

DISTRICT CONSUMER DISPUTES REDRESSAL COMMISSION MYSURU
No.1542 F, Anikethana Road, C and D Block, J.C.S.T. Layout, Kuvempunagara,
Kuvempunagara, (Behind Jagadamba Petrol Bunk), Mysuru-570023

Complaint Case No. CC/362/2017
(Date of Filing : 14 Dec 2017)

1. H.J.Vanajakshi and Shivani Shankar Narayan

H.J.Vanajakshi, W/o late K.Shankar Narayan, No.LIG 148, 4th stage (M.Block), Kuvempunagar extn., Mysuru

Mysuru

Karnataka

.....Complainant(s)

Versus

1. Vikram Jyoth and 2 others

Vikram Jyoth, (Part of Vikram Hospital), Vikram Hospital(P) Ltd., No.46, Vivekananda road, Yadavagiri, Mysuru

Mysuru

Karnataka

2. Dr. Rajkumar P.Vadwa

Vikram Hospital (P) Ltd., No.46, Vivekananda Road, Yadavagiri, Mysuru-570020.

3. Dr. N.Raghavendra

Vikram Hospital (P) Ltd., No.46, Vivekananda Road, Yadavagiri, Mysuru-570020.

.....Opp.Party(s)

BEFORE:

HON'BLE MR. B.NARAYANAPPA PRESIDENT

HON'BLE MRS. LALITHA.M.K. MEMBER

HON'BLE MR. Sri Maruthi Vaddar MEMBER

PRESENT:

Dated : 11 Jan 2023

Final Order / Judgement

BEFORE THE DISTRICT CONSUMER DISPUTES REDRESSAL COMMISSION, MYSORE-
570023

CONSUMER COMPLAINT NO.362/2017

DATED ON THIS THE 11th January 2023

Present: **1) Sri. B.Narayanappa**

M.A., LL.B., - PRESIDENT

2) Smt.Lalitha.M.K.,

M.A., B.A.L., LL.B., - MEMBER

3) Sri Maruthi Vaddar,

B.A., LLB (Special) - MEMBER

COMPLAINANT/S :

1. Smt. H.J.Vanajakshi (died on 21.05.2021),
W/o Late K.Shankar Narayan, 45 years,
2. Shivani Shankar Narayan, S/o Late
K.Shankar Narayan, 11 years, minor rep.
by his next friend J.Nagaraja, S/o Late
Javaregowda, aged 63 years, No.1F,
Panewood Park Apartments,
Dr.Ambedkar Road, Chamaraja Mohalla,
Mysuru-570005.

**Both are R/at NO.LIG 148, 4th Stage
(M.Block), Kuvempunagar Badavane,
Mysuru.**

(Sri K.Eshwar Bhat, Adv.)

V/S

OPPOSITE PARTY/S :

1. Vikram Jyoth (Vikram Hospital
Organization),
2. Dr.Rajkumar Wadhwa.
3. Dr.N.Raghavendra

**Vikram Hospital (Private) Limited, No.46,
Vivekananda Road, Yadavagiri, Mysuru-
570020.**

**(OP Nos.1 and 2 – Sri R.Ravi, Adv. and OP No.3
– Sri M.S.Manjunath, Adv.)**

Nature of complaint	:	Medical Negligence
Date of filing of complaint	:	14.12.2017
Date of Issue notice	:	19.12.2017
Date of order	:	11.01.2023
Duration of Proceeding	:	5 YEARS 22 DAYS

ri B.NARAYANAPPA,

RESIDENT

1. The complainant No.1 Smt. H.J.Vanajakshi deceased, No.2 Shivani Shankar Narayan minor aged about 11 years represented by his next friend J.Nagaraju, resident of Mysuru have filed this complaint against the OP No.1 - Vikram Jyoth Hospital, OP No.2 – Dr. Rajkumar P.Wadva, and OP No.3 – Dr.N.Raghavendra of Vikram Hospital (Pvt.) Limited, Mysuru praying to direct the OPs to pay compensation of Rs.19,93,000/- to the complainant and grant such other reliefs as this Commission deems fit to grant.
2. The briefs facts are that:-

