

ADDITIONAL BENCH

**STATE CONSUMER DISPUTES REDRESSAL COMMISSION,
PUNJAB, DAKSHIN MARG, SECTOR 37-A, CHANDIGARH.**

1) First Appeal No.697 of 2022

**Date of institution : 18.08.2022
Reserved on : 24.09.2025
Date of decision : 27.10.2025**

1. Dayanand Medical College & Hospital, Ludhiana through its President, Management Committee, DMC & Hospital, Ludhiana.
2. Dr. Rajesh Mahajan, Medicine Department, Unit-III, DMC & Hospital, Ludhiana.
3. Dr. Abhinav Garg, Medicine Department, Unit-III, DMC & Hospital, Ludhiana.

.....Appellants/Opposite party No.1 to 3

Versus

1. Gurdeep Singh son of Piara Singh, resident of VPO Dhahan, Tehsil Banga, District Shaheed Bhagat Singh Nagar.
2. Harpreet Kaur daughter of Gurdeep Singh, resident of VPO Dhahan, Tehsil Banga, District Shaheed Bhagat Singh Nagar.
3. Rajwinder Kaur daughter of Gurdeep Singh, resident of VPO Dhahan, Tehsil Banga, District Shaheed Bhagat Singh Nagar.

.....Respondents No.1 to 3/Complainants

4. United India Insurance Company Limited, Rani Hospital, G.T.Road, Opp. General Bus Stand, Khanna, Ludhiana through its Divisional Branch Manager.

.....Respondent No.4 /Opposite Party No.4

AND

2) First Appeal No.878 of 2022

**Date of institution : 17.10.2022
Reserved on : 24.09.2025
Date of decision : 27.10.2025**

1. Gurdeep Singh son of Piara Singh, resident of VPO Dhahan, Tehsil Banga, District Shaheed Bhagat Singh Nagar.

....Appellant/Complainant

Versus

1. Dayanand Medical College & Hospital, Ludhiana through its President, Management Committee, DMC & Hospital, Ludhiana.
2. Dr. Rajesh Mahajan, Medicine Department, Unit-III, DMC & Hospital, Ludhiana.
3. Dr. Abhinav Garg, Medicine Department, Unit-III, DMC & Hospital, Ludhiana.
4. United India Insurance Company Limited, Rani Hospital, G.T.Road, Opp. General Bus Stand, Khanna, Ludhiana through its Divisional Branch Manager.

.....Respondents/Opposite Parties

5. Harpreet Kaur daughter of Gurdeep Singh,
6. Rajwinder Kaur daughter of Gurdeep Singh,
Both residents of VPO Dhahan, Tehsil Banga, District Shaheed Bhagat Singh Nagar

....Proforma respondents

**First Appeals against the order dated
20.07.2022 passed by District
Consumer Disputes Redressal
Commission, Shaheed Bhagat Singh
Nagar in CC/82/2021.**

Quorum:-

**Mr. H.P.S.Mahal, Presiding Judicial Member
Mrs. Kiran Sibal, Member**

Present:- (in FA/697/2022)

- | | |
|-----------------------|---|
| For the appellants | : Sh. Paras Jhamb, proxy for
Sh. B.B.S. Sobti, Advocate |
| For respondent No.1 | : Ms. Anshika proxy for
Sh. Sarju Puri, Advocate |
| For respondent No.2&3 | : Ex-parte |
| For respondent No.4 | : Ms. Tanvi Aggarwal, proxy for
Sh. V.M. Gupta, Advocate |

KIRAN SIBAL, MEMBER

This order shall dispose of the above noted two First Appeals preferred against the same order dated 20.07.2022 passed by District Consumer Disputes Redressal Commission, Shaheed Bhagat Singh Nagar(in short, "the District Commission"), whereby the District Commission allowed the complaint of the complainants while granting the following relief:

"12. In view of our discussion, we allow the complaint of the complainants and OPs No.1 to 3 are directed to pay Rs.5,00,000/- as compensation for medical negligence to complainant No.1. The complainant No.1 is also held entitled for Rs.10,000/- as compensation for mental harassment and litigation and OPs No.1 to 3 are also directed to deposit Rs.10,000/- in Legal Aid Account of this Commission. OPs No.1 to 3 directed to recover the above said amount from OP No.4/United India Insurance at their own level".

