

**NATIONAL CONSUMER DISPUTES REDRESSAL COMMISSION  
NEW DELHI**

**REVISION PETITION NO. 1353 OF 2022**

(Against the Order dated 22/07/2022 in Appeal No. 156/2000 of the State Commission  
Orissa)

1. CHIEF MEDICAL OFFICER NEHRU SATABDI  
CENTRAL HOSPITAL & 2 ORS.

.....Petitioner(s)

Versus

1. PUJA SAHU

.....Respondent(s)

**BEFORE:**

**HON'BLE AVM J. RAJENDRA, AVSM VSM (Retd.),PRESIDING  
MEMBER**

FOR THE PETITIONER :

FOR APPELLANTS : MR. SUKUMAR PATTJOSHI, SR.  
ADVOCATE

MR. AISHWARY BAJPAI, ADVOCATE

FOR THE RESPONDENT :

FOR RESPONDENT : NEMO (EX-PARTE VIDE ORDER DATED  
23.02.2024)

**Dated : 16 August 2024**

**ORDER**

1. The present Revision Petition has been filed under Section 58(1)(b) of the Consumer Protection Act, 2019 (the "Act") against impugned Order dated 22.07.2022, passed by the State Consumer Disputes Redressal Commission, Odisha (State Commission') in FA No. 156 of 2000. In the impugned Order, the State Commission concurred with the decision of the District Consumer Disputes Redressal, Forum, Angul ('District Forum') dated 21.02.2000 thereby, dismissing the appeal of the Appellants / OP Doctors.

2. For convenience, the parties in the present matter are denoted as per their positions in the Consumer Complaint before the District Forum. The Petitioners in the present Revision Petition are identified as the opposite parties (OPs). Meanwhile, the Respondent herein, Ms. Puja Sahu is referred to as Complainant.

3. Brief facts of the case, as per the Complainant, are that on 23.05.1999 at around 6:00 PM, the Complainant, suffered a bleeding injury on her right thumb caused by a snake bite, and was taken to Nehru Satabdi Central Hospital (N.S. Hospital), Mahanadi Coalfields Ltd., Talcher managed by the OPs. The Complainant was admitted to the casualty department at around 6:30 PM as a 'non-entitled patient' on a payment basis bearing Registration No. 1553.

4. She was treated as an indoor patient in the Paediatric ward/ICU from 23.05.1999 to 05.06.1999, under the care supervision of OP-2 and 3. It is the case of the Complainant that

despite being under their care, OP-2 failed to provide proper treatment for the snake bite, leading to development of gangrene. Consequently, the gangrenous right thumb was amputated on 10.05.1999. Moreover, she was discharged without being completely cured, with the right thumb remaining in a compromised condition. Following her discharge, the Complainant required to undergo further treatment to heal the wound from the amputation at Sisu Bhawan, Cuttack, incurring substantial expenses. The amputation significantly impacted her daily life, ability to write, body image and marriage prospects. Due to the deficiency and negligence in the treatment provided by the OPs, she lost a valuable part of her body, for which she sought adequate compensation to the tune of Rs. 5,00,000/- from the OPs.

5. In response before the District Forum, OPs submitted that upon the Complainant's admission to the hospital, a black thread was tightly tied around the root of her right thumb, the same was also recorded by the Casualty Medical Officer. She was drowsy, had very weak pulse, inadequate respiratory effort, flaccid limbs, and a bluish right thumb. The OPs attributed the discoloration of the thumb to the tightly tied black thread, which was removed by the hospital staff before cleaning and dressing the wound. Thereafter, she was administered IV fluids and oxygen before being transferred to the ICU on artificial ventilation and further observation. Anti-snake venom and necessary injections were given to stabilize her condition, and she was discharged on 05.06.1999. However, her right thumb had to be amputated on 30.05.1999, due to gangrene. The OPs contended that her right thumb had already turned blue upon her arrival at the hospital because the black thread tied had stopped blood supply to the thumb. They claimed that the thread, being very thin, created significant pressure on the same spot, leading to gangrene. Whereas, in the normal course, to prevent snake venom from spreading, if at all necessary, a wide band is suggested. The OPs contended that it was the negligence of the complainant's parents, not the alleged improper treatment by the OPs, that caused the gangrene to develop at the first place. The complainant was discharged only after her condition was stable and advised her to return for follow-up checkups, which she did not do. Asserting no negligence on their part and claiming damage to their reputation as a result of his false accusations, the OPs prayed for the dismissal of the complaint and requested compensation of Rs. 5,00,000/- for the loss of reputation.

6. The learned District Forum vide Order dated 21.02.2000, allowed the complaint. It observed that no black thread was applied to the root of the petitioner's right thumb after the snake bite. Concluding that the gangrene was caused by the OP's negligent treatment, leading to the thumb's amputation. The District Court held the OPs liable for negligence and deficiency in service and directed the OPs to pay Rs.3,00,000/- to the Complainant as compensation along with Rs.1,000/- towards cost of litigation.