The complainant No.1 was the wife of K.Shankar Narayan, they married on 24.03.2002. On 02.01.2006 the complainant No.2 was born. In the year 2005, K.Shankar Narayan due to his ill health admitted to OP No.1 Hospital and took treatment as in-patient for 3 days. At that time, the OP No.2 treated him and advised him to take tablet called “Panlipase” and the patient was also suffering from diabetes, but it was under his control as he was doing exercise every day. On 28.07.2015, the said K.Shankar Narayan due to stomach pain went to OP No.1 Hospital to take treatment, from OP No.1 hospital he telephoned to complainant No.1 and told that the doctors advised him to admit into hospital as in-patient and also told that the approximate medical expenditure will be Rs.32,000/-. The complainant No.1 and her husband K.Shankar Narayan were having good faith on OP No.2. On 30.07.2015 MIR Scan was done on the upper stomach portion and found no problem and the doctors attached to OP No.1 hospital instructed to OP No.3 to treat the patient. Accordingly, on 01.08.2015 for the first time, a Laparoscopic surgery was done without bringing to the notice of the complainant No.1 and told the complainant No.1 that the patient might be suffering from Cancer, Ulcer or TB. It is contended that if any operation was done to any patient pertaining to intestine ileostomy bag will be put for some days and it is for the doctors to verify/check up as to whether stitches were put to the intestine properly or not. But, on the date of operation i.e. 01.08.2015 the doctors did not do so and shown negligence. Therefore, the health of K.Shankar Narayan deteriorated and urine and waste filled in the stomach causing problem to the patient and pus was formed. Therefore, the patient K.Shankar Narayan went to Coma and it is further alleged that at the time of giving any injection, test dose shall be administered, but the doctor without giving test dose administered injection directly resulting failure of multiple organs of the patient and the doctors advised the patient to undergo for biopsy (Cancer test) and same was done in Acura Diagnostic Center which is under the control of OP No.2 and obtained test report after 2 months, by that time the health condition of the patient was deteriorated seriously. Therefore, on 06.08.2015 in the mid night i.e. on 07.08.2015, the OP No.3 conducted operation for the 2nd time and fixed Ileostomy bag for the first time. Thereafter, the patient became unstable and gets uneasiness in breathing. Therefore, temporarily ventilator namely Byepap was put on 13.08.2015 and the patient was shifted to ICU. This fact was came to the knowledge of the complainant No.1 and the RBS level of the patient was come done. The doctors did not take proper care. Therefore, immediately nurse gave glucose and on the next day ventilator was fixed, the patient went to Coma for a period of 14 days and the brain scan was done and the patient continued to take treatment for a period of 3 months in ICU. During that time, neither nurses nor doctors did not take proper care and due to scarcity of “D” protein, “D” protein liquid was given to patient and

some times, the nurses failed to give “D” protein and they wasted the same which costs Rs.1,200/- per box and the OP No.1 hospital called the specialist from some other hospital to treat the patient. At the time of admission to hospital, a sum of Rs.25,000/- was deposited, and the OP No.1 hospital authority drawn Rs.6,00,000/- from the Insurance Company and on different dates, the OP No.1 hospital received a total sum of Rs.25,00,000/- from the complainant No.1. Apart from that Rs.5,000/- each were paid to Dr.Lokesh and Dr.Sridhar in a separate cover. The doctors assured the complainant No.1 that the patient will recover speedily. On 26.11.2015, the complainant No.1 expressed her inability to pay further amount towards treatment, then the OP No.3 told that “**Ĵ Āē °ÄÄä °ÄuÉšgÀ°À, gÉÆĀVAiÄÄ£ÄÄß PÀgÉzÄÄPÉÆAqÄÄ °ÉÆĀV, E£ÄÆB G½AiÄÄÄÄÄzÄÄ PÀμÄÖ**” and not given case history except giving lab test report and discharged on 26.11.2015. On 09.12.2015, the patient K.Shankar Narayan was admitted to OP No.1 hospital and took treatment for 2 days as in-patient, at that time also, the doctors did not treat the patient properly in spite of receiving Rs.7,000/-. Thereafter, the patient was admitted to Apollo Hospital, Mysuru. But, K.Shankar Narayan was died on 18.12.2015 due to the negligence on the part of OP No.1 hospital authority and doctors. The complainants were solely depending upon the income of deceased K.Shankar Narayan. The complainant No.1 raised loan of Rs.15,00,000/- for medical expenses of her husband. Deceased K.Shankar Narayan was having a good dream on his daughter complainant No.2 for her future life, but due to the negligence of OP No.1 hospital authority and doctors, the deceased died. During the period of treatment of deceased K.Shankar Narayan i.e. on 10.03.2017, the mother of the complainant No.1 Smt.Sannamma had died to ill-health. Thereafter, the mother-in-law of complainant No.1 Smt.Narasamma had died on 20.04.2017 and the elder sister of complainant No.1 Smt.Girija had died due to ill-health on 19.11.2017. Therefore, it is alleged due to medical negligence on the part of OPs, the deceased K.Shankar Narayan did not survive and he had died for which the OPs are responsible. Therefore, this complaint.

