

**NATIONAL CONSUMER DISPUTES REDRESSAL COMMISSION
NEW DELHI**

REVISION PETITION NO. 1332 OF 2011

(Against the Order dated 24/01/2011 in Appeal No. 1438/2005 of the State Commission Punjab)

1. GURMEET KAUR

R/o. Village Malowal

Amritsar

Punjab

.....Petitioner(s)

Versus

1. DR. TEJ PAL SINGH SANDHU & ANR.

Sandhu Hospital and Clinic Lab, Adda Daduana, Mehta Road

Amritsar

Punjab

2. NATIONAL INSURANCE COMPANY LTD.

Through Divisional Office Mukerian, Regd. Office 3, Middle

Town Street

Calcutta

West Bengal

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.....Respondent(s)

BEFORE:

HON'BLE MR. JUSTICE R.K. AGRAWAL, PRESIDENT

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

HON'BLE MR. BINOY KUMAR, MEMBER

For the Petitioner : Nemo

For the Respondent : Mr. Rakesh Malhotra, Advocate for R-1

Mr. S.L. Gupta, Advocate for R-2

Dated : 24 Jun 2022

ORDER

DR. S. M. KANTIKAR, MEMBER

1. The Petitioner has filed the instant Revision Petition filed under section 21 (b) of the Consumer Protection Act, 1986, against the Order dated 24.01.2011 passed by the State Consumer Disputes Redressal Commission, Punjab in Appeal No. 1438 of 2005, wherein the State Commission dismissed the Appeal filed by the Petitioner.

2. Brief facts, that on 7.2.2003 at about 2 P.M. Master Gurjant Singh about 8 years of age met with accident and taken to Sandhu Hospital of Dr. Tej Pal Singh (Opposite Party No.1) with multiple injuries. The Opposite Party No.1 took X- ray and told that no head injury and he will be cured soon. On the next day the condition of Master Gurjant deteriorated, but the Opposite Party No.1 did not provide any further treatment, therefore family members took the patient to Grover hospital in Amritsar, wherein MRI was conducted which revealed multiple head injuries, thus, it was alleged that the Opposite Party No.1 committed negligence and wasted precious time of treatment which would have saved the life of the child, died due to alleged delayed and wrong treatment given by Dr. Tej Pal Singh Sandhu the Opposite Party No.1.

3. Being aggrieved, the mother of Master Gurjant Singh the Petitioner/Complainant filed a Complaint before the District Forum, Amritsar and prayed for Rs.15,00,000 as compensation.
4. The District Forum partly allowed the complaint and directed the Opposite Parties to pay Rs.2,00,000/- as compensation and Rs. 5,000/- as litigation expenses to the Complainants jointly and severally within one month from the date of receipt of the copy of the order.
5. Being aggrieved three Appeals were filed before the State Commission. Dr. Tej Pal Singh, the Opposite Party No.1 filed F.A. No.1410/2005, the insurance company filed F.A. No.1473/2005 and the Complainant filed F.A. No.1438/2005.
6. The State Commission allowed the Appeals filed by the insurance company and the Opposite Party No.1 and dismissed the Appeal filed by the Complainant. Consequently, the Complaint was dismissed.
7. Being aggrieved, the Complainant filed the instant Revision Petition.
8. We have heard the learned Counsel for both the parties and perused the material on record.
9. The crux of the matter is that, whether there was delay in treatment of the injured child and whether delay in referring the child to the higher centre.
10. On perusal of entire medical record it is evident that the child suffered accidental head injury and treated on emergency by Opposite Party No.1 at his Hospital. It is admitted fact that the OP was not a neurologist or neuro-surgeon, but as a first-aid he treated the patient. He advised number of investigations and CT Scan but the said facilities were not available at Sandhu Hospital. The Opposite Party No.1 repeatedly advised the complainants to take the injured to a specialized hospital at Amritsar but the Complainants failed to follow the advice. Therefore, the child was discharged at 9.00 P.M. on same day. Thereafter, the child was referred to Guru Nanak Dev Hospital at Amritsar, but the child was taken to Grover Hospital at Amritsar. There the MRI was conducted from Nijjar Scan Centre and reported by Dr. Vijinder Arora, that it was case of multiple haemorrhagic contusions suggestive of DIFFUSE AXONAL INJURY. Moreover, we have perused the evidence from the witnesses Nanak Singh (Ex.R-3), Inderjit Singh (Ex.R-5) and Kashmir Singh (Ex.R-6) who stated that Dr. Tej Pal Singh explained about serious condition of child and he was insisting that the child be taken to the hospital at Amritsar but Lakha Singh father of child was insisting to treat the child in the hospital of the OP.
11. The Diffuse Axonal Injury is a fatal condition. It was treated as an emergency by Dr. Tej Pal Singh and given proper first-aid. We don't find any failure of duty of care from Dr. Tej Pal Singh. There was no evidence of intentional delay in referring the patient to the higher centre. The patient's parents themselves were reluctant to go the higher centre.
12. It is pertinent to note that the injured expired on 09.02.2003 while under treatment in Grover Hospital and in the meantime Complainants compromised the matter with owner of offending vehicle and the driver after getting handsome amount from them on 11.02.2003 and stated they don't want to proceed and take legal action against anybody; same was recorded on 11.02.2003 at report No.12 in Police Post Nawan Pind, Police Station Jandiala.
13. It is known that at times, the professional is confronted with making a choice between the devil and the deep sea and he has to choose the lesser evil. In our considered view, the emergency First-aid treatment was as per reasonable standard of practice of the Opposite Party No.1. We don't find any negligence or failure of duty of care. The death of injured child was due to the fatal Diffuse Axonal Injury.
14. Based on the foregoing discussion, there is no need to interfere with the reasoned order of the State Commission. Same is affirmed.
15. The Revision Petition is dismissed.

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R.K. AGRAWAL
PRESIDENT

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DR. S.M. KANTIKAR
MEMBER

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BINOY KUMAR

