyelogram was done which showed a Mega Ureter with a dilated pelvis. The treatment of Right JJ Stenting was done. Post treatment was uneventful for next 5 days.

Thereafter the patient started having temperature in spite of good antibiotics. A Cystoscopy was done under local anesthesia and the Right JJ Stent was replaced by a bigger 5 French JJ Stent. A left Percutaneous Nephrostomy was done to drain the left kidney. No.12 MALECOT tube was put in the left kidney and the infected urine was drained out. Subsequently the patient's urine culture grew fungal growth which was diagnosed as Candida. She was put on antifungal treatment. She further had a minor episode of leakage of urine from Nephrostomy due to tube

being on her back and change of position of the patient resulted in the pull of Nephrostomy. A repositioning of the patient's right and left Nephrostomy was carried out on 20.10.2010 and the patient was stable there was no further leaks and the temperature was stable. In view of rising in Creatine, Nephrologists opinion was taken on 19.10.2010. Dialysis was started by Dr.Sanjeev Heremat on 22.10.2010. Her serum creatine was stabilized. The patient was due for the next round of treatment i. e. left Nephrogram and antegrade stenting. In the meanwhile the Opposite Party No.3 was contacted by Dr. G.K.Venkatesh, Director of Institute of Nephro-urology with the request to shift the patient to his medical facility for further treatment. The request was promptly complied as per the voluntary wishes of the patient's parental family. At the time of discharge the patient stents implanted was draining normally, there was no urine leakage and the patient was responding positively to the treatment. As per the best medical practice known till date, the patient required Dialysis for her end stage renal disease.

**3(c)** The Opposite Parties further submitted that on perusal of the treatment given at Institute of Nephrology subsequent to the discharge of the said Adilakshamma in the first Opposite Party's hospital, it is clear that she underwent antegrade stenting on the left side, which was as required and that the same procedure was due to be performed in the first Opposite Party's hospital before the discharge. The Opposite Parties further contended that the said Adilakshamma was discharged on 25.10.2010 and subsequently underwent treatment in the Institute of Nephro-urology till her death on 27/12/2010. During her death, she was under treatment and care of this Opposite Parties. They have treated the patient with due care and best medical practice. There is no medical negligence as alleged in the complaint. The patient was a diabetic and was suffering from advanced stage of kidney disease and had Systemic Lupus Erythematosus. They have treated her with best medical practice and procedures and stabilized during her hospitalization. The parental family of the patient were anxious due to the continuity of the patient's stay in the hospital and preferred to change the hospital for the reasons best known to them. This Opposite Parties have accepted the request made by the parents of the patient and with the belief they have discharged and reputed to Institute of Nephrourology with the belief that they will take the patient with a due care.

**3(d)** The complainant No. 1 falsely claimed that he had demanded for discharge the said patient on 25/10/2010. In-fact the complainant was not at all present on the date of discharge also. He was never present during her hospitalization and at the time of admission and when she required him. The allegations that change of medication and wrongful medication are all fabricated for the purpose of this complaint and complainant Nos. 1 & 2 are not all entitled to get any relief as prayed and there is no medical negligence on their part during her hospitalization. Hence, submits to dismiss the complaint.

**4.** The Opposite Party No.4 also filed version re-iterating the contentions taken by the Opposite Party Nos. 6, 8, 10, 11, 13, 15, 18, 5 & 9 in their version and further denied all other allegations made by the complainant against him and prays for dismissal of the complaint.

**5.** Both parties have filed their affidavit evidence. The complainant and Opposite Party Nos. 1, 5, 6, 8, 9, 10, 11, 13, 15 & 18 filed their written arguments also. The complainant marked the documents at Ex.C1 to C24.

**6.** We have heard the arguments.

**7.** On perusal, the following points will arise for our consideration;

(1) Whether the complaint deserves to be allowed?

(2) What Order?

8. The findings to the above points are;

(1) Negative

(2) As per final Order

**:REASONS:**

**Point Nos. (1) & (2):-**

9. The complainant alleges that there is a medical negligence on the part of Opposite Party/Doctor Nos. 1 to 18 who have treated the wife of the complainant during her hospitalization and submits that initially she had taken a treatment at Manipal North Side Hospital where they noticed that there is a Systemic Lupus Erythematosus (SLE) and thereafter 1<sup>st</sup> complainant's wife was taken treatment at Vegus Hospital, Bangalore where she was underwent treatment for blood transfusion and discharged on 16.08.2010. There afterwards the complainant was brought to Opposite Party's hospital on 21.09.2010 and admitted as an inpatient under No.1886, where the complainant noticed the Doctors of the Opposite Party's hospital are not treating properly and not administering the medicines as prescribed by the Doctors and also noticed wrong injections were administered by the Staff Nurses and further alleges that during her hospitalization in the said Opposite Party's hospital, none of the Doctors have taken care to cure the illness suffered by the complainant and also alleges that creatinine level was not looked into properly in order to treat. Even in the Nephrologists Department, Dr. Sanjeev Kiremat was not at all visited the patient. Due to medical negligence in treating the wife of the complainant, she died subsequently. Hence, claimed for compensation to the tune of Rs.95,00,000/-.

10. Whereas on the other hand, the Opposite Parties in their version have categorically mentioned the line of treatment provided to the wife of the complainant and they also noticed that the complainant was not in good terms with the said Adilakshamma and he was not at all present at the hospital while treating and contended that the complainant filed false complaint in order to gain wrongfully. Further, they contended that they have given a best treatment to the complainant in spite of that she was not recovered and the patient was also got discharged against the medical advice. As such prays to dismiss the complaint.

11. We noticed that the complainant had not made any specific allegations with respect to any of the Doctors who have treated the Adilakshamma at KIMS during her hospitalization. He has simply made vague allegations against Opposite Party Nos. 1 to 18 for medical negligence without any specific negligence on the part of Opposite Party. We cannot determine on whose negligence the patient i.e. Adilakshamma was died. It is pertinent to note in the complaint that she was

discharged from Opposite Party's hospital 25.10.2010 and subsequently she was hospitalized somewhere, where DJ stent was inserted. The Opposite Parties have taken a contention that the procedure which was adopted at the subsequent hospital, they also adopted the same during DJ stent implantation and submits no medical negligence.

**12.** Of-course on going through the version, they have clearly established that they have provided a best treatment up-to their knowledge and during her hospitalization she was responding to the treatment. Anyhow, subsequently, the health was deteriorated and 1<sup>st</sup> complainant's wife died on 27/12/2010. We found there is no medical negligence on the part of Opposite Party Nos. 1 to 18 in treating the wife of the complainant. In the absence of any specific allegations and establishment of medical negligence, the complainant is not justifiable and the complaint is liable to be dismissed. Accordingly, we proceed to pass the following:-

**:ORDER:**

The complaint is dismissed. No costs.

Send a copy of this order to both parties.

Sd/-

Sd/-

***Member.***

***Judicial Member.***

***Tss***

**[HON'BLE MR. Ravishankar]  
PRESIDING MEMBER**

**[HON'BLE MRS. Smt.Sunita Channabasappa Bagewadi]  
MEMBER**