3. After registration of this complaint, notices were ordered to be issued to OPs. In response to notices, the OPs appeared and they have filed their separate version. The OP Nos.1 and 2 have contended that the complaint is not maintainable either in law on facts, hence the same is liable to be dismissed. The question of alleged medical negligence or deficiency in service does not arise since the complainants have deliberately not revealed the history of late K.Shankar Narayan and he was Chronic alcoholic illness prior to 2015. The OP No.1 hospital is one of the reputed hospital in the city of Mysuru having best of the infrastructure and medical facilities to treat all type of cases. The OP No.2 is a repudiated specialist in Gastroenterology having 23 years of experience. OP No.3 is a repudiated Surgical Gastroenterology having 12 years of experience. OP Nos.2 and 3 have treated number of patients with Chronic Pancreatitis. The OP No.1 hospital had to file O.S.No.425/2016 before the Principle Civil Judge (Jr. Div.), Mysuru challenging the action under the SARFAESI Act. The Court granted injunction order and land-lord had taken away the keys as such the medical records could not be taken for giving reply to the legal notices issued. Late K.Shankar Narayan was a regular patient in OP No.1 hospital since 2004 with a history of pain in abdomen and he was admitted into hospital in the year 2004 and medical records reveal that late K.Shankar Narayan was diagnosed as a case of Chronic pancreatitis and he was on conservative treatment in maintaining his health and approached OP No.1 hospital on 28.07.2015 and he was treated and the late K.Shankar Narayan was a known and proven case of Chronic Calcific Pancreatitis. The allegations of the complainant No.1 that OP No.3

performed surgery without knowledge of the OP No.2 is absolutely false, baseless and denied the averments made in para Nos.4 to 15 of the complaint. Later late K.Shankar Narayan was discharged against medical advice on 11.12.2015. The medical records reveals that due to his inherent chronic health conditions because of his life style and history, the complication were arose, the question of medical negligence or deficiency in service on the part of OPs does not arise. The complainants have filed this complaint only with an intention to harass the OPs and spoil their reputation. Late K.Shankar Narayan was admitted on 12.03.2005 and he was discharged on 16.03.2005. Again he was admitted on 19.03.2005 and he was discharged on 21.03.2005 and his conditions are due to chronic alcoholic consumption. The doctors advised him to stop alcohol consumption. Again he was admitted to hospital on 10.11.2014 and he was discharged on 12.11.2014. Again he was admitted on 10.02.2015 and discharged on 11.02.2015. Further he admitted to hospital on 27.03.2015 and was discharged on 30.06.2015 and he was diagnosed that he was suffering from Chronic Calcific Pancreatitis. On 28.07.2015 the doctors attached to OP No.1 hospital given treatment to the patient for his ailment Chronic Calcific Pancreatitis. The allegations made by the complainant that due to medical negligence on the part of OPs, K.Shankar Narayan health was deteriorated is false. Therefore, the question of paying compensation to the tune of Rs.19,93,000/- does not arise at all.