First Appeal No.697 of 2022 has been filed by OPs No.1 to 3 for setting aside the impugned order of the District Commission whereas the complainant No.1 has filed first appeal No.878 for enhancement of compensation. The facts are taken from ***First Appeal No.697 of 2022*** filed by the appellants/OP No.1 to 3 titled as "***Dayanand Medical College & Hospital & Ors. Vs. Gurdeep Singh & Ors***".

(FA 697 of 2022)

2. It would be apposite to mention that hereinafter the parties will be referred, as have been arrayed before the District Commission.

3. Brief facts of the case for disposal of the appeal are that on 14.02.2021, the wife of complainant No.1; namely, Gurbax Kaur got admitted in Guru Nanak Mission Hospital, Dhahan Kaleran(SBS Nagar) due to some ailment, where her treatment was carried for 4-5 days and she was referred to OP No.1-Hospital for better treatment. Accordingly, she got admitted in OP No.1 hospital on 18.02.2021 and at that time she was fully conscious. During her indoor treatment at OPs hospital, she recovered very fast and on 26.02.2021, she was shifted from emergency ward to General Ward by OPs No.2 & 3. However, on 27.02.2021 at about 7 am, she felt severe pain in her abdomen and she complained about the same to the concerned staff but no one attended/checked her. Thereafter complainant No.1 along with his relative informed about her condition to OPs No.2 & 3 but again they did not bother about her pain in the abdomen. She was crying whole day due to her pain, but neither OPs No.2 & 3 nor any attendant checked her at all, for about 12 hours. Thereafter, when complainant No.1 and his relatives raised their concern in writing, then after about 7 pm in the evening CT scan was got conducted by OPs No.2 & 3. After conducting the CT scan, OPs No.2 & 3 told to complainant No.1 that she had to undergo an operation, for which he gave his consent. The OPs demanded an amount of Rs.1,50,000/- for the said operation and out of which the complainant deposited an amount of Rs.70,000/- with them. Thereafter, in the intervening night on 27/28.02.2021 at about 12 PM, i.e. after a lapse of 6 hours from conducting the CT scan, she

was taken to operation theatre and at that time she was talking with complainant No.1 every moment. However, after 20 minutes, OPs No.2 & 3 along with concerned staff came out of operation theatre after putting his wife on ventilator. The complainant No.1 inquired about the health of his wife from OPs No.2 & 3, who told that she will be fine after some time and further put off the matter on one pretext or the other, but did not give proper reply to his queries. Thereafter, a blood unit was transfused to his wife but soon after that, her BP came down and she expired at about 6:46 pm on 28.02.2021. The complainants alleged that she was not operated in any manner by the OPs knowingly, intentionally and negligently. The patient was crying whole day but the doctors had not checked/attended her properly and even did not bother about her condition, which deteriorated by hour after hour. The complainants further stated that during her stay in the hospital, complainant No.1 deposited approximately 4 lakhs with the OPs on various dates, which was charged by them illegally. Complainant No.1 asked the concerned doctors and the staff about the illegal double amount charged by them several times but no correct reason was given by them. The complainant requested the OPs to refund excess amount, which they had charged illegally even after the death of his wife, but they did not bother about his requests and finally refused the legal and genuine claim of the complainant. They also served legal notice upon the OPs but all in vain. Alleging deficiency in service as well medical negligence on the part of OPs No.1 to 3, the complainants filed

consumer complaint before the District Commission and sought directions against the OPs to pay compensation to the tune of Rs.10,00,000/- on account of negligent, deficient, poor and substandard services and further to pay Rs.7,00,000/- on account of physical harassments and mental agony besides Rs.3,00,000/- as cost of litigation.

