

**NATIONAL CONSUMER DISPUTES REDRESSAL COMMISSION
NEW DELHI**

REVISION PETITION NO. 3752 OF 2014

(Against the Order dated 25/07/2013 in Appeal No. 165/2012 of the State Commission Andhra Pradesh)

1. CHEKURI VIJAYA SIMHA CHOWDARY
S/O VENKATESHWARLU, R/O 4/63, O.C COLONY,
CHAKARAJUVEMULA VILLAGE, DORNIPADU
MANDAL,
DISTRICT: KURNOOL - 518135

A.P

.....Petitioner(s)

Versus

1. DR. T.Y. VISWAROOPACHARI
S/O T.P JAMBULAIHAH, D.NO-25/157, SREENIVASA
NAGAR, NANDYAL,
KURNOOL

A.P

.....Respondent(s)

BEFORE:

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

For the Petitioner :

For the Respondent :

Dated : 02 Mar 2020

ORDER

APPEARED AT THE TIME OF ARGUMENTS

For Chekuri Vijaya Simha C. : Mr. K.S. Rama Rao, Advocate

For Dr. T.Y. Viswaroopachari : Mr. Byrapaneni Suyodhan, Advocate

Pronounced on: 02nd March 2020

ORDER

PER DR. S. M. KANTIKAR, PRESIDING MEMBER

The complainant's wife C. Padmavathi (for short referred as 'patient') was admitted in Sri Veerabrahmendra Nursing Home run by Dr. T.Y. Viswaroopachari (OP) at Nandyal with the complaint of ulcerous growth on lower part of right leg. Routine pre-operative tests were done in the diagnostic centre run by the OP and medicines were also prescribed to purchase from the medical shop attached to the hospital. She was discharged from hospital on 26.08.2010 and called for follow-up after four days. However, on 28.08.2010, she was taken to Vishwabharathi Super Speciality Hospital at Kurnool wherein she was diagnosed as suffering from septicemia and encephalopathy. Also complicated malaria and metabolic encephalopathy was suspected. However, for the treatment of serious complications, patient was advised to go to higher centre at Hyderabad. Therefore, on 29.08.2010 evening the complainant took his wife to Yashoda Hospital at Secunderabad and admitted there. After some investigations, treatment was started, but on the next day on 30.08.2010 she was declared dead at 3.00 pm. After the demise, the dead body was brought back to her village and cremated. The complainant alleged medical negligence in the diagnosis and treatment from the OP causing death of the patient. The negligence of OP was confirmed from the medical records of Vishwabharathi Hospital and Yashoda Hospital. The complainant filed a consumer complaint against the OP before the District Forum, Kurnool and prayed for compensation of Rs. 20 lacs. The complainant also initiated criminal proceedings against OP under Section 304-A IPC.

2. Before the District Forum the complaint was resisted by the OP by filing a written version. OP denied all the allegations. The initial ground was that the complaint was not maintainable. According to OP, patient was not admitted in its hospital. He did not perform any operation. There was no ulcerous growth on the right leg of patient. The patient gave history of suffering from an ulcer over right leg for one month. The ulcer about 1 ½" X 2" was noted on the lateral aspect of lower part of right leg. OP cleaned the wound and put dressing with Atramen-C. OP advised few blood tests and prescribed antibiotics, vitamins & other medicines. The blood parameters were normal. Urine Albumin-2+. Patient was treated as an out-patient on that day. The patient expressed her inconvenience to come daily for dressing. Therefore, on 20.08.2010 she requested for admission to the hospital, thus she was admitted till 26.08.2010. Every day cleaning and dressing was done. On 23.08.2010, she developed fever of 100 degrees. Blood test for malaria was negative; the dose of antipyretic was increased. On 25.08.2010 after dressing of wound she attended at Koilakheta court and returned in the evening. In the morning of 26.08.2010, the patient showed symptoms of jaundice. Her blood tests revealed a viral jaundice and as for the treatment of jaundice doctor's daily supervision was not needed, therefore patient was discharged on 26.08.2010 and called after five days for follow up. The patient was advised not to take native medicine at her village. The OP denied any wrong diagnosis or wrong treatment to the patient. The OP further contended that the Vishwabharathi Hospital suspected malarial encephalopathy, but could not give definite diagnosis of septicemia till 29.08.2010. The opinion of doctors at Yashoda Hospital about septicemia was not definite but it was the suspected cause of death.

