

BEFORE THE DISTRICT CONSUMER DISPUTES REDRESSAL
COMMISSION, AMRITSAR.

Consumer Complaint No. 907 of 2018

Date of Institution: 6.11.2018

Date of Decision: 24.8.2021

1. Preet Deva D/o Parshotam Lal 83600-88320
2. Narinder Kumar S/o Parshotam Lal
3. Prabhjit Kaur W/o Parshotam Lal, all resident of Gali Mandir Wali,
Bhikhiwind, Tehsil Patti, District Tarn Taran

Complainant

Versus

1. The Corporate Hospital, Critical Care, Cardiac & Trauma Super
Specialty, Batala Road, Amritsar through Dr. Jatinder Malhotra,
Managing Director
2. State Bank of Patiala, Branch Khemkaran Road, Bhikhiwind,
Tehsil Patti, District Tarn Taran through its Branch Manager

Opposite Parties

Complaint under section 12 & 13 of the
Consumer Protection Act, 1986 (Now 35
of the Consumer Protection Act, 2019)

Result : Complaint Allowed

Case referred

- 1) *Hon'ble Supreme Court in case Arun Kumar Manglik Vs. Chirayu Health & Medicare Private Ltd. (SC) 2019(7) SCC 401*
- 2) *Hon'ble National Commission, New Delhi in case Bhajan Lal Gupta & Anr. Vs. Mool Chand Kharati Ram Hospital & Ors. in Original Petition No. 182 of 1993 decided on 10.11.2000*

3) *Chandra Shekhar Pandey Vs. Salil Chandra (Dr.) & Ors. 2011(1) CPJ 152 of the Hon'ble Uttar Pradesh State Commission, Lucknow*

4) *Hon'ble Supreme Court in case Amitabha Dasgupta Vs. United Bank of India and others AIR 2021 SC (Civil) 1457*

Counsel for the parties :

For the Complainant : Sh. Saurabh Aggarwal, Advocate

For the Opposite Party No.1 : Sh. Amit Monga, Advocate

For the Opposite Party No.2 : Sh. Rupesh Mahindru, Advocate

CORAM

Mr. Jagdishwar Kumar Chopra, President

Mr. Jatinder Singh Pannu, Member

ORDER:-

Mr. Jagdishwar Kumar Chopra, President :-Order of this commission will dispose of the present complaint filed by the complainant u/s 12 & 13 of the Consumer Protection Act, 1986 (Now u/s 35 of the Consumer Protection Act, 2019).

Brief facts and pleadings

1. Brief facts of the case are that father of complainant No.1 & 2 and husband of complainant No.2 Parshotam Lal was suffering from serious heart disease and was got admitted by the complainants in the hospital of opposite party No.1 on 4.1.2017 at about 6.00 p.m. and deposited Rs. 10000/- in advance with opposite party No.1. Thereafter the treatment was started by the doctors of opposite party No.1. Various bills of medicines during the course of treatment are Ex.C-1 to Ex.C-25. On

7.1.2017 while demonetization was declared by the Indian Govt, the doctor of opposite party No.1 threatened the complainant at about 3.00 p.m. to deposit Rs. 2,00,000/- in cash immediately, otherwise they will not provide treatment to the father of the complainant and if they fail to deposit the said amount then the complainant should take away the patient immediately from the hospital. In view of the threat complainant No.3 immediately approached the opposite party No.2 and requested the bank manager to release the sum of Rs. 2,00,000/- as demanded by Sh. Jatinder Malhotra , the MD of opposite party No.1 in order to save the life of Parshotam Lal, but the branch manager flatly refused to release cash. The complainant immediately approached the opposite party No.1 and narrated the whole story to Dr. Jatinder Malhotra, MD of opposite party No.2, who thereafter gave a writing dated 7.1.2017 to the complainant requesting the opposite party No.2 to release the amount in the bank account of opposite party No.1, the copy of said writing is Ex.C-28. Thereafter complainant immediately went to opposite party No.2 for transfer of amount through RTGS but when the complainant reached Bhikhiwind, the office of opposite party No.2 was closed . Thereafter the complainant went back to hospital and requested Dr. Jatinder Malhotra MD of opposite party No.1 that the amount cannot be transferred today in the bank account of opposite party No.1 and next day is Sunday and they shall deposit the amount demanded on Monday, but the doctors of