4. Upon notice, OPs No.1 to 3 appeared through counsel and filed written reply, wherein they raised certain preliminary objections, which are not required to be reproduced here for the sake of brevity. On merits, they stated that the wife of complainant No.1 was admitted with them on 18.02.2021 as a known case of Chronic Obstructive Airway disease with Obesity. She was referred from Guru Nanak Mission Hospital, Dhahan Kaleran, SBS Nagar as a case of fever and shortness of breath since 14.02.2021 with possibility of tuberculosis and covid-19. At the time of admission her BP was 160/80 mm of Hg, Pulse Rate 114/minute, Respiratory Rate 24/minute and oxygen saturation was 78% only, as such, at that time she had severe Hypoxemia. She was put on oxygen support immediately, as such, her oxygen saturation was improved and it came to 92%. In view of covid-19 pandemic, possibility of bilateral pneumonia was there and Rapid Antigen Test was conducted, which was found positive. Her RT-PCR Test was also conducted and the same was also found positive. She was immediately shifted to Isolated Covid Intensive Care Unit (Level-III) and managed according to the standard protocol of medical norms and guidelines

of the government. On 19.02.2021, the wife of complainant No.1 suddenly de-saturated and was not maintaining the required oxygen saturation even on Binasal support, as such, she was put on ventury support. On 20.02.2021, prognosis were explained to the accompanied family members in view of need for ventury support. On 21.02.2021, due to treatment rendered by the OPs to her, the value of inflammatory markers (IL-6) decreased to 1.50. On 22.02.2021, she remained afebrile and her oxygen saturation was 94% on ventury support at 4 litre per minute, her BP was 120/70 mm Hg, respiratory rate was 22 per minute and her Pulse rate was 66 per minute and accordingly she was managed as per standard medical norms. On 23.02.2021 she had decreased values of inflammatory markers i.e. CRP Quantitative-21 and her fungal markers and PCT were also within the normal limits. Thereafter on 24.02.2021 she was shifted from ventury support to Binasal support and her RT-PCR test was repeated, which was again found positive. Accordingly, she remained in Isolated Covid Intensive care Unit. On 25.02.2021, her CT Pulmonary Angio was done, which suggested Ground Glass Opacites(GGOs) with septal thickening with subpleural fibrosis and as such, she was put on Tablet Nintedanib. On 26.02.2021 she was shifted to Isolated Nephro ICU (Level-III) for further management. However, on 27.02.2021, she suddenly started complaining of pain in abdomen with pain score of 3 as per pain assessment chart, for which she was immediately evaluated and according to the symptoms, initially the possibility of acute

pancreatitis was kept and her serum amylase and lipase were sent for examination, which were found to be normal. Accordingly, she was managed conservatively with antispasmodics, analgesics and other supportive measures. The second possibility of Mesenteric Ischemia was kept for which her CT Scan abdomen was ordered immediately with instructions to keep the patient nil per orally for sufficient time to avoid aspiration pneumonia. The CT scan suggested Hematoma in abdomen with active leak from left inferior epigastric artery for which an urgent interventional radiology consultation and obstetrics and gynecology consultation was taken. Interventional Radiologist advised Angioembolization and accordingly the attendants were counseled and explained in their vernacular language about the condition of the patient in detail and they were also informed about the abdominal hematoma with active leak and the requirement of Angioembolization. However, before taking up the patient for Angioembolization, suddenly her blood pressure became un-recordable at 10 PM and accordingly she was resuscitated with IV fluids and inotropes were started immediately for stabilizing the patient so that she be shifted for Angioembolization to Onco OT. With the aggressive treatment, her blood pressure came to 100/60 mm Hg and her pulse rate came to 128 per minute. Accordingly, she was shifted to Onco OT for Angioembolization, but on reaching the Onco OT Recovery, again her blood pressure and pulse became un-recordable and she was gasping. Accordingly, she was intubated with immediate effect in Onco OT Recovery and she

was put on mechanical ventilator. Thereafter she was shifted inside the Operation Theatre for Angioembolization and under all aseptic precautions, ultrasound guided puncture of Right Common Femoral Artery (CFA) was done and 5 french sheath were introduced over wire, JR catheter introduced over wire and placed in left external iliac artery. The angio revealed significant spasm of left common femoral artery. Left inferior epigastric artery hooked and micro catheter was introduced. Artery was significantly spastic. Active leak was seen from the artery and accordingly four coils measuring 3 mm x 3 cm and 5 mm x 6 cm were put till total embolisation of left inferior epigastric artery. Sheath was left 'in situ' and after completion of embolisation procedure, the patient was advised for vital monitoring and right leg immobilization. On completion of embolisation, she was shifted back to Isolated Nephro ICU. The condition of the patient remained sick and she was resuscitated with IV fluids, Inotropes, blood products and other supportive measures and her attendants were informed about the sick condition and prognosis of the patient. However, the attendants of the patient refused for further intervention and resuscitation. The condition of the patient remained critical and at about 6:10 PM on 28.02.2021, she had sudden bradycardia and accordingly, the attendants of the patient were again informed telephonically about the bradycardia and need for CPR in view of bradycardia, but they again refused for the CPR. At 6:40 PM she had sudden cardiac arrest and was declared dead at 6:46 pm on 28.02.2021. The OPs further stated that wife of