7. Being aggrieved by the District Forum's Order, the OPs filed Appeal No. 156 of 2000 and the State Commission vide Order dated 22.07.2022 dismissed the said Appeal, thereby upholding the Order of the District Forum with the following reason /findings: -

***“15. In view of the above discussion, we are of the view that the OPs have failed to prove that the black thread was tied by the parents of the child so that it led to cause***

***gangrene at the right thumb. On the other hand, complainant has proved that they are not responsible for the gangrene developed. We, therefore, agree with the finding of the learned District Forum that the black thread was not used by the parents of child to tie same which led to gangrene. This point is answered accordingly.***

***21. With due regard to the aforesaid judgment when the clear negligence of the doctor in taking care of the infection is visualised, it is not necessary to send expert opinion. On the other hand, the duty and care as expected from OPs which they proved in case of snake bite being not taken by them, we have no other option than to hold them liable for negligence in development of gangrene on the right thumb of the child Puja. Moreover, it appears from record that no committee of expert conveyed to take a decision to ampute her right thumb but it was amputated. We, therefore, concur the finding of the learned District Forum in this regard. The Point No.2 is answered accordingly.***

***29. In view of Point Nos. 1, 2 and 3 answered, we hereby concur with the finding of the learned District Forum which is passed 20 years back and hereby direct the OPs to pay compensation Rs.10.00 lacs (Ten lacks) with 9% interest per annum from the date of impugned order till the date of payment and also further award litigation cost of Rs.25,000/- payable by the OPs to the complainant. If this direction is not obeyed within two months from today then the interest would be payable at the rate of 12% per annum on all the amounts from the date of impugned order till the date of payment.”***

8. Being dissatisfied by the Order dated 22.07.2022 passed by the State Commission, the Petitioner/ OPs filed the present Revision Petition No. 1353 of 2022.

9. I have examined the pleadings and associated documents placed on record, including the Orders of both the fora and rendered thoughtful consideration to the arguments advanced by the learned counsel the petitioner and considered the contentions in the complaint and other associated pleadings of the Complainant.

10. The issue in question revolves around the allegations of medical negligence and deficiency in service by OPs who treated the Complainant for snake bite. The contention of the Complainant is that due to improper treatment and care her right thumb had developed gangrene, and as a result it had to be amputated, resulting in a permanent disability. Conversely, OPs refuted any negligence or deficiency in service in her treatment. They asserted that she had approached the Hospital in a state of respiratory paralysis and, notwithstanding the fact that she was not entitled for medical treatment in normal course from

OP Hospital, considering the nature of the casualty, she was given immediate first aid and was then shifted to the ICU where artificial ventilation and other necessary supportive treatment like administration of anti-snake venom, injection hydrocortisone, injection aminophylline were administered to her. They contested that all the procedures conducted were in accordance with accepted medical practices and protocols. However, due to cut in blood supply by a tightly tied thin thread on her thumb on noticing the snake bite at the place of incident, probably to prevent the toxic snake venom to spread, gangrene developed despite due care and caution by the OP Hospital. OPs asserted that the said thread was already tied before she approached them. Also, the decision to amputate the thumb was taken after conscious discussions by a competent team of treating doctors, for which a written consent by the father of the Complainant was also obtained.

11. The primary issue before us is whether there was negligence or deficiency in service by OPs in treating her for neurotoxic snake bite and the subsequently developed gangrene, leading to Complainant's suffering? If it is so, to what extent OPs are liable to compensate?

12. Admittedly, the Complainant approached the OPs with history of snake bite. It is also undisputed that, immediately after the snake bite incident, apparently to prevent the venom to spread within her body, a thread was fastened on her thumb. It is clear that she was administered necessary treatment and the as per the protocol for snake bite. It is, however, the grievance of the Complainant that the treatment of the OPs has led to the formation of gangrene on her right thumb which resulted in its amputation. She contended that the presence of the black thread in question was an afterthought of the OPs to evade liability as the same found no mention in the MRD Sheet. In this regard, it is the contention of the OPs that the State Commission merely relied upon the testimony of the father of the Complainant and the fact that her right thumb had already turned blue upon her arrival at the hospital because the black thread tied had stopped blood supply to the thumb was not considered. They asserted that the thread, being very thin, created significant pressure on the same spot, leading to gangrene. Whereas, in the normal course, to prevent snake venom from spreading, if at all necessary, a wide band is suggested. It was the negligence of the Complainant's parents, not the alleged improper treatment by the OPs, that caused the gangrene to develop at the first place. In any case further, no expert medical evidence was taken on record.

13. It is pertinent to note that in matters of medical negligence, the expert evidence plays a vital role in determining the negligence, if any. This was observed by Hon'ble Supreme Court in **SK Jhunjunwala v. Dhanwanti Kau & Anr.**, (2019) 2 SCC 282, decided on 01.10.2018.

14. The main contention of the Complainant is that the presence of thread being fastened on the right thumb has not been recorded in the Medical Record Department Sheet (MRD). Clearly, MRD is a systematic documentation of a patient's medical history and the treatment and care given to a patient. Its purpose is to serve as a basis for planning future patient care.