opposite party No.1 flatly refused to accede to the genuine request of the complainant. Dr. Jatinder Malhotra MD of opposite party No.1 stated that if the complainant fails to pay the amount of Rs. 2,00,000/- in cash , then he will not provide medical treatment to the patient and the doctor further threatened complainant to take away the patient immediately from the hospital . Due to non deposit of money by the complainant with opposite party No.1 and due to non release of cash by opposite party No.2, the doctors of opposite party No.1 did not provide treatment to the father of the complainant. The patient was in dire need of treatment and was on ventilator but due to non providing of treatment by opposite party No.1 Sh. Parshotam Lal died next day on 8.1.2017 at about 12.30 p.m. Despite the death of the father of the complainant, the doctors of opposite party No.1 asked the complainant to deposit money at about 4.30 p.m. and did not disclosed the death of the patient . Under the forced circumstances the complainant gave a cheque of Rs. 50,000/- on 8.1.2017 and a sum of Rs. 80000/- transferred through RTGS to the bank account of opposite party No.1 and only after that the opposite party No.1 handed over the dead body of Parshotam Lal at about 11.30 p.m. Opposite party No.1 thus committed medical negligence and insufficient service by not providing treatment to the patient due to delay of payment and causing the death of patient Parshotam Lal. Opposite party No.2 also committed deficiency in service by not timely releasing the cash amount to the

complainants for the treatment of the patient Parshotam Lal. Opposite party No1. Further committed deficiency and negligence in service by not disclosing the death of the patient and by charging the complainant an amount of Rs. 50000/- and Rs. 80000/- despite the fact that the opposite party No.1 did not provide any treatment to the patient. The doctors charged for the service which they never provided to the patient. Regarding the abovesaid grievances the complainant sent complaints to the higher authorities by regd. Post for taking an appropriate action against the opposite parties. Copies of postal receipts are Ex.C-26 and Ex.C-27. The complainants had asked the opposite parties many a times to pay the damages and compensation for unnecessary harassment due to wrongful acts but the opposite parties refused to accept the genuine requests of the complainants. Vide instant complaint, complainant has sought for the following reliefs:-

- (a) Opposite parties be directed to award compensation to the tune of Rs. 10 lacs to the complainants.
- (b) Opposite parties be also directed to pay adequate litigation expenses to the complainants ;
- (b) Any other relief to which the complainants are entitled be also awarded to the complainants.

Hence, this complaint.

2. Upon notice , opposite party No.1 appeared and filed written version taking certain preliminary objections therein inter alia that the instant complaint has been filed with the ulterior and malafide intention to mislead this Court. The instant complaint otherwise is not maintainable on the allegations made in the complaint and the same deserves dismissal ; that the present complaint is liable to be dismissed on the sole ground that the same subject matter has already been decided by the Punjab Medical Council, Mohali and Civil Hospital, Amritsar and Tarn Taran ; that the complainant has not come to the court with clean hands and has suppressed the material facts . The true facts are that the patient Parshotam Lal S/o Lahori Mal was admitted in replying opposite party hospital on 4.1.2017 to 8.1.2017 and treatment bill of Rs. 1,83,355/- was raised by the hospital and out of which Rs. 1 lacs was paid by the complainants and Rs. 83,355/- is due against the complainants. In spite of remittance of said bill, they have filed the instant complaint just to harass and defame the replying opposite party ; that no cause of action has ever arisen in favour of the complainant to file the present complaint against the replying opposite party as there is no deficiency on the part of the replying opposite party . The complainant is trying to get undue advantage of his own wrongful facts ; that the complainant is estopped by his own acts and conduct from filing the present complaint against the replying opposite party. Earlier the patient remained admitted in

