

**::BEFORE THE DISTRICT CONSUMER DISPUTES REDRESSAL
COMMISSION AT BIDAR::**

C.C. No.48/2016.

Date of filing: 15.07.2016.

Date of disposal: 08.10.2021.

PRESENTS:-

(1) Shri. Rajmohan Srivastava,
B.Sc., M.A.,LL.M.,
President.,

(2) Kum. Kavita,
M.A.,LL.B.,
Member.

COMPLAINANT/S: Sujata W/o Ganapati Dange,
Age:27 Years, Occ:Household ,
R/o Kanji Tq: Humnabad, Dist: Bidar.

(By Sri. Rajkumar K., Advocate)

VERSUS

OPPONENT/S: 1) The District Medical Officer,
District Government Hospital
Bidar.

2) Dr.Uma Deshmukh Medical Officer
Government District Hospital
Bidar.

(O.P.No.1 Exparte.)

(O.P No.2 by Sri.P.M.Deshpande., Adv.)

:: J U D G M E N T ::

By Shri. Rajmohan Srivastava, President.

This complaint filed by the above said complainant
(U/sec.12 of C.P.Act., 1986 (Old)) U/s. 35 1 &2 of the C.P.Act.,
2019,(New) against the Respondent alleging deficiency in service
on the part of Respondent.

2. The complainant submitted that her marriage took place dated 28.12.2012 and she is residing at Village Kanki Tq: Humnabad Dist: Bidar. During her pregnancy that she consulted Dr.Savitha Bhadbhade for all nine months. On the said instruction of doctor. She was taking all the precautions and medicines and following instructions regularly. On 08.09.2015 when she got labour pains in night and in ambulance she was taken to Government Hospital Bidar at mid-night. It is at the hospital she had severe labour pains and also bleeding. But there were no doctors, much less lady doctor at the hospital. On the next day morning Dr.Uma Deshmukh respondent No.2 and Dr.Uma Deshmukh Medical Officer Government Hospital perform scissoring operation hurriedly. The subordinate staff put stitches without Anesthesia to which she suffered shivering and horrible pain. The complainant further stated because of shivering her health condition was deteriorating. The complainant stated that she was in the hospital from 09.09.2015 to 22.09.2015.

3. Meanwhile the complainant developed infection due to the carelessness of the Doctor and staff of Government Hospital. The complainant was advised to take treatment Osmania Hospital in Hyderabad. The complainant further stated due to defective stitching there was heavy pus formation and not only this the Government Hospital staff discharged. Complainant discharged without reference letter to Osmania Hospital in Hyderabad. At Hyderabad Osmania Maternity Hospital she was not admitted

without reference letter. When she came back to Bidar complainant was taking treatment from Dr.Jayasundari and again she was asked to take treatment at private Hospital. At Private Hospital Dr.Talawade asked to go to Yashodhara hospital Solapur. On 25.09.2015 during mid night one more operation was conducted because of infection to the uterus which was removed. The complainant submitted that ill health problems because of medical negligence in treating the complainant for which the complainant has suffered lot of mental agony physical pains and also loss huge amount. The complainant also raised at grievance because of removal of uterus that she will have no chance for having the child. The complainant also submitted she spent 5to 6 lakhs towards the Hospital charges and transportation and also medicine. The complainant alleged Respondent No.1 and 2 are liable to negligency and for deficiency of service and respondent liable to pay compensation of RS.16,00,000/- with cost and damages. It is also stated cause of action took place at Bidar and this Forum/Commission entitled jurisdiction and the cause of action arose on 08.09.2015 and legal notice on 03.03.2016 and this complaint is within limitation.

4. The complainant prayed that the respondent be directed to pay compensation of Rs.16,00,000/- to with interest to Rs.1,00,000/- towards damages and Rs.1,00,000/- towards mental tension will be awarded along with any other relief or reliefs as may deem fit at proper in circumstances of the case.

