

**NATIONAL CONSUMER DISPUTES REDRESSAL COMMISSION  
NEW DELHI**

**REVISION PETITION NO. 857 OF 2022**

(Against the Order dated 07/04/2022 in Appeal No. 1242/2012 of the State Commission Uttar Pradesh)

1. SUSHIL KUMAR & 3 ORS. ....Petitioner(s)

Versus

1. DR. D.P. GUPTA .....Respondent(s)

**BEFORE:**

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

**For the Petitioner :**

**For the Respondent :**

**Dated : 23 Jan 2023**

**ORDER**

*Appeared at the time of arguments:*

For Petitioners : Ms. Vandana Kr., Advocate

with Petitioner No. 1

**Pronounced on: 23<sup>rd</sup> January 2023**

**ORDER**

1. This Revision Petition has been filed against the Order dated 07.04.2022 passed by U.P. State Consumer Disputes Redressal Commission (in short, the 'State Commission') in First Appeal No. 1242/2012, whereby the Appeal filed by the Petitioner – Complainant was dismissed, while affirming the order passed by the District Consumer Disputes Redressal Forum, Muzaffarnagar (in short, the 'District Forum').

2. The Case of the Complainant is that on 22.10.1998, he took his father Virendra Singh (since deceased, hereinafter to be referred as, the 'patient') to Dr. D.P. Gupta (OP) for respiratory problems. It was diagnosed as pleural effusion of left lung and he was admitted in OP's nursing home. The effusion fluid was removed and he was discharged on 23.10.1998. It was alleged that due to consumption of medicines prescribed by OP, the patient lost his appetite and developed jaundice. The patient visited the OP repeatedly, but he ignored the patient. And again on 27.11.1998, the OP himself admitted the mistake and did not stop anti tubercular treatment (ATT). For jaundice, he referred the patient immediately to RML Hospital, New Delhi. Thereafter, he got admitted in Safdarjung Hospital, New Delhi and diagnosed as Drug induced hepatitis. The patient was in the Safdarjung Hospital till 03.12.1998. He developed kidney problems (loss of urine) and dry gangrene of both foot. Therefore, for dialysis, he was shifted to Batra Hospital. Unfortunately, the patient died on 04.01.1999. Being aggrieved by the negligent treatment causing death of the patient, the Complainant filed the Complaint before the District Forum to claim Rs. 4,40,000/-.

3. The OP filed written version and submitted that he diagnosed the case as tubercular pleural effusion and started the best available treatment for TB. He further submitted that in the Safdarjung Hospital, the same diagnosis was made and the same medicines were given. Thereafter, it was diagnosed as drug induced hepatitis.

4. The District Forum, allowed the Complaint and directed the OP to pay compensation of Rs. 50,000/- and Rs. 5,000/- for mental agony with cost of litigation amounting to Rs. 2,500/-.
5. Being aggrieved, the Complainant filed the First Appeal before the State Commission for the enhancement of compensation. The Appeal was dismissed with the following observation:

“The appellant reiterated that the amount of compensation in passing judgement should be having enough ground to increased and must be grant the compensation, as prayed in the plaint.

No doctor does negligence knowingly and nor his objective are that he will give wrong treatment. Hon'ble District forum found Doctor guilty and by self-discretion compensation has also been appliued. In such situation we came to the conclusion that there is no need to interfere in the decision and order taken by the Hon'ble District Forum regarding the question and the order is reasonable and lawful. The appeal deserves to be rejected.”
6. Being aggrieved, the Complainant filed the instant Revision Petition.
7. Heard the learned Counsel for the Petitioner at admission stage. Perused the entire material on record. On careful perusal of the medical record of RML Hospital, Safdarjung Hospital, Batra Hospital and the prescriptions of Dr. D.P. Gupta (OP), it is evident that the patient was properly investigated by OP and thereafter, he started ATT for tuberculosis. The patient took ATT for one month and he was under regular follow-up of the OP. As the patient developed jaundice, due to drug induced hepatitis, on 21.11.1998, the OP referred him to RML Hospital. From there, the patient went to Safdarjung Hospital for further treatment, wherein he was investigated. The X-ray revealed pulmonary Koch's and the ATT was continued. The patient further developed Anuria (renal problems) and dry gangrene of right foot. The surgical opinion was also taken.
8. In the instant case, the diagnosis and ATT treatment was necessary. The OP treated the patient with appropriate ATT regime. I find it as reasonable standard of care. From the standard textbook on medicine (Harrison's Internal Medicine), it is known complication that ATT drugs cause hepatotoxicity, and it is reversible. In the instant case, as the patient developed jaundice, he was immediately referred to higher centres for further management. In my view, the renal problem and gangrene of foot, both are not related or resulted due to ATT treatment. Therefore, the death of the patient shall not be attributed to the ATT treatment advised by the OP. However, the State Commission awarded just and proper compensation, considering the peculiar facts and the known complication of ATT. The same is affirmed.
9. Based on the discussion above, there is no merit in the instant Revision Petition, same is dismissed in limine

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