

**BEFORE THE DISTRICT CONSUMER DISPUTES REDRESSAL  
COMMISSION AT MAHABUBNAGAR**

Friday, the 6<sup>th</sup> day of August, 2021

Present:- Smt. M. Anuradha, President,  
Sri K. Venkateshwarlu, Member

**C.C.NO. 26 Of 2018**

Between:-

B. Jeevan, S/o B. Venkataiah, aged 38 years, R/o H.No.12-69/2,  
Ramnagar Colony, Nagarkurnool.

... Complainant

And

Dr. J. Mahesh Babu, Managing Director, Mallika Hospital, R/o H.No.1-3-  
158/2/C, Near Railway Station, Rajendranagar, Mahabubnagar.

... Opposite Party

This C.C. coming on before us for final hearing on 9-7-2021 in the presence of Sri G. Rangaiah, Advocate, Mahabubnagar for the complainant and of Sri N. Ravi Kumar, Advocate, Mahabubnagar for the opposite party and the matter having stood over for consideration till this day, this Commission made the following:

**ORDER**

(Sri K. Venkateshwarlu, Member)

1. This is a complaint filed by the complainant under section 12 of Consumer Protection Act, 1986 seeking a direction to the opposite party to refund an amount of Rs.1,50,000/- with interest and to pay Rs.2,00,000/- towards compensation for mental agony, harassment and loss of life of the complainant's mother to the complainant.

2. The brief facts of the case are that:- The complainant had approached the OP's Hospital for the treatment of his mother namely late Smt.Kamamma on 27-12-2016, who is a family pensioner, due to chest pain and she was accordingly admitted in the said hospital. The medical tests have been conducted on the same day and also the following day, i.e., on 28-12-2016 by the OP/Doctor and informed that the said patient, i.e., the mother of the complainant is required to be treated on emergency basis

as she found cardiac problem. The complainant has paid Rs.1,50,000/- on the demand of the OP doctor for the treatment.

On 30-12-2016, the OP doctor had informed the complainant that his mother's condition was serious and the complainant has to pay Rs.3,00,000/- more for further treatment. As the complainant had no money with him, he could not pay the same. The complainant did not have such huge amount and the earlier payment was also paid on compulsory situation and the said amount was paid on such demand of the OP for the treatment. However, the complainant was further compelled by the OP and created heavy pressure on the complainant by saying that they will not continue the treatment, if the said amount was not paid. On such situation, the complainant was compelled to issue a post dated cheque for the said amount and given to the OP. After receipt of the said post dated cheque, that the OP had informed to the complainant that his mother was already died. The complainant was very much shocked and astonished to hear the death of his mother. The complainant has requested the OP to give the details of the cause of death at the time of taking out off his mother's dead body from the hospital, but the OP did not give any details to the complainant and behaved inhumanly and the said dead body was being shifted by the complainant on his own risk. The complainant further stated that the OP has not given the admission card and test reports for the reimbursement of medical bills from the Government as the deceased was a family pensioner. The said test reports, admission card, medical bills and case sheet were not furnished to the complainant by the OP doctor and as such he could not avail the reimbursement facility for the amount incurred in the hospital, due to which he lost all the monetary benefits and sustained pain and hardship. It is further submitted by the complainant that he has very much mental agony due to the sudden death of his mother while she was under the treatment of the said OP doctor. Under the stress and pressure only, the above said cheque was issued but, unfortunately, the complainant's mother died. It is also stated that the OP issued a legal notice on 21-2-2017 to the complainant under the N.I.Act for an amount of Rs.3,00,000/- as the said cheque was bounced and, in turn, a reply notice was also issued by the complainant stating that the cheque was issued under coercive condition and it was not viable debt. On the whole, the complainant pleaded that the OP did not give any medical treatment details or bills, the admission details and test reports, due to which the complainant could not make reimbursement for the payment made to the OP for an amount of Rs.1,50,000/- besides loss of life of his mother.

The acts and deeds of the OP amount to deficiency of service and unfair trade practice. The complainant further pleaded that the said amount of Rs.1,50,000/- has to be repaid by the OP besides of compensation as claimed by him in the complaint for the deficiency of service and unfair trade practice and also loss of monetary benefit due to non claim of the reimbursement from the Government. Hence the complainant filed this complaint for the mental agony and monetary loss against the OP as prayed for.