AW ✓

5. The respondent No.1 remained exparte and respondent No.2 contested by the learned counsel Sri.V.M.More and later Sri.P.M.Deshpande Advocate appeared from respondent No.2. On 03.04.2017 that by learned predecessor recorded in the order sheet as written version not filed and hence taken as nil. Thus as per the order sheet the complainant has filed her evidence by affidavit which is taken on record on 06.06.2017 as recorded by learned predecessor as taken on P.W.1 and closed side. The respondent No.2 filed evidence and as taken on R.W.1 and closed side.

6. It is seen from the order sheet as well as the documents enclosed by the complainant are not marked although some documents relate to about the health condition of the complainant but they are not consistent to relate with the averments of the complaint. It is probably as seen from the order sheet of the case filed both counsel referred to take opinion of medical counsel of Karnataka Medical Council (statutory Body, established under Karnataka Act No.34 of 1961) #16/6, 2nd Floor, Miller Tank Bed Area, Vasanthnagar, Bangalore for analysis for entire case and to report back to Commission/as to whether any medical negligence occurred to treatment of the complainant as recorded in the order sheet on 07.02.2018. When the case was adjourned for argument from 05.09.2017 to 07.02.2018. At last on 29.10.2018, my learned predecessor as recorded in order sheet about receipt of report from KMC Bangalore for their being no medical negligence in respect of respondents.

7. Meanwhile the learned counsel for the complainant I.A.No.III under Order 16, Rule 14 R/w Section 151 of CPC which was dismissed on 17.03.2021. The learned counsel of the complainant filed I.A.No.IV under order 26, Rule 4 R/w 151 of CPC seeking permission for appointment of court Commissioner for recording the evidence Dr.Savitha C. This was also rejected on 17.03.2021.

8. The learned counsel for the parties having taken sufficient time to advance argument orally but later depended on written argument.

9. We have perused record carefully. After going through the written argument and the case which is as per the learned counsel for the parties totally at the stage of arguments rested of the report of Karnataka Medical Council (statutory Body, established under Karnataka Act No.34 of 1961) #16/6, 2nd Floor, Miller Tank Bed Area, Vasanthnagar, Bangalore dated 22.09.2018.

10. Considering the above said facts and circumstances of the case following points arise for our consideration.

1. Whether the complainant has proved medical negligence to claim compensation against respondents No.1 and 2 as prayed for in the relief column of the complaint?

2. Whether the respondent No.1 and 2 are not liable as no case of medical negligence or deficiency of service in view of the report of Karnataka Medical Council Bangalore as conclusive opinion in view of disposal of I.A.No.III and I.A.No.IV dated 17.03.2021.

3. What orders ?

11. Our answers to the points raised above are as follows:-

1. In the Negative.
2. In the Affirmative.
3. As per the final order.

::REASONS::

12. The both points No.1 & 2 in consideration arise out of the same facts and circumstances and therefore linked together and answered accordingly on the findings as therein below.

13. It is now while considering points No.1 and 2 in consideration the learned counsel for the complainant and the learned counsel for the respondent to have submitted written arguments in the light of oral evidence of complainant as P.W.1 and that of oral evidence R.W.1. All in its entirety solely depend upon the report of Karnataka Medical Council. The argument which are referred to in the light of oral evidence of P.W.1 and R.W.1 in the nature of allegation from the complainant in regard to medical negligence there by deficiency of service to the complainant at the Government Hospital. When she got admitted for her labour pains and other consequential health problems related to her (nine) months pregnancy. The complainant that there was no proper treatment from Dr.Savitha Bhadbhade and subordinate medical staff and as a result when her health deteriorated she was advised to Meternity Osmania Hospital Hyderabad. But for want of reference letter the Maternity Osmania Hospital Hyderabad not admitted. Therefore she came back to Bidar

and took treatment at private Hospital on the advice of Dr.Talawade Much more her pregnancy in critical condition was such that she was asked to remove uterus by which removal uterus she had loss the hope of child bearing. On the other hand the respondent No.2 though examined as R.W.1 and also she kept present herself before this Forum dated 07.02.2018 and recorded the same in order sheet by learned predecessor and reproduce the same "*The respondent No.2, Dr.Uma Deshmukh present in person and explained that, owing to the condition of " Central placenta previa" of the complainant at the time of L.S.C.S. of at the hospital, her condition was life threatening but by adequate treatment she had survived."*