3. The District Forum on hearing both the parties held that the complainant failed to establish negligence from on the OP and dismissed the complaint.

4. Being aggrieved, the complainant filed a First Appeal before the State Commission, Hyderabad, A.P. The State Commission based on the medical record and opinion of doctors at Vishwa Bharathi Hospital and Yashoda Hospital held that the OP failed to take reasonable degree of care during the treatment of the patient. The State Commission also held that though she was hospitalized with OP's hospital for about one week had not maintained medical record. The State Commission passed the following order:

“In the result, the appeal is allowed. The order of the District Forum is set-aside. Consequently, the complaint is allowed in part directing the opposite party is directed to deposit an amount of Rs.1,50,000/- together with costs of Rs.3,000/- before the District Forum and on deposit of the amount, the District Forum shall deposit such amount in Nationalized Bank in the names of the children of deceased Padmavathi, namely Narasimha Naidu and Swapnika till they attain majority and till such time the appellant is permitted to withdraw interest accrued on the amount. On failure of the respondent to deposit the amount within four weeks from the date of receipt of this order, the amount of Rs.1,00,000/- (Rupees One Lakh only) would carry interest @9% p.a. from the date of filing of the complaint till payment.”

5. Being aggrieved by the order of the State Commission, the OP doctor filed Revision Petition No.3877/2013 for dismissal of the complaint and the complainant filed Revision Petition No.3752/2014 for enhancement of the compensation.

6. We have heard the learned counsel for both the sides. Perused the entire material on record including the medical record of OP's hospital, Vishwabharathi Hospital and Yashoda Hospital.

7. Learned counsel for both the sides reiterated their respective affidavit of evidence filed before the District Forum.

8. We took note of medical record, prescriptions on the file.

(i) The prescription dated 18.08.2010 issued by OP revealed the diagnosis made was 'dermatitis with ulcer on right leg'. OP advised I.V. fluids with antibiotics like Akcin and F-Poxil. The follow up sheets dated 19th & 20th August, 2010 revealed dressing was done. The relevant prescriptions dated 21.08.2010 and 22.08.2010 are reproduced as below:

	Dt.21.08.2010		Dt. 22.08.2010
1)	I.V. D.N.S. 2	1)	I.V. D.N.S. 2
2)	I.V. ELDERVIT 1	2)	I.V. M.V.I. 2
3)	I.V. VOMISET 1	3)	I.V. ELDERVIT 12
4)	INJ. AKCIN 250 2	4)	TAB. NUTRIVA 2

5)	INJ. DICLONAC 2	5)	TAB. MEDOMOL 650 2
6)	SYRINGES 5	6)	TAB. PILEUM 2
7)	TAB. MEDOMOL 3	7)	INJ. AKCIN 250 2
8)	TAB. NUTRIVA 3	8)	SYRINGES 2
9)	TAB. PILEUM 3	9)	SYR. INDOZYMEA
10)	ATRAMAN-C 1		
11)	BANDAGE ROLE 1		

Same medication was continued till 25.08.2010.

