

**NATIONAL CONSUMER DISPUTES REDRESSAL COMMISSION
NEW DELHI**

FIRST APPEAL NO. 73 OF 2019

(Against the Order dated 16/05/2018 in Complaint No. 51/2007 of the State Commission
Delhi)

1. THE MEDICAL SUPERINTENDENT SAFDARJUNG
HOSPITAL & ANR.

NEW DELHI

2. UNION OF INDIA

THROUGH THE SECRETARY, MINISTRY OF HEALTH &
FAMILY WELFARE, NIRMAN BHAWAN

NEW DELHI

.....Appellant(s)

Versus

1. SUDHIR KUMAR VERMA

H.NO. 299, SEEMANT VIHAR, CENTRAL GOVERNMENT
HOUSING SCHEME, 1ST FLOOR, KAUSHAMBI

GHAZIABAD

UTTAR PRADESH

.....Respondent(s)

BEFORE:

**HON'BLE MR. JUSTICE RAM SURAT RAM MAURYA, PRESIDING
MEMBER**

FOR THE APPELLANT : MR. CHIRANJIV KUMAR, ADVOCATE

FOR THE RESPONDENT : IN PERSON

Dated : 21 July 2023

ORDER

1. Heard Mr. Chiranjiv Kumar, Advocate for the appellants and the respondent in person.
2. Above appeal has been filed from the order of Delhi State Consumer Disputes Redressal Commission dated 16.05.2018, passed in CC/51/2007, partly allowing the complaint and directing the appellant No.1 to pay to the complainant an amount of Rs.1105000/- alongwith interest @ 7% p.a. from the date of the complaint till the date of realization; to address the problem of lack of ICU beds and ventilators; to ensure that an adequate number of doctors/specialists remain on duty irrespective of the fact that a particular day is working day or a holiday; to ensure that all doctors must be given training to record the investigations done in the investigation chart; to ensure that laboratories in emergency department should function effectively even on holidays and the results of tests given by such labs should be reliable.
3. The office has reported that the appeal has been filed with delay of 159 days. Impugned order was passed on 16.05.2018 and certified copy was received on 06.07.2018. The file was sent to the Government Counsel for legal opinion on 10.07.2018 and the legal opinion was received on 23.07.2018. Thereafter, file was sent to Shri V. Prasad, DDA, Dte. GHS, Nirman

Bhawan, New Delhi to accord necessary approval for filing the appeal. On 09.10.2018 a letter was received in the office of Medical Superintendent, Safdarjung Hospital from the Dy. Director, (MH), Dte. CGS, Nirman Bhawan, New Delhi with an opinion/approval from the Ministry of Law to file an appeal before this Commission. On 25.10.2018, a letter was sent to the Superintendent (Legal), Ministry of Law & Justice with the request to nominate a Government Counsel to file the appeal. After appointment of Government Counsel, the appeal was filed on 11.01.2019. The explanation put forth by the appellants is sufficient. There is only procedural delay, which deserves to be condoned. Moreover, Supreme Court **Bhag Singh & Ors. vs. Major Daljit Singh & Ors. 1987 (32) ELT 29B (SC)** held that the delay due to bureaucratic process or administrative reasons should be condoned. Accordingly, delay is condoned and appeal is treated within limitation.

4. Sudhir Kumar Verma filed consumer complaint No.51 of 2007 with the State Commission for directing the opposite parties to pay (a) Rs.45 lakhs as compensation for deficiency in service and mental and physical harassment to the complainant; (b) interest @ 24% per annum from the date of the death of his wife till the date of payment; (c) the cost of litigation in favour of the complainant and against the opposite parties; and (d) any other order as fit and proper in the facts and circumstances of the case.

5. On 22.04.2006 at about 9.30 pm deceased Kiran Verma (wife of the complainant) was taken to the emergency ward of Safdarjung Hospital, where she was issued OPD slip No.78462. Her pulse rate was 110/70 and 72 respectively. She was sent to the ward where pulse of the patient was 80 per minute and blood pressure was 90/70. The nurse on duty gave an injection in the muscles of the hand instead of vein. At about 11.00 pm the patient started vomiting and hitting her hands and legs on the bed. She was also feeling breathlessness. The complainant informed the duty nurse about the condition of his wife, who injected some medicine in the drip at about 11.30 am even then the condition of the patient deteriorated. At about 1.40 am duty Doctor came and advised the patient to be admitted. No medical investigation was prescribed by any doctor upto 9.00 am of 24.04.2006. After a gap of 40 hours of admission, some blood tests were prescribed. Unfortunately, the patient died on 26.04.2006 at 8.15 am. Alleging medical negligence on the part of the doctors of Safdarjung Hospital, the complainant filed consumer complaint in the State Commission.

6. The opposite party Hospital contested the complaint by filing the written reply stating that they made every effort well in time to provide best treatment to the patient. If the attendants of the patient were not satisfied with their treatment, they were at liberty to seek discharge of the patient. Blood count, blood sugar, blood urea, serum electrolyte and CT scan tests were done in the emergency in the night of 22/23.04.2006. Patient did not need ICU care on 22/23.04.2006. CT scan report was found normal. Patient could not be shifted to ICU as no ventilator was available there. Some complications like ARF with syptosymtic, CVA, DKA, Uranicm and syplopathy were suspected. The complaint of the husband of the deceased was examined by the Grievance Redressal Cell of Safdarjung Hospital, Delhi Medical Council and Directorate General Health Services. The panel of experts found that there was no medical negligence in the treatment of the deceased.

7. State Commission by the impugned order dated 16.05.2018 partly allowed the complaint. It was observed that the Doctors failed to record the history of the patient, examination findings were inadequate and the investigations were also not recorded in the

investigation chart. The deceased was a patient of diabetes mellitus. The expert panel recorded that for a patient with diabetes mellitus, a comprehensive treatment plan was required to be laid made. It was also observed that shortage of Doctors on Saturday and Sunday holidays was not a justification for not treating the patient properly. The deceased could not be properly treated due to non-availability of ventilator in the ICU. The experts further opined that the Contrast Enhanced CT Fundoscopy could also have assisted in diagnosis.

8. We have considered the arguments of the counsel for the parties and examined the record. The appellants disputed that there was any negligence on their part. All required tests were done in time and the patient was given medication as per standard protocol. The patient could not be shifted to ICU due to non-availability of ventilator. The State Commission passed the impugned order on the basis of the expert reports on the treatment given to the deceased. Medical Council of India found negligence of the Doctors and vide letter dated 26.08.2010 opined that a letter of caution should be issued to Dr. B. Gupta and Dr. Umesh Kansara, to be more careful in future in maintaining the patients record and that they should have informed the seriousness of the patient's condition to the patient/attendant from time to time. Delhi Medical Council in its report dated 19.12.2006 found Safdarjung Hospital guilty of not explaining the prognosis to the relatives of the patient and observed that the hospital should improve the communication between the Doctors and the patient's relatives. Delhi Medical Council also observed that no Doctor examined the patient on 23.04.2006 and the treatment was given by the nurse only and no investigations were done until 24.04.2006.

9. Findings of fact recorded by State Commission that there was medical negligence in providing treatment to the wife of the complainant is based upon various expert of the expert committee on record and do not suffer from any illegality. The State Commission has awarded compensation of Rs.1105000/- to the complainant alongwith 7@ interest p.a. The appellant has failed to prove any illegality or irregularity in the impugned order.

O R D E R

In view of aforementioned discussions the appeal is dismissed.

.....J
RAM SURAT RAM MAURYA
PRESIDING MEMBER