

**NATIONAL CONSUMER DISPUTES REDRESSAL COMMISSION
NEW DELHI**

REVISION PETITION NO. 1391-1393 OF 2017

(Against the Order dated 21/03/2017 in Appeal No. 1000/2015 , 1001/2015 & 1004/2015 of the State Commission Punjab)

1. DR. J.S. SIDHU
R/O. HOUSE NO. 154, SHASTRI NAGAR,
DISTRICT-AMRITSAR
PUNJAB

.....Petitioner(s)

Versus

1. ASHOK BHANDARI & 3 ORS.
R/O. HOUSE NO. 7, MAHINDRA COLONY,
DISTRICT-AMRITSAR
PUNJAB

2. PAARVATI DEVI HOSPITAL
THROUGH ITS OWNER/MANAGING DIRECTOR RANJIT
AVENUE
DISTRICT-AMRITSAR
PUNJAB

3. RELIANCE GENERAL INSURANCE COMPANY LTD.,
SCO 122, RANJIT AVENUE,
DISTRICT-AMRITSAR
PUNJAB

4. UNITED INDIA INSURANCE CO. LTD.
59, JANPATH CONNAUGHT PLACE,
NEW DELHI

.....Respondent(s)

REVISION PETITION NO. 2190 OF 2017

(Against the Order dated 21/03/2017 in Appeal No. 1000/2015 of the State Commission Punjab)

1. PARVATI DEVI HOSPITAL
THROUGH SH. SUNIL HANDA, AUTHORIZED
REPRESENTATIVE, A BLOCK RANJIT AVENUE
AMRITSAR
PUNJAB

.....Petitioner(s)

Versus

1. ASHOK BHANDARI & 3 ORS.
S/O. SH. KISHI RAM BHANDARI, R/O. HOUSE NO. 7,
MAHINDRA COLONY,
AMRITSAR
PUNJAB

.....Respondent(s)

2. DR. J. S. SIDHU,
HOUSE NO. 154, SHASTRI NAGAR,
AMRITSAR
PUNJAB

3. RELIANCE GENERAL INSURANCE CO. LTD.

THROUGH ITS BRANCH MANAGER, EMINENT MALL ,
3RD FLOOR, MALL ROAD,
AMRITSAR
PUNJAB

4. UNITED INDIA INSURANCE CO. LTD.
THROUGH ITS MANAGER, 59, JANPATH CONNAUGHT
PLACE,
NEW DELHI

REVISION PETITION NO. 2191 OF 2017

(Against the Order dated 21/03/2017 in Appeal No. 1001/2015 of the State Commission Punjab)

1. PARVATI DEVI HOSPITAL
THROUGH SH. SUNIL HANDA, AUTHORIZED
REPRESENTATIVE, A BLOCK RANJIT AVENUE
AMRITSAR
PUNJAB

.....Petitioner(s)

Versus

1. ASHOK BHANDARI & 2 ORS.
S/O. SH. KISHI RAM BHANDARI, R/O. HOUSE NO. 7,
MAHINDRA COLONY,
AMRITSAR
PUNJAB

2. DR. J. S. SIDHU,
HOUSE NO. 154, SHASTRI NAGAR,
AMRITSAR
PUNJAB

3. RELIANCE GENERAL INSURANCE CO. LTD.
THROUGH ITS BRANCH MANAGER, SCO 122, RANJIT
SINGH AVENUE, OPP. AMRITSAR IMPROVEMENT
TRUST COMPLEX,
AMRITSAR
PUNJAB

4. UNITED INDIA INSURANCE CO. LTD.
THROUGH ITS MANAGER, 59, JANPATH CONNAUGHT
PLACE,
NEW DELHI

.....Respondent(s)

REVISION PETITION NO. 2192 OF 2017

(Against the Order dated 21/03/2017 in Appeal No. 1004/2015 of the State Commission Punjab)

1. PARVATI DEVI HOSPITAL
THROUGH SH. SUNIL HANDA, AUTHORIZED
REPRESENTATIVE, A BLOCK RANJIT AVENUE
AMRITSAR
PUNJAB

.....Petitioner(s)

Versus

1. ASHOK BHANDARI & 2 ORS.
S/O. SH. KISHI RAM BHANDARI, R/O. HOUSE NO. 7,
MAHINDRA COLONY,
AMRITSAR

.....Respondent(s)