4. The OP No.3 in his version has contended that complaint is not maintainable hence, the same is liable to be dismissed. The averments made in para Nos.1 and 2 are not within the knowledge of OP No.3 and averments made in para 3 to 7 are not true and contended that initially late K.Shankar Narayan was diagnosed and proper treatment was given by OP No.3 as per norms of medical practice. Since 2005 K.Shankar Narayan was Chronic Pancreatitis patient due to alcohol intake, he had undergone endoscopic pancreatic stenting few times for the same problem for the year 2005 and 2008 and advised him not to consume alcohol. The deceased was subsequently treated whenever visited OP No.1 hospital and patient was diagnosed as Chronic Calcific Pancreatitis and he was treated for the said ailment and was discharged. OP Nos.2 and 3 were treated the patient for long time and follow-up treatment. The allegations made in the compliant that the first surgery was done without informing the complainants and Ileostomy bag was supposed to be fixed and OPs have not reviewed whether the stitches has been properly done or not are all baseless allegations. On 01.08.2015, the K.Shankar Narayan underwent first surgery. At that time of Laparoscopic surgery for pancreatic problems was not performed. Later it was diagnosed that the patient was suffering from Cancer, TB and Acute obstruction of intestines. The Ileostomy was not usually done for right colonic surgeries unless the patient is high risk. It is further contended that even after the surgery due to the reason that the K.Shankar Narayan developed anastomotic leak with leaking of intestinal contents into peritoneal cavity, causing severe fecal peritonitis and septicemia shock, CT scan confirmed the same and he was put under ventilator support for breathing and treated in ICU. Dr.Sridhar from Sparch Hospital, Bengaluru; Dr.Lokesh from Narayana Hospital, Mysuru; Dr.Murli Mohan and Dr.Jairaj, they are chest physicians treated the patient, but the patient never recovered from kidney failure. Therefore, the patient had died due to Chronic health conditions which occurred due to his life style and history of illness and the allegations made in para 15 and 16 are all false and frivolous. The treatment given to patient was appropriate and are in accordance with prevailing medical standards, there is no deficiency in service on the part of OPs. Hence, prays to dismiss the complaint.

5. The complainant No.1 has filed her affidavit by way of examination in chief and the same was taken as P.W.1 and got marked certain documents and she died during pendency of the complaint. The OP Nos.1 to 3 have filed their separate affidavits by way of examination in chief and the same were taken as R.W.1 to R.W.3 and got marked certain documents.
6. The points that would arise for our consideration are as under

1. Whether the complainants prove that the alleged medical negligence and deficiency in service on the part of the opposite parties and thereby they are entitled to the reliefs as sought for?
2. What order?

7. Our findings on the aforesaid points are as follows:

Point No.1 :- Partly in the affirmative.

Point No.2 :- As per final order for the following

REASONS

8. **Point No.1:-** It is the specific contention of the complainant No.1 that her husband K.Shnkar Narayan went to OP No.1 hospital for medical check-up on 28.07.2015 and telephoned to her from the hospital stating that the Doctor advised him to admit to hospital as inpatient for treatment which approximately costs of Rs.32,000/- and they were having good faith on OP No.2 doctor who conducted MRI scan on the patient on 30.07.2015 but no adverse report has been received but on 01.08.2015, the OP No.3 doctor without bringing to the notice of patient and complainant No.1 had conducted Laparoscopic surgery and suspected that patient might be suffering from cancer, ulcer or TB and it is further specific contention of the complainant that normally after surgery, Ileostomy bag will be inserted to intestine to pass urine and waste and cross check as to whether stitches were put property or not to the operated portion. But, OP No.3 did not do so. Therefore, the urine and waste blocked inside the abdomen which results in forming the pus and health condition of the patient deteriorated and he went to Coma, these things happened due to carelessness and negligent act of the doctor who conducted surgery.
9. To substantiate all these allegations, the R.W.1 and R.W.2 have been cross-examined by learned counsel for complainant. R.W.1/OP No.3 in his cross-examination has admitted as true that OP No.2 has introduced the husband of complainant No.1 Late K.Shankar Narayan who was taking treatment with OP No.2 since many years. Before treating late K.Shankar Narayan, he had gone through his history case sheet and he had joined OP No.1 hospital in the month of March 2015. He maintained the case sheet of late K.Shankar Narayan for treatment given from the beginning till end. MRI scan was done before conducting operation. He conducted Laparoscopic surgery to the stomach. It is not correct to say that without bringing to notice of late K.Shankar Narayan, he has conducted Laparoscopic surgery to the stomach. It is true that he had conducted open surgery and came to know that late K.Shankar Narayan was suffering from Cancer and sent sample to Acura Diagnostic Centre owned by OP No.2. The Cancer report is at Ex.R.1. Late K.Shankar Narayan was in-patient in the hospital for more than 3 months. They were not inserted Ileostomy to the patient after conducting surgery on 01.08.2015. It is true to suggest that the inception of Ileostomy bag is for healing process of intestine. The Ileostomy bag is marked as Ex.P.1. He denied the suggestion that he has not