Moreover, the MRD sheet in question had a set format with questions relating to the name, age etc. of the patient and had to be answered in the manner so required. It is not the purpose of the MRD sheet to mention each and every detail. Therefore, in the absence of scope for recording extra details on such format, the Complainant's contention that the presence of thread fastened on the thumb was not recorded in MRD is untenable.

15. As regards how the Complainant sustained the ligature injury, it is undisputed that, the 'nurse chart' at the ICU which was brought on record showed that 'a ligature (thread) was cut and dressing done'. The same had also been noted in the order of the State Commission. Clearly, this thin thread that was fastened on her right thumb is not part of the treatment administered by the doctors. It existed before she was brought to the OP Hospital and was removed subsequently. That part was also dressed as there was some injury because of fastening of the thread. Therefore, it is clear that the thread was tied to the Complainant prior to the admission.

16. As regards treatment provided, it is the assertion of the OPs that every anti venom vial is provided with literature enclosed, prescribing the dosage in which is to be administered. It is no new fact that medicines are often not a 100% of a particular component but a composition of various elements in particular proportions which when taken together help cure the ailment. In treatment for snake bite cases, there are multiple options of venom veil available in different dosages. The best person to assess which medication to administer is the treating doctor. As long as the treatment method adopted and the medicine administered are as per protocol, it cannot be said that a wrong treatment was given. OPs placed medical literature on record which shows that proper medicines were administered for the treatment of snake bite. Therefore, the argument that there is negligence on the part of the OPs merely because medicine was not administered in the same doses prescribed in the medical literature put on record by the Complainant holds no ground, when an alternate and acceptable procedure had been followed with due care and caution. The medical reports brought on record and the testimonies of the doctors make it evident that there was no medical negligence or deficiency in service by OPs.

17. In **Jacob Mathew vs. State of Punjab**, (2005) 6 SCC 1, decided on 05.08.2005, Hon'ble Supreme Court while laying down the elements of medical negligence observed that:

“48. (2) Negligence in the context of medical profession necessarily calls for a treatment with a difference. To infer rashness or negligence on the part of a professional, in particular a doctor additional considerations apply. A case of occupational negligence is different from the one of professional negligence. A simple lack of care, an error of judgment or an accident, is not proof of negligence on the part of a medical

professional. So long as a doctor follows a practice acceptable to the medical profession of that day, he cannot be held liable for negligence merely because a better alternative course or method of treatment was also available or simply because a more skilled doctor would not have chosen to follow or resort to that practice or procedure which the accused followed. When it comes to the failure of taking precautions, what has to be seen is whether those precautions were taken which the ordinary experience of men has found to be sufficient; a failure to use special or extraordinary precautions which might have prevented the particular happening cannot be the standard for judging the alleged negligence. So also, the standard of care, while assessing the practice as adopted, is judged in the light of the knowledge available at the time of the incident, and not at the date of trial. Similarly, when the charge of negligence arises out of failure to use some particular equipment, the charge would fail if the equipment was not generally available at that particular time (that is, the time of the incident) at which it is suggested it should have been used.”

18. It is undisputed that on 23.05.1999 at around 6:00 PM the Complainant had suffered a bleeding injury on her right thumb caused by a snake bite and was taken to OP Hospital at Mahanadi Coalfields Ltd. She was admitted as a ‘non-entitled patient’ on a payment basis and was treated as an indoor patient in the Pediatric from 23.05.1999 to 05.06.1999. While she was treated for snake bite and she recovered, she developed gangrene on her right thumb and consequently the right thumb was amputated on 10.05.1999. It is also undisputed that her right thumb was tied with a thin black thread when the snake bite was noticed and then she was brought to the OP Hospital. The thin black thread tied had evidently interfered with the blood supply to the thumb which created significant pressure on the same spot. In the entire episode, it is clear that it is not any of the OP Doctors or staff who tied or fastened the thread on her thumb and it was existing before she brought to the Hospital. It is matter of record that the same was in fact removed and the wound which occurred due to tie of thread on her finger. It is not on record for how much time the thread remained on her thumb which had resulted in injury and formation of gangrene as it was fastened tightly towards spread of venom due to snake bite. Therefore, clearly the amputation occurred due to development of gangrene and gangrene developed due to fastening of thread to her thumb tightly.

19. Under these circumstances, and in the absence of any expert opinion that was brought on record to establish any negligence, the OP hospital cannot be held responsible for any medical negligence. The hospital provided necessary medical attention and administered treatment. The thread was removed at the OP Hospital and the injury was also treated. The negligence in tying a thin thread tightly was on the part of the parents of the Complainant and the gangrene so developed was unrelated to the treatment by OPs.

20. Based on the discussion above, clearly no negligence on part of OPs is established. Therefore, the orders of the learned State Commission dated 22.07.2022 and the learned District Forum dated 21.02.2000 are not based on due appreciation of facts and circumstances of the case and, therefore, set aside. The Revision Petition No. 1353 of 2022 is allowed.

21. There shall be no orders as to costs. All pending Applications, if any, also stands disposed of accordingly.

.....  
**AVM J. RAJENDRA, AVSM VSM (Retd.)**  
**PRESIDING MEMBER**