PUNJAB

2. DR. J. S. SIDHU,

HOUSE NO. 154, SHASTRI NAGAR,

AMRITSAR

PUNJAB

3. RELIANCE GENERAL INSURANCE CO. LTD.

THROUGH ITS BRANCH MANAGER, SCO 122, RANJIT

SINGH AVENUE, OPP. AMRITSAR IMPROVEMENT

TRUST COMPLEX,

AMRITSAR

PUNJAB

4. UNITED INDIA INSURANCE CO. LTD.

THROUGH ITS MANAGER, 59, JANPATH CONNAUGHT

PLACE,

NEW DELHI

BEFORE:

HON'BLE DR. S.M. KANTIKAR, PRESIDING MEMBER

For the Petitioner :

For the Respondent :

Dated : 23 Feb 2023

ORDER

Appeared at the time of arguments:

For Dr. J. S. Sidhu : Ms. Meenakshi Midha, Advocate

Mr. Garv Singh, Advocate

For Mr. Ashok Bhandari : Mr. Parthesh Bhardwaj, Advocate

Mr. Abhilesh Vyas, Advocate

For Parvati Devi Hospital : Mr. Updip Singh, Advocate

For Reliance General Insurance

Co. Ltd. : Ms. Aishwarya Mishra, Proxy Counsel

for Mr. Anuj Kumar, Advocate

For United India Insurance

Co. Ltd. : Mr. Anuj Kumar, Advocate

Mr. Harsh K. Gautam, Advocate

Pronounced on: 23rd February, 2023**ORDER**

1. This Order shall decide all the above Revision Petitions filed against the common order dated 21.03.2017 passed by the Punjab State Consumer Disputes Redressal Commission, Chandigarh (in short, the 'State Commission') in First Appeal Nos. 1000/2015, 1001/2015 and 1004/2015.
2. For the convenience, the parties are being referred to as stated before the District Consumer Disputes Redressal Commission Forum (in short the 'District Forum') Amritsar. The facts are drawn from RP Nos. 1391-1393 of 2017.
3. Brief facts are that on 02.07.2011 the Complainant's son, Rupesh Bhandari (for short 'patient') was admitted to Parvati Devi Hospital (OP-2) in Amritsar. He was examined by Dr.J.S.sidhu (OP-1) and made provisional diagnosis of Acute Viral Hepatitis. Accordingly, conservative treatment was started for Hepatitis (type A, B, C and E). On 03.07.2011 and 05.07.2011, for 2nd opinion the Gastroenterologist Dr. Harpreet Singh, examined the patient and correctness of treatment given by OP1. The test reports revealed positive for Hepatitis A. On 06.07.2011 the patient developed symptoms of irritability, which was a sign of hepatic encephalopathy led to fulminant hepatic failure. The OP-1 advised and shifted the patient to Fortis Escorts Hospital. It was alleged that the OP-1 administered more medicines and failed to diagnose renal failure. The patient remained in the hospital and died after 39 days, on 13.08.2011. Being aggrieved by the negligent treatment of OPs, the Complainant filed the Consumer Complaint before the District Forum.
4. The OPs filed their written version and submitted that the patient was treated with due care and diligence. He was treated with consultation of an expert Dr. Harpreet Singh. The vitals of the patient were monitored consistently on every 2 hours. On 01.07.2011 and 04.07.2011 the necessary lab investigations were done in the lab of complainant. On 06.07.2011, patient showed irritability, it was sign of hepatic encephalopathy, therefore OP-1 advised to shift the patient to the higher center as he would require facilities for ventilator support, dialysis and even liver transplant. However, initially the Complainant was reluctant to shift the patient owing to the high costs involved. Thereafter, the Petitioner contacted Dr. H. P. Singh, Director of Fortis Escorts Hospital and apprised him of the status of the patient who suggested to contact center in Delhi and finally the patient was shifted to Fortis Escorts Hospital, Amritsar along with all original medical records.
5. The District Forum on appraisal of evidence partly allowed the Complaint and passed the following Order:

“Keeping in view all these facts, we allow the complaint with costs and the Opposite Parties No.1 and 2 are directed to pay compensation to the tune of Rs.10 lacs (Rs.Ten lacs) i.e. Rs.5 lacs each in equal share, to the complainant as compensation. However, Opposite Parties No.1 & 2 can claim this amount from Opposite Parties No.3 and 4 their respective insurers, as per the terms and conditions of the policy. Opposite Parties No.1 and 2 are also directed to pay Rs.5,000/- to the complainant as costs of litigation. Copies of the order be furnished to the parties free of cost.”
6. Being aggrieved, the OPs and the Complainant filed first Appeals before the State Commission. The F.A. NO.1000/2015 filed by OP-1 and F.A. NO.1001/2015 filed by OP-2 for dismissal of the Complaint, whereas the F.A. NO.1004/2015 filed by the Complainant for the enhancement of compensation.
7. The State Commission dismissed the Appeals filed by the OPs, and allowed the Appeal filed by Complainant. The compensation was enhanced to Rs. 17,27,036/- to be paid jointly and severally by the OPs.
8. Being aggrieved the instant four revision petitions filed before this Commission.