stitched properly and he further denied the suggestion that due to his negligence, urine and other waste has not passed out from the operation portion as a result pus was created and patient went to Coma. The witness volunteers and stated that patient went to Coma after 2nd operation and he admits the suggestion before giving any injection, test dose will be given. He denied the suggestion that without giving test dose, he had given injection directly to the patient. He conducted 2nd operation on 10.08.2015. After 2nd operation, he inserted the Ileostomy bag for the first time. After conducting the operation patient become very weak and had breathing problem. He was not aware as to whether patient was consuming alcohol at the time of hospitalization. His brother were attending the patient. It is true that ventilator has arranged on 13.08.2015. On 14.08.2015 when they checked, the noticed that the patient went to Coma and he regained consciousness on 23.08.2015. He has taken scan of the brain of the patient. The wife of the patient called the specialists. He called Dr.Sridhar and Dr.Lokesh, specialists, they checked the patient and he denied the suggestion that he told the complainant No.1 to pay Rs.5,000/- to each doctor. It is not correct to say that he was telling the complainant and her relatives that patient will improve. It is false to say that he told that the complainant to get discharge of the patient since patient will not survive and the patient was discharged on 26.11.2015. After discharge, he seen the patient twice or thrice. The patient was admitted to hospital on 09.12.2015 as in-patient for 2 days and the patient was discharged on 11.12.2015 and he does not know due to critical condition, patient was died on 18.12.2015.

10. The R.W.2/OP No.2 Dr.Rajkumar P. Wadhwa in his cross-examination by learned counsel for complainant has stated that in the year 2005 deceased K.Shankar Narayan had approached him for medical treatment. Witness volunteers that it is in the year 2004 and in the year 2005, the deceased K.Shankar Narayan was admitted to OP No.1 hospital as in-patient for 3 days and he was discharged on 05.03.2005. Again he was admitted on 12.03.2005 and he was discharged on 16.03.2005 and further readmitted on 19.03.2005 and he was discharged on 21.03.2005. Again he was admitted on 30.12.2005 and he was discharged on 31.12.2005. During the year 2005, he prescribed tablet "Panlipase" for digestion of food since he was suffering from pancreatitis and admitted that on 28.07.2015 the deceased approached him with stomach pain, he advised the patient to undergo major surgery. He has not suggested Laparoscopic surgery. The MRI and MRCP were done. X-ray was also taken. Deceased has pain in the abdomen and he admits the suggestion that biopsy of deceased was sent to Acura Diagnostic Centre to ascertain the Cancer and report was received on 15.08.2015 and he does not know as to whether Dr.Raghavendra given treatment to deceased for Cancer disease.
11. From the complaint averments as well as affidavit of P.W.1 and affidavit of R.W.1 to 3 and cross-examination of R.W.1 and 2, it is no doubt true that the deceased K.Shankar Narayan was taking treatment in the hospital and OP No.1 since from the year 2004 and OP Nos.2 and 3 have treated the deceased on so many occasions for his ailments called Pancreatitis and from the evidence of OPs, it is also crystal clear that in the year 2004, 2005 the deceased K.Shankar Narayan was underwent operation and stents were fixed to intestine and the same were removed by conducting surgery and according to the R.W.1 and 2, the doctors attached to OP No.1 hospital, the deceased was a known case of heavy drinker (alcohol) and he did not maintained his health properly in spite of advise by the doctors, the deceased did not stop consumption of alcohol.
12. From the pleadings of complaint and affidavit of complainant No.1 and evidence of OPs, it is crystal clear that the complainant No.1 and deceased K.Shankar Narayan had good faith on the doctors attached to OP No.1 hospital since he was taking treatment with the doctors

