

**District Consumer Disputes Redressal Forum, Patiala
Patiala**

**Complaint Case No. CC/14/162
(Date of Filing : 27 Jun 2014)**

1. Surinder Singh aged 40 years s/o Chammar Singh
r/o vill Salewal ps patran

patiala

pb

2. 2.Mandip Kaur aged about
19 years d/o surinder singh

3. 3Kamalprit Kaur aged 19 d/o Surinder Singh
salewala

patiala

pb

4. 4.Jatinder Singh aged about 17 s/o
Surinder Singh minor through his father and natural
guardian surinder Singh all r/o vill Salewal ps patran

patiala

pb

5. Dr. Ram bilas Gupta
s/o Gauri Ram Gupta r/o 1226 phase 11 urban Estate

patiala

patiala

pb

.....Complainant(s)

Versus

1. Jagdish Rai Multi Speciality hospital
hospital Jakhal road patran through its director Tarun
Sharma

patiala

pb

2. Dr. Tarun Sharma director Jagdish Rai Mutli speciality
hospital jakhal road patran

patiala

pb

3. 4. Kulvir Singh s/o Gurbachan Singh
vill Hansadur

jind

haryana

4. Dr.Bhagwan singh s/o Lekha singh

r/o vill Makorad Sahib

sangrur

pb

5. 6 Reshma rani d/o Harilpal

r/o back side bus Stand Juntara road patran

patiala

pb

6. 7 Kujljit Kaur Dhaliwal w/o rajinder Singh

r/o Gali No.3 sagar Basti Patran

patiala

pb

.....Opp.Party(s)

BEFORE:

HON'BLE MR. J. S. Bhinder PRESIDENT

Y S Matta MEMBER

PRESENT:

Dated : 05 Jan 2021

Final Order / Judgement

DISTRICT CONSUMER DISPUTES REDRESSAL COMMISSION

PATIALA.

Consumer Complaint No. 162 of 27.6.2014

Decided on: **5.1.2021**

1. Surinder Singh aged about 40 years s/o Chammar Singh
2. Mandip Kaur aged about 19 years d/o Surinder Singh
3. Kamalprit Kaur aged about 19 years d/o Surinder Singh
4. Jatinder Singh aged about 17 years s/o Surinder Singh minor through his father and natural guardian Surinder Singh

All residents of village Salewal P.S.Patran District Patiala.

.....Complainants

Versus

1. Jagdish Rai Multi Specialty Hospital Jakhal Road, Patran, District Patiala through its Director Tarun Sharma.
2. Dr.Tarun Sharma, Director Jagdish Rai Multi Specialty Hospital, Jakhal Road, Patran District Patiala
3. Dr. Ram Bilas Gupta S/o Gauri Ram Gupta R/o H.No.1226, Phase II Urban Estate, Patiala through its legal heirs/representatives
 - i. Rukmani Gupta W/o Dr.Ram Bilas Gupta
 - ii. Neeraj Gupta S/o Dr.Ram Bilas Gupta both R/o H.No.1226, Phase II Urban Estate, Patiala
1. Kulvir Singh s/o Gurbachan Singh R/o Village Hansadur District Jind.
2. Dr.Bhagwan Singh s/o Lekha Singh R/o village Makorad Sahib, District Sangrur.
3. Reshma Rani D/o Haripal r/o Backside Bus stand ,Juntara Road, Patran District Patiala.
4. Kuljit Kaur Dhariwal w/o Rajinder Singh R/o Gali no.3, Sagar Basti, Patran.

.....Opposite Parties

Complaint under Section 12 of the
Consumer Protection Act, 1986.

QUORUM

Sh. Jasjit Singh Bhinder, President

Sh.Y.S.Matta, Member

ARGUED BY

Sh.Vinay Sood, counsel for complainants.

OPs No.1 to 3Ex-parte

Sh.A.S.Chehal,counsel for OPs No.4to7.