14. But however the expert opinion sought by sending entire case filed to Karnataka Medical Council Bangalore for analysis of the entire case and report. If anything is more to be discuss which nothing but at the cost of repetition and therefore as stated above the decision of the entire case based on the medical report dated 22.09.2018 which is enclosed in the case file and team of doctors have given the opinion as under:

i. *Central placenta previa with previous caesarean section is a high risk case which may be associated sometimes with placenta accrete and which needs peripartum hysterectomy.*

ii. *At the time of admission this patient was having anaemia which again is a high risk factor and she is prone for infection.*

Am

iii. *The chances of sepsis is more in placenta previa because of operative interference, placenta site near to the vagina and anaemia and devitalized state of the patient.*

Emergency caesarean section was performed in time for this patient which was necessary and adequate antibiotics and blood transfusion were also given in the post operative period. Patient did not have any fever or tachycardia at the time of discharge except abdominal distention for which the surgical opinion was taken.

If this patient had not gone at request discharge, the doctors at Bidar Institute of Medical Sciences would have performed the same laparotomy which was done at Yashodhara Hospital, Solapur, and treated her.

After going through the complaint, hospital case records and explanation given by the Respondents (1) and (2) Council has not made out any medical negligence while managing the patient Smt.Sujatha.

15. We after analysing the entire case as per oral evidence P.W.1 and that of R.W.1 as stated above; R.W.1 totally denied in the affidavit filed 17.06.2017 before the Commission which is in detail submitted and stated in her sworn affidavit that the complainant filed false, frivolous complaint and same fit to be dismissed with cost 10,000/- be leveled against the complaint.

Boy

16. We have in view of forgoing reason and discussion based the conclusion as referred to medical evidence of the Karnataka Medical Council Bangalore for having found of the expert opinion of the Doctors as recorded as above the allegation of the complaint towards medical negligence or deficiency of service of respondents No.1 and 2 totally disproved. Hence having discussed all the aspects of the case given rise to Point No.1 and Point No.2 under consideration and in view of the forgoing reasons it is hereby answered point No.1 Negative and Point No.2 Affirmative.

17. For the above said discussion based on oral and documentary evidence, the case of the complaint is hereby dismissed, hence we proceed to pass the following;

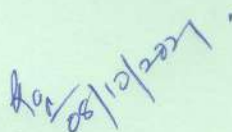
::ORDERS::

The complaint filed by the complainants (U/s. 12 of C.P.Act,1986 (Old)) U/s. 35 1 &2 of the C.P.Act., 2019 (New), the case of the complainant is dismissed. No order as to costs.

Intimate the parties accordingly.

(Typed to our dictation then corrected, signed by us and then pronounced in the open Forum on this 08th day of October- 2021).


Kum. Kavita,
Member


Sri. Rajmohan Srivastava,
President.

Documents produced by the complainant.

---Nil---

Document produced by the Respondent.

---Nil---

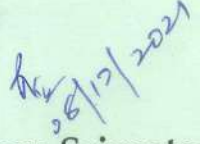
Witness examined.**Complainant:**

P.W.1- Sujata W/o Ganapati Dange, (Complainant).

Resondent:

R.W.1-Dr.Uma Deshmukh W/o Basavaraj Doctor (Respondent).


Kum. Kavita,
Member.


Shri. Rajmohan Srivastava,
President.

SAB.

JUDGMENT :

By Shri. Rajmohan Srivastava, President.

This complaint filed by the above said complainant
(U/sec.12 of C.P.Act, 1956 (Old) U/s. 35 -1 & 2 of the C.P.Act,
2019 (New) against the Respondent alleging deficiency in service
on the part of Respondent.