complainant No.1 was a covid-19 positive patient and accordingly she was kept in isolation according to the government guidelines, where no one was allowed to enter without PPE kit. She was never shifted to general ward as alleged by the complainants in their complaint. After denying the other averments made in the complaint, OPs No.1 to 3 prayed for dismissal of the complaint.

5. In reply to complaint OP No.4 also raised certain preliminary objections, which are not required to be reproduced here for the sake of brevity. On merits, OP No.4 stated that no medical expert opinion has been brought on record by the complainants to substantiate their allegations of medical negligence against OPs No.1 to 3. The patient was provided the treatment as per the standard medical norms and there was no deficiency or negligence on the part of the treating doctors. After denying the other averments made in the complaint, OP No.4 prayed for dismissal of the complaint.

6. Rejoinder to the written reply was filed by the complainants, wherein they denied the version of the OPs.

7. The parties led their evidence before the District Commission in support of their respective contentions and the District Commission after going through the record and hearing learned counsel for the parties, allowed the complaint of the complainants, vide impugned order as above. Aggrieved with the same this appeal has been filed by the appellants/OPs No.1 to 3.

8. Notice of the appeal was issued to the respondents, but respondents No.2 & 3 failed to appear despite service, as such, they were proceeded against ex parte.

9. We have heard the Ld. Counsel/proxy counsel for the appearing parties and have carefully gone through the written submissions filed by them and the record of the case.

10. It has been vehemently contended in the written arguments by the appellants/OPs No.1 to 3 that the District Commission completely ignored the preliminary objections raised by the appellants. The complainants produced a forged and fabricated document in the shape of letter dated 27.02.2021 (Ex.C-8) and thus to elucidate the truth about the said document voluminous evidence was required, which cannot be recorded in the summary proceedings before the District Commission. The District Commission has failed to consider that the complainants have not come with clean hands and concealed the material facts to the effect that patient was a covid-19 positive and treatment to her was rendered in a specialized Isolated Emergency ICU (Level-III) according to the guidelines issued by the government for the treatment of covid-19 positive patients. The District Commission has further ignored the fact that complainant No.1 himself refused for resuscitation of his wife inspite of explaining its need again and again. The appellants argued that the complainants attached a legal notice with their complaint i.e. Ex.C-7 and in the said legal notice no such specific allegation of negligence in rendering the treatment was made by the complainants. As such,

all the allegations leveled by them against the appellants in their complaint are completely the result of afterthought concocted story, which has been overlooked by the District Commission. Further, no expert opinion/medical literature has been placed on record by the complainants to substantiate their false allegations of medical negligence. In the absence of any expert opinion/medical literature, the bald allegations of the complainants are not *ipso-dixit* sufficient to prove the case of medical negligence. The doctor cannot be held liable for medical negligence by applying doctrine of 'res ipsa loquitur' simply because of the reason that the patient has not favourably responded to the treatment or surgery has failed. The appellants further argued that the District Commission has completely ignored the details with regard to the treatment rendered to the wife of the complainant, put forwarded by the appellants in their written reply. The District Commission has also ignored the evidence placed on record by the appellants/OPs No.1 to 3 as well as the medical literature in support of their case. The appellants further argued that the impugned order passed by the District Commission is completely based upon surmises and conjectures rather than the material available on record, as such, the same is liable to be set aside. In support of above contentions, the appellants relied upon the following citations/case laws:

- i) M/s Umarpur Rice Mills (P) Ltd. Vs. New India Assurance Co. Ltd. and other, 2021(2) CLT 81(NC);*
- ii) Dalip Singh Vs. State of U.P. & Others, 2010(2)SCC 114 (SC);*

- iii) Bombay Hospital and Medical Research Centre Vs. Asha Jaiswal and others, 1(2022) CPJ 3 (SC);*
- iv) Prabha Shanker Ojha Vs. Neelmani Rani (Dr.), 2010(2) CLT 518 (NC);*
- v) Jacob Mathew Vs. State of Punjab & Others, 2005(3) CLT 358;*
- vi) S.K. Jhunjhanwala (Dr.) Vs. Dhanwanti Kumar, II (2019) CPJ 41 (SC)*

The appellants further argued on the similar lines as stated in the written reply and prayed for acceptance of the appeal.

