

**NATIONAL CONSUMER DISPUTES REDRESSAL COMMISSION
NEW DELHI**

FIRST APPEAL NO. 612 OF 2012

(Against the Order dated 23/07/2012 in Complaint No. 166/2003 of the State Commission Delhi)

1. MEDICAL SUPERINTENDENT, MATA CHANAN DEVI
HOSPITAL
C-1, JANAKPURI,
NEW DELHI

.....Appellant(s)

Versus

1. SUNITA SAXENA & ANR.
W/O. SH. V.K. SAXENA, R/O. EA-424, SFS APARTMENTS,
MAYA ENCLAVE,
NEW DELHI-110064

.....Respondent(s)

FIRST APPEAL NO. 268 OF 2013

(Against the Order dated 23/07/2012 in Complaint No. 166/2003 of the State Commission Delhi)

1. SUNITA SAXENA
W/O. SH. V.K. SAXENA, R/O. EA-390, SFS APARTMENTS,
MAYA ENCLAVE,
NEW DELHI-110064

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.....Appellant(s)

Versus

1. MEDICAL SUPERINTENDENT, MATA CHANAN DEVI
HOSPITAL & ANR.
C-1, JANAKPURI,
NEW DELHI

2. ORIENTAL INSURANCE COMPANY LTD.
8TH FLOOR, SHAHPUR TOWER-C-58, COMMUNITY
CENTRE, JANAKPURI,
NEW DELHI

.....Respondent(s)

BEFORE:

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

For the Appellant :

For the Respondent :

Dated : 10 Feb 2023

ORDER

Appeared at the time of arguments:

For Medical Suptd.,

Mata Chanan Devi Hospital : Mr. S. C. Buttan, Advocate

For Sunita Saxena : Mr. Aditya Goel, Advocate

Pronounced on: 10th February 2023

ORDER

1. Brief facts to dispose both the appeals are that, on 28.03.2001 the Complainant Sunita Saxena (for short the 'Patient'), suffered vomiting and general malaise. She was first taken to DDU Hospital and thereafter, on next day, admitted in Mata Chanan Devi Hospital. Dr. Dharmesh Jain examined her in the emergency ward. It was alleged that the Complainant informed Dr. Jain about her diabetic status since 4 to 5 years, but he advised to put the patient on glucose drip instead of saline. Her condition further deteriorated, she became restless and was feeling breathless. On enquiry why the glucose was given though patient was diabetic, the doctor kept silence. At 1.00 pm, the blood glucose level shoot up to 465 mg%, and patient became pale. The OP did not make any attempt to reduce the blood sugar. The family members were not allowed to meet the patient. After 1 hour, at about 2.00 pm, the patient was shifted to ICCU. At 3.00 pm, X-ray chest was taken, it showed features of broncho-pneumonia. The patient suffered respiratory arrest at 5.00 pm, she was intubated and put on ventilator. It was alleged that the ventilator was old and noisy. The SpO2 was 70 to 80 %. Dr. Sudhir Chhabra visited the patient in ICU, and advised Dr. Jain to tie both the hands of the patient with the bandage to the fence of the bed to avoid pulling of urinary tube. It was alleged that the hands of the patient were tied to the bed from 2.00 pm till next early morning, which led to swelling and impaired circulation in hands. It resulted in to gangrene of the left hand. She further alleged that only fingertip of her left hand was visible from the bandage, which had turned bluish purple. The fingers became stiff and having no life. The doctors delayed to examine her cyanosed left hand. The patient became very weak, drowsy and semi-conscious. Dr. Chhabra told the patient's husband that no super specialists are available in their hospital, nor anyone from outside is ready to examine the patient. Consequently, the doctors from CTVS were called at 9.00am and discussed the case. As there was no sign of improvement and the patient was shifted to Apollo Hospital at 2.00 pm on 30.03.2001. At Apollo Hospital, it was mentioned in the clinical notes that there was gangrene of the left hand up to left wrist possibly as a result of long term compression of blood flow, because of venous edema. On 07.04.2001, the patient was shifted from ICCU to private ward. Dr. Chacko, the Senior Vascular Surgeon at Apollo Hospital advised her for 10 days treatment of gangrene by hyperbaric oxygen therapy, which was very expensive. Finally, amputation of the fingers of the left hand was done. Being aggrieved by the medical negligence of the doctors at OP hospital, the Complaint was filed before the State Commission, Delhi.

2. The OP hospital and Insurance Co. filed their respective written versions. The hospital denied negligence during treatment of the patient. It was submitted that the patient came to the hospital in very critical stage and stayed in the hospital for less than 24 hours, without giving reasonable time for the treatment. However, she stayed in Apollo Hospital for 2 weeks and amputation was done after 20 days of her leaving the OP hospital.

3. The State Commission allowed the Complaint with the direction to the OP to pay Rs. 10 lakh as compensation alongwith interest @ 9% p.a. In addition, the State Commission has sent a copy of the Order to the Medical Council of India to initiate proper action against Dr. D. Jain and Dr. Sudhir Chhabra.

4. Being aggrieved by the impugned order of the State Commission, the OP filed the First Appeal No. 612/2012 for setting aside the Order of the State Commission and the Complainant filed the First Appeal No. 268/2013 for enhancement of compensation to Rs. 50 lakh.