Mahajan Hospital from 16.12.2016 to 25.12.2016 with same complaint and discharged from the hospital on request. After that the patient got admitted in Sri Guru Ram Dass Medical College, Vallah, Asr for the same complaint and went discharged from that hospital also. Thereafter they got admitted in replying opposite party hospital on 4.1.2017 in critical condition. On merits, it was submitted that father of complainants No.1 & 2 and husband of complainant No.3 was referred to the hospital of replying opposite party No.1 in critical condition. At the time of admission, the patient was suffering from severe septic shock with diabetes nephropathy with uncontrolled T2DM with resistant/hypertension. Detailed seriousness about the patient was given to the complainants. It was also made clear to all the complainants i.e. attendants of patient Parshotam Lal that the patient is suffering from septic shock and worldwide it carries a mortality rate of more than 90%. After taking the written consent from the complainants, replying opposite party started the best treatment with high end medications by the involvement of high end consultation was provided. Replying opposite party No.1 involved one RMO, two nurses to the patient to save the life of patient. The replying opposite party also told the financial liabilities to the complainants before starting the treatment because patient was on ventilator and also on vasopressors and inotropes and life saving medicines, copy of written consent is Ex.OP1/2. Earlier the

patient remained admitted in Mahajan Hospital from 16.12.2016 to 25.12.2016 with same complaint and discharged from the hospital on request. After that the patient got admitted in Sri Guru Ram Dass Medical College, Vallah, Asr for the same complaint and went discharged from that hospital also. Thereafter they got admitted in replying opposite party hospital on 4.1.2017 in critical condition. It was denied that doctors of opposite party No.1 threatened the complainant at about 3.00 p.m. to deposit a sum of Rs. 2,00,000/- in cash immediately otherwise they will not provide treatment to the father of the complainant and also denied that if they fail to deposit the said amount then the complainant should take away the patient immediately from the hospital. It was denied that in view of the threat the complainant No.2 immediately went to opposite party No.2 and requested the manager to release the sum of Rs. 2,00,000/- as demanded by opposite party No.1 in order to save the life of Parshotam Lal, but the branch manager refused to release the cash. It is pertinent to mention here that during the treatment of patient they requested the hospital authorities that due to demonetization they were unable to arrange money and bank manager flatly refused to release the money in that situation in order to save the life of patient, the hospital authorities had given in writing the condition of patient. It was denied that Dr. Jatinder Malhotra, MD of opposite party No.1 stated that if the complainant fails to pay the amount of Rs. 2,00,000/- in cash to him, then

he will not provide medical treatment to the patient and also threatened the complainant to take away the patient immediately from the hospital. It was denied that opposite party No.1 committed medical negligence and insufficient service by not treating the patient due to delay of payment and causing the death of patient. It was denied that opposite party further committed medical negligence and deficiency in service by not disclosing the death of the patient and by charging Rs. 50000/- and Rs. 80000/- inspite of the fact that the doctors of opposite party No.1 did not give any treatment to the patient. It was submitted that complainant had filed the complaint on same cause of action before Civil Hospital, Amritsar who after thorough investigation dismissed the complaint vide investigation report dated 15.7.2017, copy of same is Ex.OP1/18. Again complainant had filed the complaint on same cause of action before Civil Hospital, Tarn Taran who after thorough investigation returned the complaint that Dr. Jatinder Malhotra has given the correct treatment, vide its order dated 9.11.2017, copy of same is Ex.OP1/19. Thereafter the complainant filed complaint against the opposite party before Punjab Medical Council Mohali in which the medical board observed that they are satisfied with the explanation of replying opposite party. The instant complaint has been filed fourth time on the same cause of action to mislead this Commission. While submitting that there is no deficiency or negligence in service on the part of the replying opposite party and while

denying and controverting other allegations, dismissal of complaint was prayed.