ORDER

JASJIT SINGH BHINDER, PRESIDENT

1. This is the complaint filed by Surinder Singh and others (hereinafter referred to as the complainants) against Jagdish Rai Multi Specialty Hospital and others (hereinafter referred to as the OP/s) under the Consumer Protection Act,1986(hereinafter referred to as the Act)

2. Briefly facts of the case are that on 27.6.2012 Balwinder Kaur, wife of complainant No.1 was suffering from some health problems as the blood was coming out from the uterus and she was taken to Dr.Bhagwan Singh RMP, (OP No.5) at village Khanewal who advised to get the ultra sound done from Mohit CT Scan and Diagnostic Centre Tohana where Dr.Mohit Gupta after conducting the ultrasound told the complainant that there is cyst in the uterus and can be removed by operating the same on Friday and prescribed some medicines to Balwinder Kaur.
3. It is averred that Dr.Bhagwan Singh told the complainant that the surgery can be performed at Jagdish Rai Multi Specialty Hospital, Patran.Trusted upon OP No.5 complainant took his wife to the aforesaid hospital where Dr.Bhagwan Singh met Dr.R.B.Gupta (OP No.3).Complainant handed over all the documents and reports to OP No.3 who after going through the reports asked the complainant that he will conduct the operation of Balwinder Kaur now and also asked the complainant to deposit the amount of Rs.15,000/-.After deposit of the amount, OP No.3 prepared the file of Balwinder Kaur and alongwith OPs No.5 to7 took Balwinder Kaur to operation theatre and after passing of 3 ½ hours came out from the operation theatre and told that operation is successful. The nurses brought Balwinder Kaur from operation theatre in the wardroom but the complainant noticed that thereafter health of Balwinder Kaur started deteriorating and froth was coming out from the mouth and her body started swelling. When the complainant told the nurses about the same they administered some injections to Balwinder Kaur but inspite of administering injections, health of Balwinder Kaur further deteriorated. At this complainant asked OP No.3 that if he has no proper arrangement of treatment then he can shift Balwinder Kaur to some other hospital but OP No.3 shouted at complainant. After some time, OP No.3 told that now the condition of Balwinder Kaur is stable and complainant can meet his wife but when he went to meet his wife then Balwinder Kaur was not responding. Complainant asked the nurses who told that they had given an injection to Balwinder Kaur due to which she is in asleep.
4. It is averred that when after passing of 3-4 hours Balwinder Kaur did not give any response, he asked OP No.5 but after seeing critical condition of Balwinder Kaur, OPs ran away one by one from the hospital. Complainant at about 2 a.m. checked the body of Balwinder Kaur and observed that her heart beat was stopped and her body was also not responding she being died due to wrong performing of operation and negligence of OPs.
5. It is averred that complainant got registered FIR No.146 dated 30.6.2012 u/s 304 IPC in P.S.Patran against all the OPs No.3to7.Challan was also presented against the OPs No.3to7in the court of Ld.Addl. Sessions Judge, Patiala.
6. It is further averred that during investigation by the police, OP No.3 did not provide treatment file of Balwinder Kaur to the complainant or to the police and it was held by the Deputy Supdt. of Police that OP No.3 has stolen the treatment file of Balwinder Kaur and other material of the hospital.
7. It is further averred that postmortem on the dead body of Balwinder Kaur was conducted by medical board constituted by medical officer Civil Hospital, Samana consisting of Dr.Mandeep Batish, Dr.Paramjit Singh Kahlon and Dr.Deepika Bansal on 30.6.2012 who opined that “ the death in this case was due to hemorrhage shock due to excessive bleeding in the abdominal cavity in the pelvic region”, which clearly proves that the OPs failed to take the post operative care of Balwindeer Kaur and could not control the bleeding which ultimately lead to her death.
8. It is further averred that in the trial of the case U/s 304 IPC before the Court of Ld.Addl.Sessions Judge, Patiala, OPs No.2to7 have never denied that the deceased was not treated by them in the hospital of OP No.1.
9. It is further averred that Balwinder Kaur was hale and hearty and was looking after his family. Now there is no one to lookafter the children and whole of the family of the

complainant has been ruined and the future had become dark.

There is deficiency in service and negligence on the part of the OPs, which caused mental harassment and agony to the complainants.