11. Respondent No.1/complainant No.1 (Appellant in FA No.878 of 2022) in his written arguments has submitted that the District Commission has rightly held that in order to prove the negligence of the doctors concerned, the complainant has proved on record letter Ex.C-8, which was written by the complainant to the doctor concerned, namely, Dr. Rajesh Mahajan, but despite informing the doctor in writing, they failed to act with due diligence and provide proper and timely care of the patient. The District Commission has further rightly held that a perusal of the entire record would lead the matter to an irresistible conclusion that the patient had died due to negligence of the treating doctors/OPs. It would be evident from the record that the complainant had tried to contact the treating doctors repeatedly in order to promptly informed them about the deteriorating and uncomfortable condition of his wife, but for the reasons best known to the said doctors, the patient was left unattended for a very long period of time, thus, resulting in loss of life. The finding of the District Commission are perfectly legal, valid, well reasoned, speaking and consonance with the settled law on the point.

However, it has erred in granting inadequate compensation to the tune of Rs.5 lac for medical negligence and the same is likely to be enhanced in the connected FA No.878 of 2022. It has been further submitted by the complainants on the similar lines as stated in the complaint and prayed for dismissal of the appeal filed by the appellants/OPs No.1 to 3.

12. The learned proxy counsel for respondent No.4/OP No.4, insurance company, has argued on the similar lines as stated in the written reply filed by it before the District Commission and prayed for acceptance of the present appeal by setting aside the impugned order.

13. We have given thoughtful consideration to the contentions raised by appellant and the appearing respondents.

14. The factual matrix of the case is that the wife of complainant No.1; namely, Gurbax Kaur, after remaining under treatment for 4-5 days at Guru Nanak Mission Hospital, was referred to OPs Hospital i.e. Dayanand Medical College and Hospital, Ludhiana for better treatment (Ex.C-9). She was admitted at OPs hospital as an indoor patient on 18.02.2021 and after some recovery she was shifted from emergency ward to Isolated Nephro ICU (Level-III) on 26.02.2021 for further management, however, she developed abdominal pain on 27.02.2021. The complainants alleged that despite being promptly informed regarding the condition of the patient, the concerned doctors did not attend to her and after conducting a CT-

Scan asked complainant No.1 to deposit a sum of Rs.1,50,000/- for operation/surgical procedure, which was never performed by them. It has been further alleged that due to delayed treatment, the wife of complainant expired on 28.02.2021(Ex.C-3). Alleging medical negligence on the part of OPs No.1 to 3, the complainants filed consumer complaint before the District Commission, which was allowed vide impugned order as above. Aggrieved with the same, the present appeal (FA/697/2022) has been filed by appellants/OPs No.1 to 3.

15. The main grievances raised by the appellants/OPs No.1 to 3 in the present appeal are that the District Commission has failed to consider that the complainants have not come with clean hands and concealed the material facts to the effect that patient was a covid-19 positive and treatment to her was rendered in a specialized Isolated Emergency ICU (Level-III) according to the guidelines issued by the government for the treatment of covid-19 positive patients. Moreover, the District Commission has also ignored the evidence placed on record by the appellants/OPs No.1 to 3 as well as the medical literature in support of their case. It has been submitted by the appellants that the District Commission has further ignored the fact that complainant No.1 himself refused for resuscitation of his wife inspite of explaining its need again and again to him. On the other hand, the case of the respondents No.1 to 3/complainants is that the patient developed abdominal pain on 27.02.2021 and despite being promptly informed regarding the condition of the patient, the

concerned doctors did not attend to her and after conducting a CT-Scan, the OPs got deposited a sum of Rs.1,50,000/- from the complainant No.1 for operation/surgical procedure, which was never performed by them.

