

**DISTRICT CONSUMER DISPUTE REDRESSAL COMMISSION  
KOLKATA UNIT-III(South), West Bengal  
18, Judges Court Road, Kolkata 700027**

**Complaint Case No. CC/539/2018  
( Date of Filing : 05 Sep 2018 )**

1. M Madhumita Saha

D/o Lt Sudha Saha, 10A, 5th Street, Ground Floor  
Morden Park, Santoshpore, P.s.-Survey Park,  
Kol-700075.

.....Complainant(s)

Versus

1. AMRI Hospital

230, Barrakhhola Lane E.M By Pass, Kolkata-700099,  
P.s.-Purba Jadavpore.

.....Opp.Party(s)

**BEFORE:**

**HON'BLE MRS. Sashi Kala Basu PRESIDENT  
HON'BLE MR. Ayan Sinha MEMBER**

**PRESENT:**

**Dated : 28 Jan 2021**

**Final Order / Judgement**

Date of filing : 5.9.2018

Date of Judgment : Dt.28.1.2021

**Mrs. Sashi Kala Basu, Hon'ble President**

This complainant is filed by the Complainant, namely M. Madhumita Saha under Section 12 of Consumer Protection Act, 1986 against the opposite party (referred as OP hereinafter) namely AMRI Hospital alleging deficiency in service on the part of the OP.

Case of the complainant in short is that her mother was hospitalized in the OP/Hospital for the period from 25.03.2016 to 06.10.2016 for six times. During these period of her treatment, OP charged medical bill regarding oxygen charges as well as equipment charges amounting to Rs.10,860/- which is illegal. As per NABH Guidelines infrastructure of I.C.U. includes supply of oxygen and as such question of billing separately for oxygen does not arise. Complainant was subjected to pay inflated medical bill by adopting unfair trade practice. Thus, the present complaint is filed by the Complainant praying for directing OP to pay compensation of Rs.1,20,000/- towards refund of excess amount of Rs.10,860/- and towards damages for unfair trade practice.

Complainant has filed the draft by constituted committee dt.24.5.2012 regarding minimum standards for ICU throughout the country, and has also filed the medical bills.

Opposite party has contested the case by filing written version contending inter-alia that 'Pricing' of ICCU charges cannot be adjudicated under the provision of Consumer Protection Act. OP treats its patient following the guidelines issued under clinical establishment. The oxygen equipment charges etc. shown separately in the bill had obviously total of all items together which amounts to ICCU charges and so same is not illegal. Thus OP has prayed for dismissal of the case.

During the course of trial, Complainant by filing a petition submitted to treat the Complaint as evidence or affidavit-in-chief which was considered and allowed. Thereafter, OP filed the questionnaire and reply was filed by the Complainant. OP then filed affidavit-in-chief followed by filing of questionnaire and reply thereto.

Thereafter, both parties filed brief notes of arguments.

So, following points require to be determined:-

- i) Whether the Complainant is a consumer and the Complaint is maintainable in its present form?
- ii) Whether there has been deficiency in service and unfair trade practice on the part of the OP?
- iii) Whether the Complainant is entitled to the relief as prayed for?

#### Decision with reasons

##### Point No.1

OP has contended that the dispute in this case is relating to 'pricing' which is not covered under the Provision of the Consumer Protection Act. But, on a careful scrutiny of the complaint and the documents, it appears that the Complainant's mother (since deceased) was admitted in OP Hospital and was treated in the ICU. Complainant's specific claim is that during her treatment OP has charged oxygen and equipment charges which is illegal as per NABH guideline. So, according to Complainant, OP by charging for the equipment charges for oxygen has played unfair trade practice. From the specific claim of the Complainant, it is evident that the dispute is relating to medical service provided by the OP and thereby charging the medical fee illegally during the period of her mother's treatment. So, the dispute is not of 'pricing' only as contended by the OP but of illegally charging for the medical service provided to the mother of the Complainant. Thus Complainant being a 'Consumer' under the Provision of Consumer Protection Act, this point is answered in affirmative.

##### Point No.2 & 3

Both these points are taken up together for discussion for the sake of convenience and in order to avoid repetition. On perusal of the medical bills filed by the Complainant, it is apparent that an amount of Rs.10,860/- has been charged by the OP towards equipment for oxygen on different dates during the treatment of patient Sudha Saha i.e. the mother of the Complainant during the period from 15.09.2016 to 06.10.2016. Complainant's case is that OP has charged it

illegally as per NABH guidelines. The purpose of NABH was to design and monitor health care standards for hospitals and health care. Complainant has filed the said guidelines but OP has not filed any document to substantiate that it was well within medical guidelines to charge for equipment for oxygen. Not a single document has been filed by the OP in this regard. On the contrary, OP has restricted its case on the point that Complainant has not filed her affidavit-in-chief and so pleadings without any evidence has no value. But, it may be pointed out that the proceeding under the provision of Consumer Protection Act is a summary proceeding and its object is to provide speedy remedy to the consumers.

As already highlighted above, Complainant by filing a petition prayed for treating the complaint as her affidavit-in-chief which appears to avoid delay and the same was allowed. On the basis of said prayer of the Complainant, OP filed its questionnaire which was replied by Complainant. So, by filing the questionnaire, OP also accepted the complaint filed by the Complainant as her evidence or her affidavit-in-chief. So, the contention of OP that Complainant has not filed affidavit-in-chief and thus her case fails, cannot be accepted. It will not be out of place to mention here that the main aim and objective of the Consumer Protection Act is to provide a speedy and simple redressal to consumers' grievance and not to deny the relief on a mere technical ground.

Thus, in view of the discussion as highlighted above, in the absence of any document by the OP that it charged for equipment for oxygen as per medical guidelines, Complainant is entitled to return of the sum of Rs.10,860/- along with compensation for mental agony and harassment . An amount of Rs.12,000/- as compensation and litigation cost of Rs.5,000/- will be justified. But as the Complainant has been provided the legal aid, OP shall have to deposit Rs.5,000/- with the legal aid bank account of this Commission.

Hence

**ordered**

CC/539/2018 is allowed on contest. OP is directed to pay back Rs.10,860/- to the Complainant and to pay compensation of Rs.12,000/- within sixty days from this date failing which the entire amount shall carry interest @ 9% p.a. till realisaion. OP is further directed to deposit Rs.5,000/- in the legal aid account of this Commission towards litigation cost within the aforesaid period of sixty days.

**[HON'BLE MRS. Sashi Kala Basu]  
PRESIDENT**

**[HON'BLE MR. Ayan Sinha]  
MEMBER**