

**NATIONAL CONSUMER DISPUTES REDRESSAL COMMISSION  
NEW DELHI**

**REVISION PETITION NO. 4677 OF 2013**

(Against the Order dated 26/08/2013 in Appeal No. 591/2010 of the State Commission Punjab)

1. CHANDIGARH NURSING HOME & ANR.  
NEAR NEW GRAIN MARKET, LEHRAGAGA,  
THROUGH ITS PROPRIETOR DR.S.B SINGLA,  
DISTRICT : SANGRUR  
PUNJAB

2. DR.B.S SINGLA,  
R/O CHANDIGARH NURSING HOME, NEAR NEW  
GRAIN MARKET, LEHRAGAGA,  
DISTRICT : SANGRUR  
PUNJAB

.....Petitioner(s)

Versus

1. SUKHDEEP KAUR  
MINOR DAUGHTER OF SH.PIARA SINGH, R/O  
VILLAGE ARAKWAS, TEHSIL LEHRAGAGA,  
THROUGH HER FATHER SH.PIARA SINGH  
DISTRICT : SANGRUR  
PUNJAB

.....Respondent(s)

**BEFORE:**

**HON'BLE MR. JUSTICE R.K. AGRAWAL,PRESIDENT  
HON'BLE DR. S.M. KANTIKAR,MEMBER**

**For the Petitioner :** Mr. K.G. Sharma, Advocate

**For the Respondent :** Mr. Aman Priye Jain, Advocate

**Dated : 03 Jan 2022**

**ORDER**  
**ORDER**

**PER DR. S. M. KANTIKAR, MEMBER**

The new National Health Policy (NHP) pitches AYUSH as a panacea for meeting the national health goals and objectives through integrative practices that plague the health problems in 1.3 billion people of our country. Philosophically divergent systems can be brought together which requires trust building between Allopaths and AYUSH practitioners for an understanding of strengths and weaknesses of each system, and an establishment of accountability mechanisms.

1. The Complainant, Km. Sukhdeep Kaur, a minor filed a Consumer Complaint before the District Consumer Disputes Redressal Forum, Sangrur (hereinafter referred to as the 'District Forum') through her father, Sh. Piara Singh, alleging medical negligence against the Opposite Parties /

Petitioners for wrong diagnosis and wrong treatment which led to rashes on her body and became beyond control. It was further alleged that the Opposite Party No. 2 being a BAMS (Ayurveda Doctor) was not competent to prescribe allopathic medicines, which amounts to medical negligence.

2. The District Forum passed the Order dated 11.03.2010, directing the Petitioner No. 2 to pay an amount of Rs. 1 lakh along with interest @ 9% from the date of the order to the Complainant / Respondent herein. The petitioners preferred an Appeal (bearing F.A. No. 591 of 2010 against the order of the District Forum) and the State Consumer Disputes Redressal Commission, Punjab (hereinafter referred to as the 'State Commission') held that the Petitioner is entitled to prescribe and treat the patient with Allopathic Medicines, but held the Petitioner liable for medical negligence for the wrong diagnosis and treatment. The State Commission dismissed the Appeal with cost of Rs. 10,000/-.

3. Being aggrieved, the Opposite Parties filed the instant Revision Petition.

4. We have heard the learned Counsel for the Parties, perused the medical record inter alia various presentations on record and the treatment record of Rajinder Hospital, Patiala.

5. We note that on 03.03.2009 at about 5.50 pm, the complainant Miss Sukhdeep Kaur, a young girl about 12yrs (herein after referred to as the 'Patient') approached Dr. B.S. Singla (hereinafter referred to as the 'Opposite Party No. 2') at his Chandigarh Nursing Home (hereinafter referred to as the 'Opposite Party No. 1- Hospital') for the complaints of fever, Cough, itching for the last 4/5 days and with history of rashes for last one day and remained hospitalized till next date. After about 13 hours of hospitalization, there was no relief from itching to the Complainant; therefore, for further management, she was referred to Dr. R. S. Rai, a specialist MD (Medicine) at Rai Hospital, Sangrur. He further referred her to the Rajindra Hospital at Patiala (a Govt. hospital) wherein, it was diagnosed as Stevens Johnson syndrome (SJ Syndrome). She was hospitalised there from 04.03.2009 and discharged on 22.03.2009 after full recovery.

