

**STATE CONSUMER DISPUTES REDRESSAL COMMISSION HARYANA,
PANCHKULA**

First Appeal No.951 of 2019

Date of Institution:04.11.2019

Date of Decision:09.11.2020

Charan Singh son of Shri Jassa Singh, caste Arora aged 78 years R/o Gali No. 1, Matu Ram Colony, Fatehabad, Tehsil and District Fatehabad Haryana (India)

.....Appellant

Versus

1. Dr. Shamsher Singh Malik, Deputy Medical Superintendent, Maharaja Aggarsain Medical College, Agroha, Tehsil & Distt. Hisar.
2. The Oriental Insurance Company Ltd., Hissar Distt. Hisar through its Branch Manager.

.....Respondents

Present:- Mr.Lalit K. Gupta, legal aid counsel for the appellant.

CORAM : Hon'ble Mr. Justice T.P.S Mann, President.
Mr. Harnam Singh Thakur, Judicial Member.

ORDER

HARNAM SINGH THAKUR, JUDICIAL MEMBER

Delay of 08 (Eight) days in filing the appeal is condoned in the interest of justice for the reasons stated in the application for condonation of delay.

2. Appellant-complainant has challenged the order dated 18.09.2019 passed by learned District Forum, Hisar (in short 'District Forum').

3. It has been alleged by complainant-appellant that complainant is 78 years old and very poor person and Gulabi (Pink) Ration Card has been issued to the family of complainant and he is also handicapped to the extent of 83%. He further submitted that he has a son namely Darshan Singh, aged 31 years and he was working as a **Pathi** in Gurudwara Sahib and earned Rs. 10,000/- p.m. Sh. Darshan Singh got infected with ulcer in his right hip and he was taken to Civil Hospital, Fatehabad for the treatment of the same. However, there was no improvement and the patient was referred to Maharaja Aggarsain Medical College, Agroha, (in short 'MAMC, Agroha') where he was admitted on 23.02.2017. The fee of Rs. 325/- per day charged from him. Further submitted that flash from the legs of Darshan Singh was extracted as sample for testing and Rs. 1700/- was received from the complainant but no bill was issued to him. He remained admitted for 8 days but no proper care was given by MAMC, Agroha and on account of negligence, infection in legs increased and developed in complete leg. Thereafter, Darshan Singh referred to Post Graduate Institute at Rohtak. After examining Darshan Singh, doctors of PGI, Rohtak observed that there is a lot of negligence in the treatment given by the Medical College Agroha and infection has spread in the whole leg and the leg will have to be amputated. Thereafter, the right leg of Darshan Singh was amputated and he has been declared as handicapped upto 90%. Thus, the above-said medical negligence on the part of Ops amounts to deficiency in rendering service to the complainant.

4. The complaint has been resisted by the OPs by stating that no charges of Rs. 325, 425 and 1700/- were charged by the MAMC, Agroha. It was further submitted that treating doctors of MAMC, Agroha has given the best treatment as per Medical Science. The patient was admitted in MAMC, Agroha on 23.02.2017 his leg was already suffering from infection, that is why he was referred from Civil Hospital Fatehabad to MAMC, Agroha. The duty doctor Dr. Deepak Chaudhary explained to the patient and his attendant regarding the poor condition of patient and need for amputation but the attendant refused and requested to refer the patient to higher centre and regarding ambulance, no request is on the file for ambulance demand on 02.03.2017. There is no report/record of any college or doctor regarding the negligence of OP or MAMC, Agroha. There is no negligence on the part of the OP in treatment of Sh. Darshan Singh and prayed for dismissal of the complaint.

5. After hearing both the parties by the learned District Consumer Disputes Redressal Commission, Hisar (In short "District Commission") dismissed the complaint of complainant.

6. Feeling aggrieved therefrom, appellant-complainant has preferred this appeal.

7. The arguments have been advanced by Sh.Lalit K. Gupta, legal aid counsel for appellant-complainant. With his kind assistance the entire records had been properly perused and examined.

