

STATE CONSUMER DISPUTES REDRESSAL COMMISSION

KERALA

CONSUMER COMPLAINT NO. SC/32/CC/21/2020

SAUDHABI

PRESENT ADDRESS - MEETHAL MAUVVAL,MAUVVAL,PALLIKKARA,KERALA.

.....Complainant(s)

Versus

CHAIRMAN&MANAGING DIRECTOR-KHM MORAS HOSPITAL

PRESENT ADDRESS - MADYAN JUNCTION,MANIKKOTH(PO),KANJANGADU,KASARGODE-671316,KERALA.

DR.MEGHA RAJESH

PRESENT ADDRESS - KHM MORAS HOSPITAL,MANIKOTH(PO),KASARGODE,KERALA.

.....Opposite Party(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 COMPLAINANT:

NEMO

FOR THE OPPOSITE PARTY:

NEMO

DATED: 10/12/2025

ORDER

KERALA STATE CONSUMER DISPUTES REDRESSAL COMMISSION

VAZHUTHACAUD, THIRUVANANTHAPURAM

C.C.No.21/2020

JUDGMENT DATED : 10.12.2025

PRESENT:

HON'BLE JUSTICE SRI. B. SUDHEENDRA KUMAR : PRESIDENT
SRI. AJITH KUMAR D. : JUDICIAL MEMBER
SRI. K.R. RADHAKRISHNAN : MEMBER

COMPLAINANT:

Sauda @ Saudabi, W/o Haneefa M.V., Meethal Mowal, Mowal,
Pallikkara

(by Adv. Sheeba Sivadasan, Amicus Curiae)

Vs.

OPPOSITE PARTIES:

1. Chairman & Managing Director, K.H.M. Meras Hospital, Median Junction, Manikkoth P.O., Kanhangad, Kasaragode – 671 316
2. Dr. Megha Rajesh MBBS, DGO, K.H.M. Meras Hospital, Median Junction, Manikkoth P.O., Kanhangad, Kasaragode – 671 316

JUDGMENT

SRI. AJITH KUMAR D. : JUDICIAL MEMBER

This is a complaint filed by the one Sauda @ Saudabi against the Chairman and Managing Director, K.H.M. Meras Hospital and Dr. Megha Rajesh alleging medical negligence.

2. It is alleged in the complaint that the complainant was admitted in the first opposite party hospital on 07.12.2009 at about 11.30a.m. in connection with her delivery. By 7p.m. on that day, delivery had taken place. After the delivery, the complainant fell unconscious and when she regained consciousness, she made enquiries about the child. The doctor told the complainant that the child is okay. But on the next day, the complainant was informed by her husband that the child had passed away. Though the doctor told the complainant that the delivery was normal and that both the child and mother have no problem, the demise of the child was intimated only on the next day. One hour after the delivery, the husband of the complainant asked the doctor to show the child and only at that point of time he was told that the child was serious. But the doctor did not permit the husband of the complainant to see the child. When enquiries were made, the opposite parties evaded the questions.

3. Though the husband of the complainant suggested that the complainant can be taken to another hospital for treatment, the opposite parties took a stand that the complainant need not be discharged from the hospital. But the complainant could not prevent frequent urination. Ultimately, the complainant was referred to Dr. Manjunath at Kasaragod and she continued her treatment with Dr. Manjunath.

3. On 09.12.2019, the complainant was again referred to Father Muller's Hospital

at Mangalore from where the doctor had recommended for the removal of uterus otherwise, the life of the complainant would be in danger and ultimately, hysterectomy was done. When enquiries were made to the doctors at Father Muller's hospital, the complainant came to know that hysterectomy was necessitated on account of the medical negligence with respect to the doctor who provided the initial treatment.

4. On 11.01.2020, a lawyer notice was issued to the opposite parties intimating the intention of the complainant to proceed with the complaint. If the complainant was discharged at an earlier point of time, the complainant ought not to have lost her uterus. The complainant would seek for compensation to the tune of Rs.1 crore.

5. Notices were served on the opposite parties, but they neither appeared nor filed version.

6. Subsequently, when the matter was posted for evidence, the complainant remained absent. There was no representation on the side of the complainant.

7. Notice issued to the complainant was returned with the endorsement "not known". Therefore, as per the proceedings of this Commission dated 13.10.2025, Advocate Sheeba Sivadasan was appointed as the amicus curiae for conducting the case of the complainant.

8. The amicus curiae submitted that the complainant did not file the chief affidavit. But 12 documents were filed in support of the complaint. Since the complainant is not available, the only course available to this Commission is to mark the documents filed in support of the complaint and to decide the case on merits. Accordingly, the documents

produced in support of the complaint were marked as Exhibits A1 to A12.

9. Heard the amicus curie and taken up the matter for disposal.

10. Though this complaint was filed prior to the commencement of the Consumer Protection Act, 2019 and the Consumer Protection Act, 1986 contemplates a provision for dismissing the complaint as per Section 13(2)(c) in case the complainant remained absent the above section is inconsistent with the provisions contained in the Consumer Protection Act, 2019. As per Section 38(3)(c) of the Consumer Protection Act 2019 the Consumer Disputes Redressal Commission should decide the case on merits even if the complainant fails to appear before the Commission. By virtue of Section 107(2) of Consumer Protection Act, 2019, the provision in the old Act if inconsistent under the new Act it shall be deemed to have been done or undertaken under the provision contained in the Consumer Protection Act, 2019. So, we proposed to decide the case on merits even in the absence of the complainant.