3. Opposite party No.2 filed separate written version taking certain preliminary objections therein inter alia that present complainant does not disclose any cause of action against the opposite party No.2 i.e. State Bank of Patiala which now has been merged in State Bank of India ; that complainants have filed the present complaint with malafide intention to defame the opposite party No.2 and to harass the present branch manager of opposite party No.2 ; that the opposite party No.2 has not committed unfair trade practice nor ever committed negligence in his duty towards his customers. It is correct that on 7.1.2017 demonetization was declared by the Govt. of India. The opposite party No.2 had to act as per Reserve Bank of India guidelines prevailing on 7.1.2017. It was denied that complainant No.3 went to opposite party No.2 or requested to the then branch manager to release a sum of Rs. 2 lacs as demanded by Dr. Jatinder Malhotra, MD of opposite party No.1 in order to save the life of Parshotam Lal. It was denied that the then branch manager of opposite party No.2 flatly refused to release the cash. The opposite party No.2 had to act on 7.1.2017 as per RBI guidelines on 7.1.2017. There is no documentary evidence against opposite party No.2 that he ever committed deficiency in service towards the complainants. It was denied that complainants ever sent complaints to the higher authorities against

replying opposite party No.2 for taking appropriate legal action . While denying and controverting other allegations, dismissal of complaint against the replying opposite party is prayed.

Points for Determination

4. From the pleadings the following are the points to be determined by this Commission:-

- (i) Whether there is deficiency or negligence in service on the part of the opposite party No.1 for not providing proper treatment to the patient Parshotam Lal i.e. father of complainants No.1 & 2 and husband of complainant No.3 and also whether there is deficiency in service on the part of the opposite party No.2 for not releasing the amount as demanded by opposite party No.1 ?
- (ii) If point No.1 is proved , whether the complainant is entitled for compensation on account of harassment and mental agony and also entitled for litigation expenses , if so , to what amount ?

Evidence of the complainant and Arguments

5. Alongwith the complaint, complainant No.1 has filed her duly sworn affidavit Ex.CW-1/A, copies of medical reports of patient Parshotam Lal Ex.C-1 to Ex.C-15, medical bills Ex.C-16 to Ex.C-25, copy of complaint moved to CMO Ex.C-26 & postal receipts Ex.C-27, certificate issued by opposite party No.1 Ex.C-28 and closed her evidence.

6. On the other hand opposite party No.1 alongwith written version has filed affidavit of Dr. Jatinder Malhotra Ex.OP1/1, copy of hospital record Ex.OP1/2 (consisting of 22 pages) , copy of bill Ex.OP1/3, copy of IPD receipt Ex.OP1/4 to Ex.OP1/6, copy of IPD medicine issue report Ex.OP1/7, copies of credit memo Ex.OP1/8 to Ex.OP1/17, copy of investigation report issued by Civil Hospital, Amritsar Ex.OP1/18, copy of investigation report of Civil Hospital, Tarn Taran Ex.OP1/19, copy of report of Punjab Medical council Ex.OP1/20 and closed the evidence on behalf of opposite party No.1.

7. On the other hand opposite party No.2 alongwith written version has filed affidavit of Sh. Nikhil Dutta, Branch Manager Ex.OP2/A and closed the evidence on behalf of opposite party No.2.

8. We have heard the Ld.counsel for all the parties and have carefully gone through the record on the file . We have also gone through the written synopsis submitted by all the counsel for the parties.

