

**NATIONAL CONSUMER DISPUTES REDRESSAL COMMISSION  
NEW DELHI**

**REVISION PETITION NO. 458 OF 2021**

(Against the Order dated 23/03/2021 in Appeal No. 84/2015 of the State Commission Telangana)

1. G. RADHA .....Petitioner(s)  
 Versus  
 1. DR. JANAKI & 2 ORS. ....Respondent(s)

**BEFORE:**

**HON'BLE DR. S.M. KANTIKAR, PRESIDING MEMBER  
HON'BLE MR. BINOY KUMAR, MEMBER**

**For the Petitioner :** Appeared at the time of arguments  
Mrs. K. Radha, Advocate

**For the Respondent :** Appeared at the time of arguments  
Mr. Sadineni Ravi Kumar, Advocate for R-1

**Dated : 25 Jul 2022**

**ORDER**

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

1. The present Revision Petition has been filed by the Petitioner/Complainant under Section 21 (b) of the Consumer Protection Act, 1986 (hereinafter referred to as the "Act") against the impugned Order dated 23.03.2021, passed by the Telangana State Consumer Disputes Redressal Commission (hereinafter referred to as the "State Commission") in First Appeal No. 84/2015 filed by the Complainant was dismissed.

2. The facts in brief are that the Complainant, a house wife, Ms. G. Radha, about 47 years of age, underwent hysterectomy operation at Chaitanya Hospital (hereinafter referred to as the 'OP-2'). It was performed by Dr. Janaki (hereinafter referred to as the 'OP-1') on 30.06.2009. It was alleged that the OP-1 performed hysterectomy operation without informed consent. The consent was pre-printed and it amounts to unfair trade practice as held in the judgment of this Commission in C.C.428/2018—Vinod Khanna Vs. R.G. Stone Urology, decided on 06.07.2020. In the midnight of the operated day, the patient was suddenly taken to Gandhi Hospital without explaining the condition of the patient. Thus, it was a case of *res ipsa loquitur*. The Complainant further alleged that the expert opinion was also not as per standard guidelines of the Hon'ble Supreme Court. Being aggrieved, she filed a complaint before the District Forum, Ranga Reddy.

3. The District Forum, on hearing the parties and considering the averments, dismissed the Complaint.

4. Being aggrieved, the Complainant filed First Appeal before the State Commission, which was dismissed with the following observations:

“19) We have carefully perused the impugned order and the entire material on record including the opinion given by Dr. Prabhavathi from where the opinion was sought by the District Forum before registering the complaint as was a mandate at the relevant point of time. The independent medical officer has examined the entire record and submitted her report stating that there was no medical negligence.

20) The patient was operated for fibroid uterus trans abdominal hysterectomy at Opposite Party No.2 hospital following which she developed right side chest pain and shortness of breath. She was

immediately shifted to Gandhi Hospital. A perusal of the records submitted from Gandhi Hospital reveals that all necessary investigations were advised and the suspicion that she was suffering from pulmonary embolism or any other catastrophic event needed to be confirmed. In Ex.B1-Doctor's notes - Page-10, 11, 13, 21 have the same urgent physician opinion requirement as there was confusion regarding the patient's condition-post hysterectomy. The fact that the doctors at Gandhi Hospital suspected pulmonary embolism is not in doubt. The treatment consists of blood thinners or anti-coagulants to prevent new clots from forming. There is, however, no reference to state that the surgery conducted by Opposite party No. 1 doctor was negligent or wrongly performed. Surgery is one of the major causes of Deep Vein Thrombosis (DVT). Clots happen when blood thickens and sticks together. Sometimes the clots can travel to the lungs and this is called P.E and it can be life threatening if it blocks blood flow. Clot can form after any procedure particularly on the abdomen, pelvis or hips or legs. Obviously the opposite party no.1 doctor shifted her to Gandhi Hospital and early treatment was initiated. DVT is not always the result of negligence. A doctor can do everything right and a patient may still develop DVT. The critical issue is whether negligence actually caused the harm. This has not been established.

21) The Opposite party No.1 doctor would only be liable if the pulmonary embolism or the resulting damage was not prevented. She shifted the patient to Gandhi Hospital post haste for further treatment. In **Jacob Mathews vs. State of Punjab**, reported in III (2005) CPJ 9 (SC), the Court has rightly observed that "*when a patient dies or suffers some mishap, there is a tendency to blame the doctor for this. No sensible professional would intentionally commit an act or omission which would result in harm or injury*".

5. Being aggrieved, the Complainant filed the instant Revision Petition.

6. We have perused the material on record. On 30.06.2009, the medical record also revealed that Dr. V. Janaki (OP-1) performed the surgery at Chaitanya Hospital. Post-operatively, during the intervening night of 30.06.2009 and 01.07.2009, the patient complained of pain in right chest and shortness of breath. She immediately attended the patient and confirmed as clear symptoms of air embolism i.e. rare complication during post-operative period. The patient was immediately shifted to Gandhi Hospital and the OP-1 herself accompanied in the ambulance. Therefore, in our view, it was correct decision and a proper duty of care, thus not negligence. The expert opinion, dated 17.06.2010 of Dr. P. Padmaja, Superintendent, Govt. Maternity Hospital, Hyderabad confirmed no medical negligence in the instant case.

7. In the instant case, there are concurrent findings of fact and the revisional jurisdiction of this Commission is limited. Within the meaning and scope of section 21(b), we find no jurisdictional error, or a legal principle ignored, or miscarriage of justice, as may necessitate interference in the exercise of the revisional jurisdiction from this Commission. We would like to rely upon the decision of the Hon'ble Supreme Court in the case of '**Rubi (Chandra) Dutta Vs. M/s United India Insurance Co. Ltd.**'<sup>[1]</sup>. Similarly, in the recent judgement of the Hon'ble Supreme Court in '**Sunil Kumar Maity vs. State Bank of India & Anr.**'<sup>[2]</sup>, it was held that the revisional Jurisdiction of this Commission is extremely limited by observing as under:-

"9. It is needless to say that the revisional jurisdiction of the National Commission under Section 21(b) of the said Act is extremely limited. It should be exercised only in case as contemplated within the parameters specified in the said provision, namely when it appears to the National Commission that the State Commission had exercised a jurisdiction not vested in it by law, or had failed to exercise jurisdiction so vested, or had acted in the exercise of its jurisdiction illegally or with material irregularity. In the instant case, the National Commission itself had exceeded its revisional jurisdiction by calling for the report from the respondent-bank and solely relying upon such report, had come to the conclusion that the two fora below had erred in not undertaking the requisite in-depth appraisal of the case that was required. ...."

8. The Revision Petition, being misconceived and devoid of merit, is dismissed.

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[1] *2011 11 SCC 269*

[2] *Civil Appeal No. 432 / 2022 Order dated 21.01.2022*

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

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**BINOY KUMAR**  
**MEMBER**