16. Now, the foremost question arises for adjudication in the present appeal is whether there was any medical negligence on the part of appellants/OPs No.1 to 3 while giving treatment to the patient for the ailments suffered by her or not? To determine this point, we have carefully perused the pleadings, entire evidence on record, impugned order as well as medical literature placed on record by the appellants. From the perusal of Death Summary, Ex. OP-2/6 (colly), it shows that the wife of the complainant No.1 was admitted at Dayanand Medical College & Hospital, Ludhiana on 18.02.2021 with the complaint of difficulty in breathing as she was a known case of Chronic Obstructive Airway disease with obesity. Her oxygen Saturation was 78% at the time of her admission on 18.02.2021 and the referral form (Ex.C-9) shows that there was possibility of having 'Tuberculosis' and 'Covid-19'. Further, the admission note dated 18.02.2021 shows that due to possibility of covid-19, her Rapid Antigen Test was got conducted. From the perusal of patient note dated 19.02.2021 we find that she was suffering from Severe Covid-19. OP No.2 in his affidavit has duly deposed that her RT-PCR Test was also conducted and the same was found positive and she was immediately shifted to Isolated Covid Intensive Unit (Level-II) and managed according to the standard protocol of medical

norms and guidelines of the Government. Accordingly, it has been duly established on record, that apart from the ailments already suffered by the wife of the complainant at the time of admission in the OP's Hospital, she was also suffering from severe Covid-19 and the said fact has not been disclosed by the complainants in their complaint. It is not in dispute that the patient developed abdomen pain on 27.02.2021. However, as per version of the appellants/OPs, the same was caused due to '*Hematoma in abdomen with active leak from left inferior epigastric artery*', for which Interventional Radiologist advised Angioembolization. The appellants/OPs No.1 to 3 further placed reliance on Ex.OP-2/3, which is a case report namely Splenic Infarction and Spontaneous rectus sheath hematomas in Covid19 patient, the relevant part of the same is reproduced as under:-

“Case Report

Splenic infarction and spontaneous rectus sheath hematomas in COVID-19 patient.

Jennifer J. Dennison, BS, Samuel Carison, BS, Shannon Faehling, BS, Hannah Phelan, BS, Muhammad Tariq, MD, Ateeq Mubarik, MD.

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Discussion:

Rectus sheath Hamatoma is an uncommon complication of anticoagulation therapy. Other risks factors include old age, female gender, history of abdominal surgery/trauma/injections, cancer, coagulopathies and renal impairments. We hypothesize that the development of RSH in our patient was due to shearing of epigastric vessels caused by combination of anticoagulation therapy and trauma caused by staining and/or coughing. Early diagnosis and intervention are key to improving patient mortality

and morbidity. CT Scan with IV contrast is considered the gold standard, for identification of bleeding and for differentiating between arterial and venous bleeds. In cases where conservative management is unsuccessful, or the patient presents with severe clinical criteria, CT angiography can be utilized to identify active bleeding and help in staging for interventional radiology treatment.....”.

The appellants also placed reliance on Ex.OP 2/4, which is a case report regarding Spontaneous giant rectus sheath hematoma in patients with Covid-19, the relevant part of the same is reproduced as under:-

“Case Report

Spontaneous giant rectus sheath hematoma in patients with Covid-19: two case reports and literature review

Xxx

Discussion

Previous studies have documented that RSH frequency is greatest in women over 60, likely due to greater rectus sheath muscle mass in men which provides a degree of cushioning to the epigastric arteries from injury. Common risk factors and causes of RSH include violent coughing, obese and anticoagulant therapy. A study at the Mayo Clinic found 70% of patients treated for RSH were undergoing anticoagulant therapy. Patients with RSH typically present with acute abdominal pain, sometimes severe and exacerbated by movements involving abdominal wall contraction.....”

It is pertinent to mention here that as per medical terms, available on internet, an ‘abdominal hematoma with an active leak from the left inferior epigastric artery’ is a serious medical condition known as a ‘Rectus Sheath Hematoma’ (RSH). This can cause a large, painful accumulation of blood in the abdominal wall and, if bleeding is significant, can lead to life-threatening complications. Further, as per version of the appellants and case reports relied upon by them(supra), the said disease is a known complication in patients

with covid-19. It has been categorically submitted by the appellants/OPs No.1 to 3 in their written statement as well as in the affidavit of OP No.2, which is reproduced as under:-

"The CT scan suggested Hematoma in abdomen with active leak from left inferior epigastric artery for which an urgent interventional radiology consultation and obstetrics and gynecology consultation was taken. Interventional Radiologist advised Angioembolization and accordingly the attendants were counseled and explained in their vernacular language about the condition of the patient in detail and they were also informed about the abdominal hematoma with active leak and the requirement of Angioembolization.

