

STATE CONSUMER DISPUTES REDRESSAL COMMISSION

KERALA

FIRST APPEAL NO. SC/32/A/147/2016

VIPINA PRAKASH

PRESENT ADDRESS - Lekshmi Nivas, Choozham pala, Mukkola P.O,
Thiruvananthapuram,KERALA.

.....Appellant(s)

Versus

PROPRIETOR PUNARJANI SUPER SPECIALITY HOSPITAL

PRESENT ADDRESS - Punarjani super speciality , A.K.G Nagar Road, Peroorkada,
Thiruvananthapuram,KERALA.

.....Respondent(s)

BEFORE:

HON'BLE MR. JUSTICE SRI.B.SUDHEENDRA KUMAR , PRESIDENT

HON'BLE MR. SRI.AJITH KUMAR.D , JUDICIAL MEMBER

SRI.RADHAKRISHNAN.K.R , MEMBER

FOR THE APPELLANT:

NEMO

FOR THE RESPONDENT:

NEMO

DATED: 03/11/2025

ORDER

KERALA STATE CONSUMER DISPUTES REDRESSAL COMMISSION,

VAZHUTHACAUD, THIRUVANANTHAPURAM

APPEAL No. 147/2016

JUDGMENT DATED: 03.11.2025

(Against the Order in C.C. 236/2014 of DCDRC, Thiruvananthapuram)

PRESENT:

HON'BLE JUSTICE SRI. B. SUDHEENDRA KUMAR

: PRESIDENT

SRI. AJITH KUMAR D.

: JUDICIAL MEMBER

APPELLANT:

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Vipina Prakash, S/o Vivekanandan, Lekshmi Nivas, Choozhampala, Mukkola P.O.,
Thiruvananthapuram.

(By Adv. M. Unnikrishnan)

Vs.

RESPONDENTS:

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1. Proprietor, Punarjani Super Speciality Hospital, AKG Nagar Road, Peroorkada,
Thiruvananthapuram.
2. Dr. Satheesh Kumar, Punarjani Super Speciality Hospital, AKG Nagar Road,
Peroorkada, Thiruvananthapuram.

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JUDGMENT

HON'BLE JUSTICE SRI. B. SUDHEENDRA KUMAR : PRESIDENT

The appellant is the complainant in C.C.No.236/2014 on the files of the District
Consumer Disputes Redressal Commission, Thiruvananthapuram (for short, 'the
District Commission').

2. The complainant filed a complaint alleging medical negligence against the
opposite parties. The complainant approached the 2nd opposite party in the first

opposite party hospital with severe pain on the left portion of his stomach. After examining him clinically and conducting tests, the 2nd opposite party prescribed some medicines. However, the complainant had stomach pain again after few days. Therefore, an ultrasound scan was taken, which revealed that the complainant had a kidney stone of 5 mm on the right side and two stones of 10mm and 6mm respectively on the left side. The 2nd opposite prescribed some medicines and advised the complainant to come after 10 days. After 10 days, the complainant consulted the 2nd opposite party. The ultra sound scan was again taken and it was found that the stone on the right side disappeared. However, the two stones on the left side were there without any change. On the advice of the 2nd opposite party, the complainant got admitted in the hospital on 26.05.2014. He was taken to the operation theatre at about 7.30 pm on that day. After giving general anesthesia to the complainant, the operation was conducted and thereafter, he was discharged from the hospital on the next day. He was given some medicine, and he was informed that the kidney stones were removed. However, after 10 days, he was having pain on the left side of the stomach again. Therefore, on 10.06.2014, the complainant again consulted the 2nd opposite party. At that time, X-ray was taken. After analyzing the X-ray, the 2nd opposite party told the complainant that there was stone in the kidney and it had to be crushed. The complainant was advised to come after three months. The complainant understood that the 2nd opposite party was concealing something. It was due to the

negligence of the opposite parties that the complainant sustained loss and injury. In the said circumstances, the complainant filed the above complaint.

3. Notice was served on the opposite parties. However, the opposite parties neither appeared before the District Commission nor filed any version.

4. Before the District Commission, the complainant filed proof affidavit. Exhibits P1 to P20 were marked for the complainant. After evaluating the evidence, the District Commission dismissed the complaint.

5. Service is complete. However, there is no representation for the respondents.

6. Heard the learned counsel for the appellant and perused the records.

7. The complainant would contend that the complainant had stomach pain and as a consequence, he consulted the 2nd opposite party on 25.10.2013. At that time, ultra sound scan was taken and it was found that the complainant was having one kidney stone of 5mm on the right side and two kidney stones of 10mm and 6mm respectively on the left side.

8. The complainant had undergone operation on 26.05.2014 for crushing the kidney stones, as advised by the 2nd opposite party, in the first opposite party hospital. The complainant was discharged from the hospital on the next day. However, the

complainant had again pain on the left side of his stomach. Therefore, the complainant had taken another scan, and it was found that the kidney stones in the left kidney were there.

9. The complainant would contend that after administering the medicines by the 2nd opposite party, the kidney stone in the right kidney vanished and hence, when the complainant approached the 2nd opposite party for the operation on 26.05.2014 as advised by the 2nd opposite party, there were kidney stones only in the left kidney.

Exhibit P3 is the ultrasound scan report, which would show that both the right and left kidney had stones. Exhibit P3 is dated 25.10.2013. Exhibit P20 is the scan report dated 12.06.2014, which would show that there were stones in the left kidney. The operation was admittedly conducted on 26.05.2014.

Exhibit P3 is the report of an ultrasound scan, admittedly taken on 25.10.2013, which was prior to the operation. It is clear from Exhibit P3 that the kidney stones were there on the right and left kidney when ultrasound scan was taken prior to the operation. Thereafter, the operation was conducted. Exhibit P20 is the ultrasound scan taken subsequent to the operation.

10. The complainant would contend that prior to the operation, due to the administration of medicines by the 2nd opposite party, the kidney stone on the right side vanished and hence the operation was conducted only for the purpose of crushing the kidney stones on the left side. However, apart from the said contention, no

material is available on record to show that prior to the operation on 26.05.2014, there were stones only in the left kidney. It is not discernible from the evidence on record whether the kidney stone on the right kidney alone was crushed and removed or not. The complainant also did not produce the discharge summary issued from the hospital. Since the discharge summary was not produced, it is not discernible as to what treatment was given to the complainant by the 2nd opposite party in the 1st opposite party hospital. In view of the above, merely because Exhibit P20 would show that there were two stones in the left kidney, it cannot be said that the operation conducted by the 2nd opposite party was faulty. This being the evidence available on record, we do not find any reason to interfere with the order passed by the District Commission, dismissing the complaint.

In the result, this appeal stands dismissed. In the circumstances of the case, there is no order as to costs in this judgment.

JUSTICE B. SUDHEENDRA KUMAR: PRESIDENT

AJITH KUMAR D. : JUDICIAL MEMBER

K.R. RADHAKRISHNAN : MEMBER

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SRI.B.SUDHEENDRA KUMAR
PRESIDENT

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SRI.AJITH KUMAR.D
JUDICIAL MEMBER

.....J
SRI.RADHAKRISHNAN.K.R
MEMBER