Findings

9. From the appreciation of the facts and circumstances of the case, it stands proved on record that the main case of the complainant is that father of the complainant No.1 namely Sh. Parshotam Lal was suffering from serious heart disease and was admitted in the hospital of opposite party No.1 on 4.1.2017 and had deposited Rs. 10000/- at 6.00 p.m. and after starting the treatment the doctors of opposite party No.1 issued

different bills and medical reports which are Ex.C-1 to Ex.C-25. It is averted in the complaint that due to demonetization by Indian Govt., the doctors of opposite party No.1 threatened the complainant at about 3.00 p.m. that if they failed to deposit Rs. 2 lacs immediately on 7.1.2017 in cash they will not provide treatment to the father of the complainant. The complainant immediately approached opposite party No.2 and requested the manager to release the amount as demanded by Dr. Jatinder Malhotra, MD of opposite party No.1 in order to save the life of the father of the complainant, but opposite party No.2 flatly refused to release the cash and when this fact was narrated to opposite party No.1, the opposite party No.1 issued a letter to the bank which depicts as under:-

“Please transfer money into hospital account directly by RTGS so that the life of patient can be saved and cause of his death should not be lack of money inspite of having money into his account.”

It is argued by the complainant that inspite of the letter as per pleadings of the complainant he went to the bank but by that time the bank was closed as the time was over and the complainant again requested opposite party No.1 to continue with the treatment and he will pay the amount on the next working day since next day was Sunday. But the opposite party No.2 refused to accede to the genuine request of the complainant and had not provided the requisite treatment to the patient ; meaning thereby that the doctors had not provided the treatment to the

father of the complainant when he was in dire need of the treatment and was on ventilator and unfortunately the father of the complainant died on 8.1.2017 at about 12.30 p.m.. Despite the death of the father of the complainant the doctors of opposite party No.1 asked the complainant to deposit the money at about 4.30 p.m.. The complainant was compelled to make payment and the complainant under forced circumstances gave a cheque of Rs. 50000/- and a sum of Rs. 80000/- was transferred to the bank account of opposite party No.1 and only then the dead body of the deceased was handed over to the complainant at about 11.30 p.m. on 8.1.2017. It is argued that it is a clear case of medical negligence and inhuman attitude by the doctors due to which the complainant lost his father. Had the doctors given proper treatment at proper time, life of the patient could have been saved. It is also argued that complainant has made complaints for taking appropriate action against the opposite parties and the copy of complaints and postal receipts are Ex.C-26 and Ex.C-27. In this way the complainant has demanded Rs. 10 lacs as compensation on account of negligence in service on the part of opposite parties.

10. Though the opposite party No.1 has argued mainly on the ground that the deceased Parshotam Lal was admitted in the hospital of opposite party No.1 between 4.1.2017 to 8.1.2017 and treatment bill of Rs. 1,83,355/- was raised and out of which Rs. 1 lacs was paid by the complainant but Rs. 83,355/- was not paid till date and only to escape

from the liability of paying the remaining amount of Rs. 83,355/- the complainant has filed the instant complaint only to harass the opposite parties. The other plea of the opposite party No.1 that the complaints filed by the complainant before the Civil Hospital, Amritsar ,Civil Hospital, Tarn Taran as well as before the Punjab Medical Council were dismissed by observing that they are satisfied with the explanation given by opposite party No.1. But we are not agreed with these pleas of opposite party No.1 as letter issued by opposite party No.1 Ex.C-28 is admitted by opposite party No.1 and the opposite party No.1 in this regard has only argued that this letter was written only at the request of the complainant that he was not able to withdraw the cash from the bank. On the other hand it is argued on behalf of opposite party No.2 that they have acted as per guidelines of the RBI and rest of the averments are denied by opposite party No.2 and it has specifically been stated that no cause of action whatsoever occurred against opposite party No.2.

11. The Commission has given thoughtful consideration to the arguments advanced by both the parties . Before giving findings in the present case , it will not out of place to mention the law settled by the *Hon'ble Supreme Court in such like medical negligence cases. The Commission relied upon Arun Kumar Manglik Vs. Chirayu Health & Medicare Private Ltd. (SC) 2019(7) SCC 401* wherein it is held that *hospital authorities were unable to meet standard of reasonable care*