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was put on mechanical ventilator. Thereafter she was shifted inside the Operation Theatre for Angioembolization and under all aseptic precautions, ultrasound guided puncture of Right Common Femoral Artery (CFA) was done and 5 french sheath were introduced over wire, JR catheter introduced over wire and placed in left external iliac artery. The angio revealed significant spasm of left common femoral artery. Left inferior epigastric artery hooked and micro catheter was introduced. Artery was significantly spastic. Active leak was seen from the artery and accordingly four coils measuring 3 mm x 3 cm and 5 mm x 6 cm were put till total embolisation of left inferior epigastric artery. Sheath was left 'in situ' and after completion of embolisation procedure, the patient was advised for vital monitoring and right leg immobilization. On completion of embolisation, she was shifted back to Isolated Nephro ICU. The condition of the patient remained sick and she was resuscitated with IV fluids, Inotropes, blood products and other supportive measures and her attendants were informed about the sick condition and prognosis of the patient. However, the attendants of the patient refused for further intervention and resuscitation. The condition of the patient remained critical and at about 6:10 PM on 28.02.2021, she had sudden bradycardia and accordingly, the attendants of the patient were again informed telephonically about the bradycardia and need for CPR in view of bradycardia, but they again refused

for the CPR. At 6:40 PM she had sudden cardiac arrest and was declared dead at 6:46 pm on 28.02.2021."

The above said version of the appellants has been duly corroborated in the medical record placed on record by the appellants as Ex.OP2/6(Colly), especially the details of procedure taken by the appellants are duly written in the patient notes dated 27.02.2021 and consent was also taken from complainant No.1 for performing 'Angioembolization' after explaining the condition of the patient to her husband in vernacular language. The appellants, have duly established on record that the said complication i.e. *ematoma in abdomen with active leak from left inferior epigastric artery*' was caused to the patient due to covid-19 and they treated the same as per standard medical procedure. It is not the case of the complainants that the appellants/OPs No.1 to 3 have not performed the said procedure of 'Angioembolization' as per the standard medical protocol. Rather, they alleged that the appellants have not performed any operation/procedure despite receiving the amount for the same, which according to us is bald and baseless as they failed to establish the same by leading any cogent evidence in the shape of an expert opinion or otherwise. Negligence is an essential ingredient of the offence and if needs to be established, then it must be culpable or gross and not the negligence merely based upon an error of judgment. Reliance has been placed on the judgment passed by Hon'ble Apex Court in the case of "**Jacob Mathew Vs. State of Punjab and Anr., 2005 (6) SCC 1**" wherein the Hon'ble Apex Court

has taken into consideration the case of '*Bolam Vs. Friern Hospital Management Committee*', and held as under:

"Negligence is the breach of a duty caused by omission to do something which a reasonable man guided by those considerations which ordinarily regulate the conduct of human affairs would do, or doing something which a prudent and reasonable man would not do. Negligence becomes actionable on account of injury resulting from the act or omission amounting to negligence attributable to the person sued. The essential components of negligence, as recognized, are three: "duty", "breach" and "resulting damage", that is to say:

- 1) *The existence of a duty to take care, which is owed by the defendant to the complainant;*
- 2) *The failure to attain that standard of care, prescribed by the law, thereby committing a breach of such duty; and*
- 3) *Damage, which is both casually connected with such breach and recognized by the law, has been suffered by the complainant.*

If the claimant satisfies the court on the evidence that these three ingredients are made out, the defendant should be held liable in negligence.

....., it must be shown that the accused doctor did something or failed to do something which in the given facts and circumstances, no medical professional in his ordinary senses and prudence would have done or failed to do".

In the case in hand, neither there is any error nor any specific allegation that the procedure adopted by the doctors was not as per medical protocol. The appellants put their all to give proper treatment to the wife of respondent No.1/complainant and to cure her. As such, we are of the considered opinion that there is no medical negligence on the part of the appellants/OPs No.1 to 3 while giving treatment to the patient for the ailments suffered by her.