10. On this back ground of the facts, the complainants have filed this complaint with the prayer to accept the same by giving direction to the OPs to pay compensation of Rs.19,50,000/- alongwith interest @18% per annum till realization and Rs.35000/- as litigation expenses alongwith any other relief which this Forum may deem fit.
11. Notice of the complaint was duly given to the OPs. OPs No.4to7 appeared through their counsel and contested the complaint by filing written reply whereas notice of OPs No. 1&2 received back with the report unclaimed and OP No.3 has been received back with the report House locked for many months. Hence notice to OPs No.1to3 was given through publication but even then OPs No.1to3 failed to come present and were accordingly proceeded against exparte vide order dated 19.7.2016.
12. In the written reply filed by OPs No.4to7 it is pleaded that the complainant be put to strict proof regarding the allegations made in the complaint. It is further pleaded that false case has been got registered by the police of P.S.Patran against OPs No.2to7. It is also submitted that a false challan was presented against the OP in which the OP has been acquitted by the court of Ms.Jatinder Kaur, Ld.Addl. Sessions Judge, Patiala.It is also pleaded that OPs No.4to7 have been wrongly involved in the above noted case as they have no connection with the alleged treatment of deceased Balwinder Kaur.The OPs after denying all other averments of the made in the complaint have prayed for dismissal of the complaint.
13. In evidence, the ld. counsel for the complainant has tendered Ex.CA affidavit of Surinder Singh alongwith documents Exs.C1 to C13 and closed the evidence.
14. However the OPs after having availed of ample opportunities failed to lead any evidence and the evidence of OPs was closed by order vide order dated 4.10.2018.
15. We have heard the ld. counsel for the parties and have also gone through the record of the case, carefully.
16. The ld. counsel for the complainant has argued that it is proved on the file that deceased Balwinder Kaur had died due to medical negligence by the hospital and the doctor, who has since died. The ld. counsel further argued that medical record was stolen by Dr.R.B.Gupta from the hospital and was not produced. The ld. counsel further argued that the postmortem was conducted by the team of doctors i.e.Ex.C5 and it was held that the cause of death was hemorrhage shock due to excessive bleeding in the abdominal cavity in the pelvic region. The ld. counsel further argued that FIR under section 304 IPC was registered against the doctors. The ld. counsel further argued that even the medical record is not produced but from the postmortem report it is clear that Balwinder Kaur had died due to negligence of the doctors and the hospital. The ld. counsel further argued that enquiry was conducted by DSP Patran. Same is Ex.C4. In the enquiry it was held that Dr.Ram Bilas Gupta has stolen the file of deceased Balwinder Kaur from the hospital. The ld. counsel further argued that from the postmortem report medical negligence is clearly established and he has relied upon the judgment passed by the Hon'ble National Consumer Disputes Redressal Commission, New Delhi in the case titled as Sun Flag Hospital Research Centre & Others Vs.Shri Raghubir Singh Poswal 2013(4)CLT 118.
17. On the other hand, the ld. counsel for OPs No.4to7 has argued that the OPs have no concern with the case and if there is any medical negligence that is on the part of the hospital and the doctors. So the complaint be dismissed qua OPs No.4 to 7.
18. To prove this case Surinder Singh, husband of Balwinder Kaur has tendered his affidavit and he deposed in detail about the medical negligence of the hospital and the doctors and he demanded Rs.19,85,000/-alongwith interest. He has proved Ex.C1 report of Mohit CT Scan and Diagnostic Centre,Ex.C2 is FIR No.146 dated 30.6.2012 at P.S.Patran against Jagdish

Rai Multispecialty Hospital, Patran, Ex.C3 is copy of challan, Ex.C4 is enquiry conducted by P.S.Patran, Ex.C5 is postmortem report, Ex.C6 prescription slip of Rajasthan medical Center, Ex.C7 is prescription of Rajasthan Medical Centre, Tohana, Ex.C8 is copy of name plate of Jagdish Rai Multispecialty Hospital, Jakhal Road, Patran, Ex.C9 copy of application for conducting enquiry against the negligent doctors, Ex.C10 report of D.S.P., Ex.C11 copy of letter by Civil Surgeon, Patiala to Police Officer, Patran regarding the fact that he has not got any medical record of Balwinder Kaur and the same was stolen, Ex.C12 is report of police, Ex.C13 is report.