*expected of medical services as laid down in Bolam Test [(1957) 1 WLR 582], then the respondents are very much liable to pay compensation . Not only this the Hon'ble Supreme Court set-aside the order of the Hon'ble National Commission whereby the respondents were held not guilty of medical negligence. Similarly there is another judgement of the **Hon'ble National Commission, New Delhi titled as Bhajan Lal Gupta & Anr. Vs. Mool Chand Kharati Ram Hospital & Ors. in Original Petition No. 182 of 1993 decided on 10.11.2000.** Relevant para of the judgement is reproduced hereunder:-*

“ In Halsburys Laws of England, Ed. 3. Vol. 26, pp 17-18, the question of negligence and duties owed to the patient has been dealt with on the basis of various precedents extracts wherefrom are reproduced hereunder:-

“22. Negligence: Duties owed to patient. A person who holds himself out as ready to give medical (a) advice or treatment impliedly undertaken that he is proposed of skill and knowledge for the purpose. Such a person, whether he is a registered medical practitioner or not, who is consulted by a patient, owes him certain duties, namely, a duty of care in deciding whether to undertake the case, a duty of care in deciding what treatment to give and a duty of care in his administration of that treatment (b) A breach of any

of these duties will support an action for negligence by the patient (c).

23. Degree of skill and care required. The practitioner must bring to his task a reasonable degree of skill and knowledge and must exercise a reasonable degree of care. Neither the very highest, nor a very low degree of care and competence judged in the light of the particular circumstances of each case, is what the law requires (d), a person is not liable in negligence because someone else of greater skill and knowledge would be prescribed different treatment or operated in a different way (e) nor is he guilty of negligence if he has acted in accordance with practice accepted as proper by a responsible body of medical men skilled in that particular art, although a body of adverse opinion also existed among medical men (f).

In Bolan Vs. Friern Hospital Management Committee (1957) 1 WLR 582, Lord Justice Mc Nair, while briefing the jury had directed : (1) a doctor is not negligent, if he is acting in accordance with a practice accepted as proper by a reasonable body of medical men skilled in that particular act, merely because there is a body of such opinion that takes a contrary view.

Where there are two different schools of medical practice, both having recognition among practitioners, it is not negligent for a

practitioner to follow one in preferences the other. American Law, see 70- Corpus Juris Secumdum (1951) 952, 953, pr.44, Moreover, it seems that by American Law a failure to warn the patient of dangers of treatment is not, by itself , negligence libid 971. Prs 48m).

Further reliance has been placed upon ***Chandra Shekhar Pandey Vs. Salil Chandra (Dr.) & Ors. 2011(1) CPJ 152 of the Hon'ble Uttar Pradesh State Commission, Lucknow*** wherein it has been held that *“Keeping the patient in hospital for 8 days without treatment and not referring the same to cancer-specialist/hospital after observing the symptoms of cancer- clear case of medical negligence and deficiency in service- Hospital is also liable with doctor to pay compensation.”*

12. In the present case it is admitted by the opposite party No.1 that father of the complainant was under the treatment of opposite party No.1 and in this regard complainant has placed on record medical bills/reports Ex.C-1 to Ex.C-25 which depicts that the treatment was initiated by opposite party No.1 and it is also admitted by opposite party No.2 that they had stopped the further treatment of the father of the complainant only for want of money which stands proved from the letter Ex.C-28 which is self sufficient and speaks volume about the conduct and act of opposite party No.2. Rather this Commission has no hesitation to say that opposite party No.1 has acted so callously only to secure their money

and the wording of the letter itself shows that author of the letter has specifically mentioned that “ *My request to the bank is to please transfer money into hospital account directly by RTGS so that his life can be saved and cause of his death should not be lack of money inspite of having money into his account.*” In other words hospital authorities were so greedy to secure their money particularly when they came to know that deceased had sufficient amount in his account instead of saving the life of patient Parshotam Lal. In this regard the complainant has placed reliance upon letter Ex.C-28 written by Dr. Jatinder Malhotra, Managing Director of the hospital with IFSC code. So this letter is sufficient to prove the malafide conduct of the hospital authorities that they have desperate to grab money instead of saving the life of the father of the complainant. Rather it is the moral duty of a doctor first to save the life of a patient and then to think about the money. But in the instant case the doctors of opposite party No.1 chosen the other way i.e. firstly thought about the medical bills and due to non payment of the medical bill which was not paid due to demonetization left the patient on death bed. Such callous attitude not end there but the opposite party No.1 did not hand over the dead body despite the fact that the proper treatment was not provided due to lack of money until the complainant made payment of Rs. 50000/- through cheque and Rs. 80000/- through RTGS to opposite party No.1. So the opposite party No.1 is indulged not only guilty of negligence and