17. The complainants have categorically alleged in their complaint that on 27.02.2021, when the patient was suffering from severe pain in her abdomen, no one attended to her despite repeated requests made by complainant No.1 and his relatives. The District Commission has also, while relying on Ex. C-8, observed that an act of negligence on the part of the appellants/OP No.1 to 3 is established. However, in the written reply the appellants have categorically stated that the complainants had placed on record a false and fabricated document i.e. letter dated 27.02.2021 (Ex.C-8), which requires detailed examination and the District Commission should not solely have relied upon the same. In this regard, we have perused the said document Ex.C-8 and found that it is simply a letter written in vernacular language to Dr. Rajesh Mahajan(OP No.2), stating therein that no Doctor had visited to attend the patient till about 7 PM. It is pertinent to mention here that there is nothing on record to show that this letter was duly handed over to the concerned doctor on that specific date or not. Be that as it may, even if the said letter is to be considered even then we find that the patient has been duly attended by the doctors and the nursing staff of the concerned hospital from time to time on that date. This fact can be corroborated from the perusal of treatment sheet attached with Ex. OP2/6(colly), wherein it has been duly mentioned that the medicines/injections were duly given to the patient by the hospital staff on 27.02.2021 at 3:00 am, 5:00 am, 10:00 am, 3:00 pm, 5:00 pm and then 10:00 pm. It is pertinent to mention here that the patient

was suffering from severe covid-19 and was shifted to Isolated Covid Intensive Care Unit (Level-III) and managed accordingly as per the guidelines of the government of India, where no one was allowed to enter without PPE Kit. All the doctors, staff nurses and the other staff members, who were catering their services to the covid-19 positive patients, used to wear PPE kits during their duty hours. A doctor is under a bounden duty to attend to all the patients and the directions given by a doctor qua any patient are followed by the junior doctors and the nursing staff, which is duly recorded in the treatment chart of the hospital. Therefore, the contention of the complainants that despite informing the doctor in writing (Ex.C-8), the appellants/OPs No.1 to 3 have failed to attend or give proper treatment to the patient is not sustainable. Accordingly, we are of the considered opinion that the appellants/OPs No.1 to 3 had duly attended the patient and gave proper treatment as per standard medical protocol. The District Commission has overlooked the said aspect and has wrongly allowed the complaint in favour of the complainants.

18. In the light of the above discussion, we are of the opinion that a medical practitioner or hospital would be liable only where their conduct fell below the standards of a reasonably competent practitioner in their field. As such, we are of the considered opinion that no negligence can be attributed to the said doctors as well as the hospital as the doctors have performed their duties with reasonable skill and knowledge. Accordingly, we find force in the

contentions raised by the appellants/OPs No.1 to 3 and the impugned order of the District Commission is liable to be set aside.

19. Sequel to our above discussion, we allow the appeal of the appellants/OP No. 1 to 3 and the impugned order of the District Commission is hereby set aside. Resultantly, the complaint filed by complainant stands dismissed.

20. The appellants had deposited an amount of Rs.2,60,000/- at the time of filing the appeal with this Commission. This amount alongwith interest, which accrued thereon, if any, be remitted by the Registry to the appellants/OPs No. 1 to 3 by way of demand draft/crossed cheque, after the expiry of 45 days from the date of receipt of certified copy of this order, in accordance with law.

First Appeal No.878 of 2022

21. This appeal has been filed by appellant/complainant No.1 for enhancement of compensation awarded by the District Commission, vide impugned order as above. However, in view of the reasons and discussion held in First Appeal No.697 of 2022 titled as "***“Dayanand Medical College & Hospital & Ors Vs. Gurdeep Singh and ors”***", wherein it has been observed that there is no medical negligence or any deficiency in service on the part of the treating doctors as well as hospital, this appeal No.878 of 2022 titled as '***Gurdeep Singh Vs. Dayanand Medical College and Hospital & Ors***', for enhancement of compensation, has become infructuous and is dismissed accordingly.

22. The appeals could not be decided within the stipulated period due to heavy pendency of Court cases.

**(H.P.S. Mahal)
PRESIDING JUDICIAL MEMBER**

**(KIRAN SIBAL)
MEMBER**

October 27, 2025

(dv)