attached to OP No.1 hospital for a long time for about 8 to 10 years and spent more than Rs.20,00,000/- to Rs.25,00,000/- towards medical expenses. The complainant No.1 has produced medical bills issued by OP No.1 hospital which shows that to the tune of the Rs.20,00,000/- to Rs.25,00,000/- has been spent by complainant No.1 and deceased towards medical expenses. It is the specific allegation of the complainant No.1 that on 28.07.2015, the husband of the complainant No.1 K.Shankar Narayan went to the hospital of OP No.1 for medical check-up and telephoned to complainant No.1 from the OP No.1 hospital itself stating that the doctors advised him to admit to hospital as in-patient for treatment which approximately cost about Rs.32,000/-. On 30.07.2015 MRI scan was done on the upper portion of the stomach and no adverse report has been received. But, no report has been received about lower portion of the abdomen in the MRI report and it is further specific allegation of the complainant that on 01.08.2015 the doctors attached to OP No.1 hospital told to conduct Laparoscopic surgery and without bringing to the notice of the complainant No.1, conducted operation and suspected that the K.Shankar Narayan was suffering from cancer, ulcer or TB and alleged that after conducting the operation to the abdomen portion consisting of intestine, the OP No.3 did not fix the Ileostomy bag to the patient and also the doctors did not ascertained as to whether they stitched operated portion properly or not, due to negligence on the part of doctors, the urine and waste blocked inside the stomach resulting deterioration of the health of the patient and pus was formed, and, the patient went to Coma. Therefore, it is alleged that due to negligence on the part of doctors attached to OP No.1 hospital, the patient condition was deteriorated and he went to Coma due to non-fixing of Ileostomy bag and for want of proper stitching at the operated portion. R.W.1/OP No.3 Dr.N.Raghavendra in his cross-examination has admitted that on 01.08.2015 after conducting surgery they have not inserted Ileostomy bag to the patient and further admits that Ileostomy bag will be inserted for healing process of intestine. From the cross-examination of R.W.1, it is also crystal clear that after conducting operation on 01.08.2015 on the patient, the doctors did not insert Ileostomy bag. Therefore, the allegation of the complainant that due to non-inserting of Ileostomy bag to the patient after conducting operation on 01.08.2015, the urine and waste filled up inside the stomach of the patient which results in deteriorating the health condition of the patient and pus was formed etc., is appears to be true and believable. As admitted by R.W.1/OP No.3 the Ileostomy bag will be inserted for healing process of intestine admittedly operation was conducted to intestine of the patient, but doctor did not inserted the Ileostomy bag, it appears due to negligence act on the part of OP No.3 Dr.Raghavendra, the urine and waste was filled in side the stomach of the patient which results in deteriorating the health condition of the patient.

13. Though the OP Nos.2 and 3 in their affidavits and in their cross-examination have stated that they treated the patient according to the norms of medical rules with all care and caution and since the deceased was suffering from Chronic Pancreatitis and as he was a known case of consuming heavy alcohol and as the patient was suffering from Cancer and in spite of advise by the doctors attached to OP No.1 hospital, the patient did not stop consumption of alcohol, though the patient underwent operation for fixing stent to his intestine during the year 2004-2005 and underwent operation for removal of the same and as the patient has neglected his health condition became deteriorated and as the patient was suffering from cancer, he had died, there is no negligence on the part of doctors attached to OP No.1 hospital. The version and evidence of R.W.1 and R.W.2 are cannot be believed and accepted, since as admitted by R.W.1 in his cross-examination after conducting the operation of intestine of deceased on