(ii) The prescription on 26.08.2010 is reproduced as below:

			Dt. 26.08.2010
		1)	CAP. CIRRHOLIVE 15
	ULCER	2)	TAB. PILEUM 15
	+	3)	TAB. NUTRIVA 10
	LEG JAUNDICE	4)	TAB. CEFI-200 10
	ITCHING + SKIN RASH	5)	INDOZYME 1

		6)	TAB. URSOCOL 300	10
		7)	TAB. SUCET 10	5

Thus, it is clear from the above prescriptions that the patient had ulcer on right leg with jaundice and skin rash . On 26.08.2010 at OP hospital the total Bilirubin was 13.6 mg% (direct 9.1 + indirect 4.5), albumin in urine present (2+). Thereafter, the patient approached Vishwa Bharathi Super Speciality Hospital at Kurnool. The investigations done at Vishwabharti Hospital revealed the total leucocyte count (TLC) was 33000/Cmm and the Neutrophil count was high i.e. 88%. However, malarial parasite was not seen. The patient blood sugar was very low i.e. 35 mg%. The Liver Function tests (LFT) were severally deranged, total bilirubin was 20 mg%, the patient was severally jaundiced. Dr. Ranganath discharged the patient on 28.08.2010 from Vishwa Bharathi Hospital and referred to higher centre. At the time of discharge, the differential diagnosis made was septicaemia with encephalopathy, complicated Malaria and metabolic encephalopathy.

9. The patient was taken to the Yashoda Hospital at Secundarabad in the evening of 29.08.2010. The consultant, Dr. Kamalesh A. examined the patient and diagnosed it as sepsis with MODS with refractory septic shock with Steven Johnsen's syndrome with left leg cellulitis. The patient was drowsy, febrile and icteric. On investigation, the RFT and LFT were deranged. On the morning of the next day, the patient was unresponsive, and therefore was shifted to AMCU in gasping state. The patient was intubated. However, despite every effort, the patient died. Thus at Yashoda Hospital, the patient was treated on emergency basis.

10. We gave our thoughtful consideration to the arguments from both the sides. It is pertinent to note that the patient was treated at OP Hospital from 18.08.2010 to 26.08.2010. At the time of discharge, she was suffering with severe jaundice. The LFT done at OP's hospital showed very high values of enzymes and patient was severally jaundiced. In our view, discharging patient in such condition was not justified. Thus, the OP failed in its duty of care at the time of discharge. It is pertinent to note that in the written version, OP stated that on 25.08.2010, the patient left the hospital to attend the Court case at Koilkunda and returned in the evening. However, as per the prescription dated 25.08.2010 the patient was given IV fluids at 11 am in the OP's nursing home. After the discharge on 26.08.2010, the patient further developed complications in her village. She was taken to Vishwabharati Hospital on 28.08.2010 and thereafter to Yashoda Hospital on 29.08.2010. In our view, considering the entirety, the OP doctor at initial stage failed to take proper care of the patient.

11. In the light of the above examinations, we affirm and sustain the medical negligence as determined by the State Commission against the OP, the revisionist herein.

12. In respect of the Award made by the State Commission, however, we note that the deceased patient was a 25 year young lady and she left behind two minor children (one son and one daughter). Value of human life is difficult to quantify in monetary terms. In the facts and totality of the case, we are but of the considered opinion that the compensation awarded by the State Commission, Rs. 1,50,000/- with interest @ 9% p.a. from the date of filing of the complaint, is inadequate. We deem it to be just and appropriate to enhance the compensation to Rs. 5,00,000/-

with interest @ 9% p.a. from the date of filing of the complaint. The Award made by the State Commission is modified to this extent.

13. Accordingly, the revision petition no. 3877 of 2013 is dismissed and the revision petition no. 3752 of 2014 is partly allowed.

14. The OP shall pay the compensation awarded herein, that is, Rs. 5,00,000/- with interest @ 9% p.a. from the date of filing of the complaint, within a period of six weeks from the pronouncement of this Order, failing which the said amount of Rs. 5,00,000/- shall carry interest @ 12% p.a. from the date of filing of the complaint till its realization.

15. The entire amount of the Award shall be equally distributed between the two children of the deceased. In case one or both children are still minor, the amount of the minor(s) shall be kept in Fixed Deposit in any Scheduled Nationalized Bank till the minor(s) attain the age of majority.

16. The Registry is directed to send a copy each of this Order to the petitioner and to the respondent, as well as to the District Forum, within three days of its pronouncement.

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DR. S.M. KANTIKAR
PRESIDING MEMBER

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DINESH SINGH
MEMBER