9. Heard the arguments from the learned counsel for the parties. Perused the medical record, *inter alia* Orders of District and State Commission.
10. It is pertinent to note that on 02.07.2011, on admission Dr. Sandhu diagnosed it as a case of acute fulminant hepatitis. The Gastroenterologist Dr. H. P. Singh, DM visited the hospital on 3rd and 4th July, 2011. The test report HAV Positive and HBE Negative. Therefore, Dr. H. P. Singh recommended no treatment. It is pertinent to note that the OP did not consult Nephrologist and kidney function tests were not advised to rule out acute renal injury. It is also not evident that the ICU was functioning, and the patient was shifted to Fortis Hospital. The investigations done there revealed deranged liver function test (LFT) and LDH, prothrombin time, INR were high. Therefore, diagnosis was made as Hepatitis A, Hepatic-encephalopathy and acute renal failure. Subsequently, the death of patient occurred after 39 days of hospitalisation due to multi-organ failure.
11. Adverting to the consent form, it appears to be **signature on dotted lines**. It was a printed consent form which neither was signed by the patient nor by the doctor. It shows number of blank spaces, other clinical details were not mentioned. Thus the instant consent does not fulfil the ingredients of 'informed consent' as held by the Hon'ble Supreme Court in **Samira Kohli vs. Dr. Prabha Manchanda and others**^[1] case. This Commission in the case of **Vinod Khanna vs. R. G. Stone Urology and Laparoscopy Hospital & Ors**^[2] has held the hospital liable for lack of valid informed consent. In my view, using printed consent form is not a negligence, but the printed contents should satisfy the ingredients of valid informed consent laid down in **Samira Kohli's** Case. It should not be a generalised, but it should be subject specific for the diagnosis, treatment and procedure etc. The key is to make sure that the consent was informed, i.e. advising the patient of risks, informing their freedom choice and where possible discuss alternatives. In my view, the patient's signature on dotted lines goes a long way towards mitigating legal problems of doctor. In my view, it was not a valid informed consent. It bears no signature of patient though he was in conscious state, but of patient's father signature seen in the column of patient's relative. It is pertinent to note that it was the case of fulminant hepatitis which further causes renal involvement. The OP-1 failed advise KFT or seek opinion of Nephrologist for the Acute renal failure. From the medical record it is evident that KFT was advised at delayed stage- on 5.8.2011, the monitoring of fluid Intake/Output was not proper. This was the act of 'Omission' in duty of care.
12. Dr. J.S. Sidhu (OP-1) was qualified as MD, Medicine and in my view physicians are competent to treat Hepatitis. In addition he took an opinion of Gastroenterologist Dr. Harpreet Singh. However, OP-1 himself claiming Gastroenterologist was against the Regulation [7.2] of MCI. Also the OPs violated the Regulation [1.3] of MCI who failed to supply patient's medical record. The ICU of OP-2 was not functional on 6.7.2011. The patient was referred in the evening to Fortis Escorts Hospital, Amritsar for further management.
13. At present the Complainant is about 70 years of age and unfortunately lost his young son who left behind his wife and two minor daughters in severe stress and agony. The Hon'ble Supreme Court in the cases viz '**Rubi (Chandra) Dutta Vs. M/s United India Insurance Co. Ltd.**^[3] and '**Sunil Kumar Maity vs. State Bank of India & Anr.**'^[4] held that the scope of Revision Petition is limited. The concurrent findings of facts as held by both the Fora below, thus within the meaning and scope of section 21(b) of the Consumer Protection Act, 1986. I don't find any 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.

The instant Revision Petitions are devoid of merit and stand dismissed.

[1] (2008) CPJ 56 (SC)

[2] CC No. 428 of 2018

[3] 2011 11 SCC 269

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

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DR. S.M. KANTIKAR
PRESIDING MEMBER