8. During the course of arguments, it is contended by learned counsel for appellant-complainant that impugned order dated 18.09.2019 of dismissal of the complaint passed by learned District Forum is illegal and liable to be set aside because medical negligence on the part of the opposite parties is clear from the fact that patient remained admitted in Maharaja

Aggarsain Medical College, Agroha for 08 days but he was not treated properly by the experienced doctors. The doctors should not have admitted him for treatment if the disease could not be controlled and treated by the doctors concerned. No medical facilities were available in the hospital for treatment of the patient. Patient was treated by junior inexperienced doctors which amounts to medical negligence. Moreover patient should have been referred immediately by opposite party No. 1 to Super Speciality Hospital however, in the case in hand, treating doctors referred the patient Sh. Darshan Singh for PGIMS, Rohtak very late for further treatment where his leg was amputated to save patient's life which could have been avoided if he was referred earlier by treating doctors of the Maharaja Aggarsain Medical College, Agroha.

9. It is further alleged that no receipt was issued for charging medicines and conveyance charges etc. Learned forum has wrongly relied upon the enquiry report of the Medical Board which has favoured the opposite parties without any rhyme and reasons. Hence, it is submitted by learned counsel for appellant-complainant that appeal may be allowed and impugned order passed by learned District Forum be set aside.

10. After hearing learned counsel for appellant-complainant and careful perusal of the evidence available on the record, we are of the considered view that there is no merit in the appeal. The first and foremost question in the present appeal is whether there was any medical negligence on the part of the treating doctors of Maharaja Aggarsain Medical College, Agroha? The report of the Enquiry Committee/Medical Board constituted by Civil Surgeon, Civil Hospital, Hisar reveals that patient Sh. Darshan Singh s/o Sh. Charan Singh was admitted in emergency ward on 23.02.2017 with diagnosis of burst perianal abscess with fournier's gangrene with necrotizing fasciitis right lower limb. Even the indoor patient treatment file Ex. R-8 and Ex. R-9 reveals that from very beginning when the patient was admitted on 23.02.2017 gangrene with necrotizing fasciitis right lower limb was diagnosed and it is admitted fact that before admission in Maharaja Aggarsain Medical College, Agroha, patient remained admitted in Civil Hospital, Fatehabad from where he was referred to Maharaja Aggarsain Medical College, Agroha for further treatment. The diagnosis shows that the condition of patient was not good when he was admitted in Maharaja Aggarsain Medical College, Agroha. Since, the condition of the patient was not improving and as per medical record and enquiry report, attendants were advised for amputation of the lower limb of the patient but they did not agree to remove the necrosed part. Ultimately, patient was referred to PGIMS, Rohtak after one week for his treatment in Maharaja Aggarsain Medical College, Agroha.

11. Although, it is alleged that doctors at PGIMS, Rohtak told the complainant that there was medical negligence in treatment of patient at Maharaja Aggarsain Medical College, Agroha but there is no iota of evidence in support of this allegation. Rather report of enquiry committee of medical experts constituted by Civil Surgeon, Civil Hospital, Hisar reveals that there was no evidence of medical negligence on the part of treating doctors at Maharaja Aggarsain Medical College, Agroha. Similarly, there is no evidence present on the record to prove the allegation that opposite party No. 1 had charged excessive amount for treatment in Maharaja Aggarsain Medical College, Agroha without issuing any receipt. In the absence of any parallel/contrary evidence against the report of Enquiry Committee/Medical Board of expert doctors of Civil Hospital, Hisar, there is no reason to disagree with the said report of the Committee.

12. As a sequel to above discussion, we do not find any illegality or perversity in the impugned order passed by learned District Forum while dismissing the complaint. Thus, the present appeal is dismissed in limine without any order of costs. File be consigned to the records.

November 09th , 2020

**Harnam Singh Thakur
Judicial Member**

**T.P.S. Mann
President**

M.K