11. Exhibit A1 is the discharge card issued by the first opposite party dated 09.12.2019. Exhibit A2 is the reference letter issued by the second opposite party dated 09.12.2019. Exhibit A3 is the subsequent letter issued by the second opposite party dated 25.12.2019 with regard to the treatment given to the complainant. The subsequent treatment was availed from the United Medical Centre. Exhibit A4 is the bill issued by the United Medical Centre with respect to the scanning. Exhibit A5 is the sonographic report dated 09.12.2019 issued by the United Medical Centre. Exhibits A6 to A11 are the medical records with regard to the subsequent treatment availed by the complainant from Father Muller Medical College Hospital. Exhibit A12 series are the copies of the lawyer notices

issued by the complainant to the opposite parties and its postal acknowledgment cards.

11. Now the points which arose for determination are:

1. Is there any medical negligence on the part of the opposite parties as alleged?
2. Whether the complainant is entitled to get any compensation and if so, what is the quantum?
3. Reliefs and costs?

Point Nos. 1 to 3:

11. No oral evidence has been let in by the complainant. Exhibit A1 would show that on 07.12.2019, the complainant was admitted in the first opposite party hospital and was discharged on 09.12.2019. Diagnosis is noted in Exhibit A1 as “cephalic presentation with term pregnancy in labour G2 P1 L2”. Clinical notes are also seen in Exhibit A1 as “term female baby with severe birth asphyxia. Baby could not be revived (face presentation)”. As per Exhibit A2, the second opposite party had referred the complainant to a higher medical centre. While referring, the second opposite party had reported that the complainant had “delivered (vacuum delivery) on 07.12.2019 due to severe birth asphyxia. Today complaints of incontinence of urine and pain in left iliac fossa”. Exhibit A3 would show the subsequent treatment given to the complainant by the second opposite party. As per Exhibit A3 it could be seen that the “complainant was admitted on 07.12.2019 with labour pain at 11.30 a.m. She had good contractions. Around 6p.m. ARM was done. Clear liquor was drained. Patient had good contraction and progress vacuum was applied due to second stage bradycardia. Despite continuous CPR baby could not be revived. Patient was

stable on 08.12.2019 (D2). On day 3 complained of incontinence of urine. Patient was cathetrised (? Bladder rupture). On examination patient was referred to higher centre for further treatment”.

12. Subsequent treatment was carried out at the United Medical Centre. Exhibit A4 is the bill pertaining to the scanning done from the above hospital. In Exhibit A5, the scan report the impression is noted as “suspicious rupture of anterior cervix, large amount fluid in peritoneum”. The patient was sent to Father Muller Medical College Hospital for further treatment. Exhibits A7 to A11 are the medical records issued by Father Muller Hospital. It is diagnosed by the Father Muller Medical College Hospital that “the complainant had bladder rupture with uterine rupture”. She had undergone exploratory laparotomy with bladder wall repair and hysterectomy.

13. The medical records do not show any medical negligence on the part of the opposite parties. No expert evidence is available to assess as to whether there was any negligence on the part of the opposite parties in providing the treatment to the complainant with respect to her delivery. When medical negligence is alleged, the onus is on the complainant to plead and prove that there was negligence on the part of the opposite parties in rendering the treatment. It is also the burden of the complainant to establish that the opposite parties had failed to provide due care and caution during the course of treatment. Merely because of the reason that the patient did not respond in a positive manner one cannot jump into a conclusion that there was medical negligence on the part of the doctors. Mere marking of the medical records is not sufficient for the complainant to establish a case of medical negligence.

14. On consideration of medical records produced in support of the complaint, one cannot attribute any act of negligence on the part of the opposite parties with regard to the treatment given to the complainant in connection with her delivery. Therefore, it is found that the complainant had miserably failed to establish her case so as to entitle her to get any relief. Points are found against the complainant.

In the result, the complaint is dismissed. Parties shall bear their respective costs.

Dictated to my Confidential Assistant, transcribed by her, corrected by me and pronounced in the Open Court, on this the 10th day of December, 2025.

JUSTICE B. SUDHEENDRA KUMAR :

PRESIDENT

AJITH KUMAR D. :

JUDICIAL MEMBER

K.R. RADHAKRISHNAN :

MEMBER

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C.C.No.21/2020

APPENDIX

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I. COMPLAINANT'S WITNESS

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NIL

II. COMPLAINANT'S DOCUMENTS

- A1 - discharge card issued by the first opposite party dated 09.12.2019
- A2 - reference letter issued by the second opposite party dated 09.12.2019
- A3 - letter issued by the second opposite party dated 25.12.2019
- A4 - bill issued by the United Medical Centre dated 09.12.2019
- A5 - sonographic report dated 09.12.2019 issued by the United Medical Centre
- A6 - medical records pertaining to the complainant
- A7 - medical records pertaining to the complainant
- A8 - medical records pertaining to the complainant
- A9 - medical records pertaining to the complainant
- A10 - medical records pertaining to the complainant
- A11 - medical records pertaining to the complainant
- A12 - copies of the lawyer notices issued by the complainant to the opposite party and its postal acknowledgment cards series

III. OPPOSITE PARTY'S WITNESS

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NIL

IV. OPPOSITE PARTY'S DOCUMENTS

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NIL

V. COURT EXHIBITS

NIL

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JUSTICE B. SUDHEENDRA KUMAR :

PRESIDENT

AJITH KUMAR D. :

JUDICIAL MEMBER

K.R. RADHAKRISHNAN :

MEMBER

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SRI.B.SUDHEENDRA KUMAR
PRESIDENT

.....
SRI.AJITH KUMAR.D
JUDICIAL MEMBER

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