01.08.2015 Ileostomy bag was not inserted. Therefore, it appears that due to non-inserting of Ileostomy bag to intestine, the urine and waste are blocked inside the stomach which results in deteriorating the health condition of the patient as such he went to Coma. As we have already stated above, the deceased took treatment in the hospital of OP No.1 for a long period for about 8-10 years since from 2004 to 2015 till his death and he was having good confidence on the doctors attached to OP No.1 hospital. From the records such as medical bills produced by the complainant No.1, it is crystal clear that the complainant No.1 and deceased have spent more than Rs.25,00,000/- towards medical expenses of deceased, it shows that the complainant No.1 and deceased were having fond hope of recovery of deceased in the hands of the OP Nos.2 and 3 the doctors attached to OP No.1 hospital, but due to negligence act of the OPs and due to non-fixing of Ileostomy bag after conducting the operation on 01.08.2015 to pass the urine and waste, the same was blocked inside the stomach which caused serious implication on the health of the deceased and the health condition of the deceased aggravated and deteriorated and went to Coma for which the OPs are solely responsible. The learned counsel for complainant has relied upon decision of *Hon'ble NCDRC reported in (2022) CJ 800 (NC) wherein it is held that – “Medical negligence – Hospital is vicariously liable for acts of negligence committed by doctors engaged or empanelled to provide medical care. When a patient goes to a hospital, he/she goes there on account of reputation of hospital, and with hope that due and proper care will be taken by hospital authorities. If hospital fails to discharge their duties through their doctors, being employed on job basis or employed on contract basis, it is hospital which has to justify acts of commission or omission on behalf of their doctors”*. And also relied upon another decision of *Hon'ble NCDRC reported in (2018) CJ 592 (NC) wherein it is held that – “Medical negligence – When a medical professional who possesses a certain degree of skill and knowledge, decides to treat a patient, he is duty bound to treat him with a reasonable degree of skill, care, and knowledge. Doctor has a legal duty to take care of his patient. Whenever a patient visits a doctor for treatment there is a contract by implication that doctor will take reasonable care to treat him. If there is a breach of that duty and if it results in injury or damage, doctor will be held liable. There is a difference between standard of care on one hand and degree of care on other. In cases of doctor, standard of care expected of him remains same in all cases, but degree of care will be different circumstances. While same standard of care is expected from a generalist and a specialist, degree of care would be different. A higher degree of skill is expected from a specialist when compared to that of a generalist*. The aforesaid decisions are aptly applicable to the present set of facts of the case of the complainants. Therefore, we are of the considered view that the OPs are liable to pay compensation to the complainant No.2 who is the daughter of deceased complainant No.1 and deceased K.Shankar Narayan for alleged medical negligence caused by them. Hence, we are of the opinion that the justice will be met if OPs are ordered to pay compensation of Rs.8,00,000/- with interest. Therefore, ***we answer point No.1 partly in the affirmative.***

14. **Point No.2:-** For the aforesaid reasons, we proceed to pass the following

:: ORDER ::

1. The complaint of the complainants are hereby allowed in part.

2. **The opposite party Nos.1 to 3 are jointly and severally liable to pay compensation / damages of Rs.8,00,000/- to complainant No.2 with interest at 6% from the date of this complaint, within 2 months from the date of this order till payment.**
3. **Further opposite party Nos.1 to 3 are liable to Rs.5,000/- towards cost of the litigation to the complainant No.2 within 2 months from the date of this order. Failing which, Rs.5,000/- cost of litigation shall carry interest at 10% p.a. till payment.**
4. **The complainant is at liberty to take action against the opposite party under Section 72 of the C.P.Act, 2019 for non-compliance of this order.**
5. **Furnish the copy of order to both parties at free of cost.**

(Dictated to the Stenographer transcribed, typed by her, corrected by us and then pronounced in open Commission on this the 11th January 2023)

(B.NARAYANAPPA)

PRESIDENT

(MARUTHI VADDAR)

MEMBER

(LALITHA.M.K.)

MEMBER

**[HON'BLE MR. B.NARAYANAPPA]
PRESIDENT**

**[HON'BLE MRS. LALITHA.M.K.]
MEMBER**

**[HON'BLE MR. Sri Maruthi Vaddar]
MEMBER**