5. Heard the learned Counsel for both the sides. Perused the material on record.

6. From the medical record, it is evident that after admission to OP hospital, the patient was administered 3 bottles of Normal Saline (NS) and 5% dextrose with 10 units of Plain Insulin in each and even the Ringer Lactate was given with 8 units of plain insulin. Further injection Human Actrafed was suggested 2 hourly to bring blood sugar around 200 mg and hourly blood sugar was monitored. On 29.03.2001 at about 5 PM the patient had sudden respiratory arrest and was given artificial respiration with Ambu bag and put on ventilator. The patient was examined by chest specialist and found to be suffering from bilateral

bronchopneumonia leading to Sepsis, her condition was critical. It is further to note that three senior doctors examined the patient. The patient was on Central line and there was no evidence of administration of IV fluids through veins in hands. On 30.3.2001, the doctor on duty noticed the cyanosis of the left hand at 9 a.m. and immediately, the Cardio Thoracic Vascular Surgeon (CTVS) was summoned. The case was discussed with Surgeon / CTVS and she was put on injection Lomodox and Fragmin. However, before the CTVS could examine her, the patient's husband lost confidence on OP hospital and took her to Apollo Hospital. The patient left against medical advice (LAMA) and admitted in Apollo Hospital. Thus, the patient stayed in OP hospital for just 24 hours without giving sufficient time for treatment.

7. At the time of admission, the patient was found to have gangrene of left hand up to wrist joint, possibly as a result of long term compression of blood flow because of venous edema. The patient was treated in Apollo Hospital from 30.03.2001 to 14.04.2001. Initially she was in the ICCU and thereafter, from 07.04.2001, she was shifted to private ward. For ten days, Dr. Chacko, the Senior Vascular Surgeon advised Hyperbaric therapy in view of reactivated the dead fingers. This facility was available only at Apollo Hospital. The patient was discharged from the Apollo Hospital on 14.04.2001 with the advice to continue the care under vascular and plastic surgeon. Thereafter, she consulted Dr. V. K. Tiwari, the Senior Plastic Surgeon at Safdarjung Hospital and got admitted on 19.04.2001 for the first plastic surgery of her left hand. The doctors tried their level best to save the fingers of the left hand, but due to serious danger to the life of the patient, amputation was carried out by Dr. Tiwari on 24.04.2001. She underwent subsequent surgeries and other treatments between July, 2001 to December, 2002 at Safdarjung Hospital under the instructions of Dr. V. K. Tiwari. The disability certificate issued by Safdarjung Hospital was permanent disability at 55%. Dr. Tiwari also suggested for the live hand transplant in USA, which appeared to be highly expensive.

8. Adverting to the issue of development of gangrene of fingers of left hand in the instant case, it is pertinent to note that the Complainant's husband Mr. Vinod Kumar, in his affidavit of evidence, stated that at the time of discharge, Dr. Sudhir Chhabra at OP hospital did not disclose that the patient was suffering from gangrene because of wrong instructions i.e. tying of hand. Even the Medical Superintendent Dr. Kochhar was also reluctant to allow the patient to go to Apollo Hospital as it would have exposed their wrong treatment and gross negligence. This evidence was not rebutted by the OP hospital.

9. Moreover, it is an admitted fact that the Complainant took LAMA discharge and admitted his wife in Apollo Hospital. The doctors of OP have not issued discharge summary, which is a deficiency on the part of the OP Hospital. The OP Hospital did not issue the discharge certificate at the time of referring to the Apollo Hospital.

10. I have carefully perused the discharge summary of the Apollo Hospital, New Delhi. One of the diagnoses made was "ischemic necrosis – left hand". She was admitted in ICU. During hospitalisation, she was examined by respiratory consultant, endocrinologist and vascular surgeon. It was also recorded that:

"she on admission was also found to have gangrene of left hand possibly as a result of long term compression of blood flow because of venous edema"

On bare reading of the findings of Apollo Hospital, the inference can be drawn that the gangrene was developed due to tight tying of the hands gangrene in whole night on 29.04.2001. It went unnoticed and unmonitored throughout the night by the ICU staff, it amounts to failure of duty of care. The higher duty of care was expected from the ICU staff as such the instant patient was critical.

11. Considering the entirety of the case, the patient was a known case of diabetes mellitus (NIDDM) and was admitted in OP hospital on 29.03.2001 and got discharged LAMA on the next day. She stayed there for 24 hours only. During that period, her condition was critical due to highly diabetic status. I don't accept the contention of the Complainant that the doctors have not taken steps to reduce the blood sugar of the patient is not acceptable. From the medical record, it is evident that proper doses of insulin were given and the doctors efficiently managed the critical condition of the patient. However, she developed gangrene of fingers in left hand during her ICU stay. The possibility of such gangrene was due to compromised state of the patient (diabetic, ketones and generalized infection - septicemia). But the evidence of patient's husband about tying the hands cannot be brushed aside. It was the onus upon the OP to explain the cause of gangrene, but failed to prove.

12. Based on the discussion above, I find there was failure of duty of care from the ICU staff in the OP hospital. The Order of the State Commission is reasoned and awarded just and adequate compensation to the Complainant. I do not find any reason to enhance the compensation.

Both the Appeals, being devoid of merit, are dismissed. The Parties to bear their own costs.

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DR. S.M. KANTIKAR
PRESIDING MEMBER