6. From the medical record, it is apparent that the Petitioner is qualified, in system of Ayurveda medicine, as a BAMS. On 03.03.2009, he recorded the clinical findings as " fever (1020F), Bilateral Conjunctivitis +ve, Stomatitis +ve and made the diagnosis as ? measles. He prescribed medicines the antibiotic (Acef 100mg), Boroglycerine, steroid – tablet Dexa 1 tid, and eye drop. On the next day, patient had more itching, therefore he stopped oral Dexa and gave injection Efcorline (Hydrocortisone) and thereafter, the patient was referred to the physician, Dr. R. S. Rai, who suspected it as 'Stevens Johnson Syndrome' (for short 'SJ syndrome') and further referred to Rajindra Hospital at Patiala. According to the Petitioner, the same treatment which he gave in his hospital was given at the Rajindra Hospital. Though, he was BAMS, but he was allowed to practice and prescribe allopathy treatment as per the notification dated 18.06.2004 issued by the State Government of Punjab. Therefore, there was no fault or negligence in his treatment.

7. Firstly, on the issue of 'Cross-Pathy' various courts held that "cross-system" practice or "cross-pathy" is a form of medical negligence. Many State Governments have issued such orders and thereby permitted practitioners of AYUSH to prescribe allopathic medicines. Such State Government orders have been upheld as valid by the Hon'ble Supreme Court in its judgment in the case of Dr. Mukhtiar Chand and Others vs The State of Punjab & Ors . Thus, according to the Hon'ble Supreme Court judgment, Ayurveda, Siddha, Unani and Homoeopathy practitioners can prescribe allopathic medicines only in those states where they are authorized to do so by a general or special order made by the concerned state government in that regard.

8. Few State Governments have authorized AYUSH doctor(s) it by some special order(s) to prescribe medicines of allopath, but in our view, that does not authorize the doctor to deviate from the standard of care which results into wrong diagnosis and prescribe wrong medicines. Thus, it should be borne in mind that it does not authorise to prescribe wrong medicines or make a wrong diagnosis. The Courts have also stated that prescribing allopathic medicines and misrepresenting these as traditional medicines is an unfair trade practice and moreover not explaining the

side-effects of a prescribed allopathic medicine amounts to medical negligence. Finally, the Hon'ble Supreme Court has cautioned that employing traditional medical practitioners who do not possess the required skill and competence to give allopathic treatment in hospitals and to let an emergency patient be treated by them is gross negligence. Thus, in the event of an unwanted outcome, the responsibility is completely on the hospital authorities.

9. In the case on hand, admittedly the Petitioner was an Ayurvedic doctor (BAMS) and he was eligible to practice Indian Systems of Medicines and Modern Medicines as per the Notification dated 18.06.2004, issued by the State Government of Punjab through its Department of Health and Family Welfare. On the clinical symptoms and signs, he failed to diagnose the serious disease correctly as S J syndrome, but he continued to treat the patient for Measles. He also failed to administer proper doses of steroids, the dose of steroid was far less. Such act of Petitioner amounts to lack of skill and reasonable standard of care. We would like to rely upon the judgment of the Hon'ble Supreme Court in the case of Poonam Verma Vs Ashwin Patel & Ors. , wherein it was held that "the doctor must not only be qualified, but he must also be registered with the appropriate Medical Council in order to practice as a doctor. A homeopath would not have knowledge about allopathic medicines and its drug actions, so administration of allopathic treatment by a homeopath would be proof enough to establish negligence".

10. We have gone through the medical literatures on SJ Syndrome and the "Rook's Text book of Dermatology" 9th ed.(a bible of Dermatology) and the book - Essential Paediatrics. The article "Management of Stevens-Johnson Syndrome-Toxic Epidermal Necrolysis: Looking Beyond Guidelines" and which discusses about the management of sequel of SJ Syndrome, doses of Dexamethasone, and the drugs of choice the Cyclosporine and Methylprednisolone. In the another article "Guidelines for the management of Stevens-Johnson syndrome/toxic epidermal necrolysis: An Indian perspective" it was elaborated as:

Stevens-Johnson syndrome and toxic epidermal necrolysis are severe, life-threatening mucocutaneous adverse drug reactions with a high morbidity and mortality that require immediate medical care. The various immunomodulatory treatments include systemic corticosteroids, cyclosporine, intravenous immunoglobulin, cyclophosphamide, plasmapheresis and tumor necrosis factor- inhibitors. This expert group recommends prompt withdrawal of the culprit drug, meticulous supportive care, and judicious and early (preferably within 72 h) initiation of moderate to high doses of oral or parenteral corticosteroids (prednisolone 1-2 mg/kg/day or equivalent), tapered rapidly within 7-10 days. Cyclosporine (3-5 mg/kg/day) for 10-14 days may also be used either alone, or in combination with corticosteroids. Owing to the systemic nature of the disease, a multidisciplinary approach in the management of these patients is helpful.