19. No evidence is lead by OPs No.4to7 and in the reply the OPs denied everything.
20. There is no medical record of deceased Balwinder Kaur regarding surgery produced by the OPs. As stated above enquiry was conducted by DSP, Patran, which is Ex.C4 and in the enquiry it is stated that doctor incharge of the hospital has stated that the hospital record was stolen by Dr.R.B.Gupta and most important document is postmortem, Ex.C5 of deceased Balwinder Kaur. The board of panel of doctors was constituted consisting of Dr.Mandeep Kumar Batish, Dr.Paramjeet Singh Kahlon and Dr.Deepika Bansal and postmortem was conducted, “ as per the postmortem report the cause of death of this case in their opinion is hemorrhage shock due to excessive bleeding in the abdominal cavity in the pelvic region”. So the postmortem report itself shows that the deceased had died on the same date of surgery due to hemorrhage shock and due to excessive bleeding. So it is clear that there was negligence on the part of the hospital as well as the doctors and in the present case Dr.R.B.Gupta who has since died.
21. In the present case, no doubt there is no expert opinion produced by the complainant before this Commission to establish negligence on the part of the OPs. However, it is not disputed that the patient had died on the same date when she was operated upon. Such a sudden death of the patient within 24 hours of admission and operation in the hospital itself raises suspicion about the line of treatment adopted by the doctors and the hospital while treating the patient. This also raises a question, if the condition of the patient was really so serious as was likely to result into her death so soon-was the hospital of the OPs well equipped to deal with such an emergency? The question would arise as to whether the doctor and the hospital briefed the complainant about the condition of the patient and to refer her to a better equipped hospital.
22. Now it is pleaded by the complainants that wrong treatment was given to Balwinder Kaur which was against the medical standards otherwise there is no question of instant death just after surgery. On account of death of Balwinder Kaur just after surgery an inference is reached that some wrong treatment against medical line was given by the doctors which resulted into her instant death and we have to see whether some medical negligence was committed in this case or not.
23. As already discussed above the medial negligence is proved beyond reasonable doubt from the report of postmortem as stated above and from the fact that Balwinder Kaur was operated upon due to cyst in the uterus and died on the same date due to excessive bleeding which shows negligence on the part of the hospital and the doctor in conducting the treatment. If the hospital was in the knowledge that condition of the patient was so serious then they should have referred her to a well equipped hospital rather than to cause her death by instant surgery. It has been held by the Hon’ble National Commission in the case titled as Sun Flag Hospital Research Centre & Others Vs. Shri Raghbir Singh Poswal (supra) that
 - i. “Sudden death of the patient within 24 hours of his admission into the hospital by itself raise suspicion about the line of treatment adopted by the doctor. This also raises a question, if the condition of the patient was really so serious as was likely to result into his death so

soon-Was the hospital of the petitioners well-equipped to deal with the such an emergency?.Whether the doctor briefed the family members of patient about the condition of the patient and to refer him to a better equipped hospital?

- ii. Expert opinion is not necessary in all cases where the negligence and deficiency in service of the treating doctor is established from the facts and circumstances of the case-Treating doctor can be involved in a criminal offence of medical negligence when there is some evidence of higher degree-But the civil liability of the treating doctor for the wrong treatment given to a patient can be fastened on the basis of the facts and circumstances of the case.
- iii. Whether burden to disprove allegations of medical negligence is upon the doctor by producing the treatment record? Yest-Treatment record not produced by doctor-The least that can be expected of the doctor was to produce the treatment record of the deceased child so as to enable the Foras below to conclude if the petitioners had taken a reasonable care of the deceased patient or they were negligent in their duty to treat the child-Doctor failed to produce the treatment chart of the deceased patient in their evidence-Negligence can be presumed.”

So the citation of the Hon’ble National Commission, New Delhi is fully applicable to the facts of the present case.

1. So taking into consideration all the facts and circumstances of the case and the negligence of the hospital and the fact that Dr.R.B.Gupta had died, so owner of the hospital of OPs No.1&2 are liable to pay compensation to the complainants .
2. So due to our above discussion and taking into consideration the entire facts and circumstances of the case, the complaint stands partly allowed and OPs No.1&2 are directed to pay Rs.4,00,000/-alongwith interest @ 6% P.A. from the date of death of Balwinder Kaur i.e. 30.6.2012, as compensation to all the complainants in equal share alongwith Rs.10,000/- as litigation expenses.

Compliance of the order be made by the OPs No.1&2 within a period of 45 days from the date of the receipt of the certified copy of this order.

ANNOUNCED

DATED:5.1.2021

Y.S.Matta

Member

Jasjit Singh Bhinder

President

[HON'BLE MR. J. S. Bhinder]
PRESIDENT

[Y S Matta]
MEMBER