deficiency in service rather also indulged in unfair trade practice by not providing treatment to the patient due to lack of money which was not released by opposite party No.2 by mentioning the reason of demonetization.

13. So far as opposite party No.2 is concerned, it is the admitted fact that the complainant has approached opposite party No.2 to release the amount from the saving account and opposite party No.2 instead of releasing the amount refused to pay the amount under the garb of RBI guidelines regarding demonetization. But not even a single document has been produced to what sorts of guidelines were issued by RBI regarding demonetization. So by simply refusing the release of payment in such a critical condition of the father of the complainant even so when the opposite party No.1 duly written a letter Ex.C-28 in which it was clearly written that amount be deposited in the account of hospital authorities so that the life of patient be saved and cause of his death should not be lack of money inspite of having money into his account. So opposite party No.2 also indulged in deficiency in service .

14. Keeping in view the totality of circumstances, the complaint is allowed . This Commission is of the considered view that compensation is not the substitute for the life of an individual and in the present case it is beyond doubt to prove that due to callous attitude of opposite party No.1 precious life of the father of the complainant has been lost and

complainant was compelled to knock the door of this Commission . Though admittedly compensation term has not been explained in the Consumer Protection Act, however since this Act is based on principle of equity, good concise and natural justice and the Commission is empowered to provide compensation after assessing the facts of each case. In the present case the conduct of the opposite party is so callous and in human which compelled the complainant to knock the door of this Commission, hence, the opposite party is liable to pay exemplary compensation to meet the ends of justice. This Commission relied upon the latest law on this point of compensation i.e. the ***Hon'ble Supreme Court in case Amitabha Dasgupta Vs. United Bank of India and others AIR 2021 SC (Civil) 1457*** wherein it has been held that “ *Deficiency in service- Duty of care should be exercised by bank irrespective of application of laws of bailment to contents of locker- Bank inadvertently broke customer's locker, without giving prior notice, inspite of clearing pending dues by him- Bank acted in blatant disregard to responsibilities owned to customer as service provider- Case of gross deficiency in service- Imposition of costs of Rs. 5,00,000/- on bank, would be appropriate compensation to customer.*” Keeping in view of this fact as well as mental agony of the complainants, this Commission is not hesitate to award compensation of Rs. 5 lacs to the complainants by opposite party No.1. Since opposite party No.2 is also added in giving mental

agony and harassment to the complainants, as such they cannot escape from their liability of paying compensation. Hence, opposite party No.2 is also liable to pay compensation to the tune of Rs. 50,000/- to the complainants . However, regarding the payment made by the complainant after the death of the father of the complainant when no treatment was provided to the father of the complainant ,i.e. Rs. 50000/- through cheque and Rs. 80000/- made through RTGS to opposite party No.1 i.e. total in Rs. 1,30,000/- , the opposite party No.1 is also liable to refund the said amount of Rs. 1,30,000/- to the complainants.

Compliance of this order be made within 30 days from the date of receipt of copy of this order ; failing which complainant shall be entitled to get the order executed through the indulgence of this Commission. Copies of the orders be furnished to the parties free of costs. File is ordered to be consigned to the record room. Case could not be disposed of within the stipulated period due to heavy pendency of the cases in this Commission.

Announced in Open Commission

(Jagdishwar Kumar Chopra)
President

Dated: 24.8.2021

(Jatinder Singh Pannu)
Member