11. We have perused the treatment record of Rajindra Hospital, Patiala. The patient was treated in paediatric ward. During hospitalisation she was examined by different specialist viz Ophthalmologist, Urologist and Skin. The clinical notes and photographs revealed the serious condition of the patient due to SJ syndrome. The role of skin specialist is more important in the treatment of SJ syndrome. The patient was examined by the skin specialist, Dr. Dimple Chopra at Rajendra Hospital. We cannot ignore the errors and the deficiencies in the treatment of SJ syndrome. It is apparent from the medical record that on 05.03.2009 she has prescribed Inj Decadron ½ amp BD which was inadequate dose. The Calsoft & Gention Violet locally was not an accepted reasonable practice. The standard protocol for treatment of SJ syndrome was not followed. The patient should have been treated with methyl prednisolone 50 mg (at least) per day and also Cyclosporine. The patient would have referred to higher institute i.e.PGI, Chandigarh for better management.

12. In our view, the Opposite Party No.2 failed on four counts- Firstly failure to diagnose correctly the condition as SJ syndrome, but treated the patient for Measles. Secondly, the dose of steroid 4 mg Dexamethasone was inadequate for this patient; the dosage should be calculated as per kg of

body weight. Thirdly, for treatment of SJ Syndrome the appropriate drugs of choice would be Cyclosporine with Methyl-prednisolone and the dosage to be per kg body weight of the patient. Fourthly, there was delay and wrong referral of the patient to the physician instead of skin specialist.

13. Adverting to the quantum of compensation we note that, what cannot be lost sight is that, the quantum of compensation awarded by both the fora was Rs. 1 lakh with interest @ 9% p.a., which is certainly on the lesser side. The medical negligence in the instant case occurred in March, 2009 and now we are in 2022. The patient at her young age of 12 years suffered very serious and potentially fatal SJ syndrome. It was the patient's sheer good luck that she survived in spite of such grossly inappropriate / inadequate treatment at every stage. Therefore, the patient/Complainant deserves enhanced just and reasonable compensation.

14. Hon'ble Supreme Court in catena of judgments discussed about the quantum of compensation. In the case of Dr. Balram Prasad vs. Dr. Kunal Saha & Anr. , and in the recent case of Maharaja Agrasen Hospital Vs Master Rishabh Sharma held that the award of compensation shall be based on the principle of restitutio in integrum. The said principle provides that a person is entitled to damages which should as nearly as possible get that sum of money which would put him in the same position as he would have been if he had not sustained the wrong as just and reasonable is required to be determined. In another case of V. Krishnakumar Vs. State of Tamil Nadu & Ors. , the rate of inflation (Wholesale Price Index-Annual Variation) at relevant time was considered and compensation was calculated on the basis of apportionment. In Arun Kumar Manglik vs. Chirayu Health and Medicare Pvt. Ltd. & Anr case, the Hon'ble Supreme Court enhanced the compensation from 6 lakhs to 15 lakhs based on the principle which has been laid down by the Constitution Bench in Lata Wadhwa v State of Bihar and in National Insurance Company Ltd. v Pranay Sethi Similarly the Hon'ble Supreme Court in the case Shoda Devi v. DDU Hospital enhanced the compensation from Rs 2 lakhs to Rs.10 lakhs. In the said judgment reference of other cases was made viz Alfred Benddict v. Manipal Hospital and Nizam Institute of Medical Sciences V Prashanth S Dhananka

15. Based on the discussion above and the law laid down by precedents (supra) , it would serve the ends of justice if the compensation awarded to be lump sum to Rs. 10 lakhs as just and reasonable. The Petitioners are directed to pay the Complainant Rs.10 lakhs within six weeks from today, failing which the amount shall carry interest @ 9% per annum till its realisation. The Revision Petition is so disposed with above direction.

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**R.K. AGRAWAL**  
**PRESIDENT**

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**DR. S.M. KANTIKAR**  
**MEMBER**