3. The OP/doctor received notice and filed counter through their counsel. The OP denied all the pleadings of the complainant, more particularly, that the deceased had reimbursement facility. The OP has contended that the complainant did not inform about the facility of reimbursement. The OP admits that the complainant has got admitted his mother into their hospital on 27-12-2016 and upon such admission, they have conducted primary medical tests. As per the test reports, it was found that the patient had cardiac problem with other multiple problems. The condition of the patient explained to the complainant and his family members. The treatment was started on emergency basis to the mother of the complainant because of her deteriorating health condition. The OP further contended that the complainant paid Rs.1,00,000/- through cheque vide No.704441 on 28-12-2016 as a partial payment and further paid Rs.50,000/- to Mallika Pharmacy through cheque vide No.161590 for medicines. The bills were given to the complainant immediately. The OP has contended that they have explained the condition of the patient to the family members including the complainant. While undergoing treatment, the said patient, i.e., the mother of the complainant was died and the said death may occur due to low B.P., uncontrolled sugar levels and heart attack. The OP doctor stated that the treatment was started with the due consent of all the family members of the complainant without demanding any amount. It is also denied by the OP that they never demanded for issuance of cheque of Rs.3,00,000/- for further treatment. On 30-12-2016 in the evening hours, the mother of the complainant died due to cardiac arrest, even after taking best efforts and treatment with due care and attention by the OP. It is also stated that the complainant has informed to them to settle the bills after completion of funeral procedures.

After 15 days of death of the complainant's mother, the complainant approached the OP with IAM President, by name, one Sri Dr. Ram Mohan to settle the final bill and take back the post dated cheque. The Manager of the

OP's Hospital, by name, Sultan called the complainant over phone, but the complainant did not respond the call and not paid the settlement amount and not returned back the post dated cheque. The complainant did not respond the phone calls made by the OP for several times, and thereby, the OP has no option except to encash the cheque and presented the same in the bank of the OP, but the said cheque was returned as there was insufficient funds. The OP got issued a legal notice on 21-12-2017 to the complainant and after receipt of the same, the complainant replied with baseless allegations. It is also contended that the complainant approached the OP along with some team of Advocates and threatened the OP and informed that the balance amount will be repaid by the complainant only after getting the reimbursement, if the bills were issued by the OP and further requested to issue the bills for unpaid amount by mentioning more amount in the bills to collect more reimbursement amount, but the OP had refused to issue such bills. It is also denied that they did not give any receipts, test reports, medical treatment details or even admission details of the deceased. Besides all these allegations, the OP further pleaded that they have already issued the bills for Rs.1,50,000/- which was paid by the complainant as an advance amount. The OP further contended that there is no any deficiency of services or unfair trade practice on their part and the complainant had never suffered anything in the hospital as alleged by him in the complaint. The OP has submitted that he is a competent, qualified and experienced doctor by having 11 years standing as a practicing doctor. He had taken all due care and attention for the complainant's mother. The OP has stated that they are ready to furnish the total bills and necessary documents to the complainant's mother if the complainant pays balance due amount. Basing on said allegations and submissions, the OP has sought for dismissal of the complaint.

4. Thereupon, the complainant in support of his case filed his evidence affidavit and got marked documents Exs.A-1 to A-8 on his behalf. On the other hand, the opposite party in support of his contentions filed his evidence affidavit and got marked documents Exs.B-1 to B-5 on his behalf.

5. The points for determination now are:

- (i) Whether there is any deficiency on the part of the opposite party in rendering service to the complainant as alleged?
- (ii) Whether the complainant is entitled for the relief sought for by him?
- (iii) To what effect?

6. Before going to discuss about the point Nos.1 and 2, the objections taken by the OP in respect of maintainability of the complaint on the basis of technical aspects have been verified. In this regard, it is observed that the complainant is the son of the patient who admitted the patient in the hospital and he has taken all care and attention towards the treatment of his mother. The patient was brought by the complainant to the hospital and incurred an amount of Rs.1,50,000/- towards the treatment of his mother, as such he being a beneficiary towards the health of his mother and he is every right to obtain necessary papers from the hospital on behalf of his mother. The complainant being a family member of the patient and he has every right to submit the claim papers for reimbursement. So, the complainant accordingly initiated the present complaint for refund of Rs.1,50,000/- and Rs.2,00,000/- towards compensation for the loss suffered by him by all means. A fixed court fee of Rs.200/- is paid for the relief claimed in the complaint. So, the objections raised by the OP are not considered and the complaint is in order for adjudication.

7. Point Nos.1 and 2:- The main allegation of the complainant is that the OP hospital has not given the details of the treatment, medical bills, test reports conducted by the doctor, admission card and discharge sheet to claim the reimbursement of medical bills as his deceased mother is a family pensioner and entitled to claim reimbursement of bills from the government. He has filed the pension papers of his father namely B. Venkataiah who was worked as a government employee which are marked as Ex.A-4. On perusal of Ex.A-4, it is evident that B. Venkataiah, who is the husband of the deceased patient, is a pensioner under Government of Telangana and it is also shown the name of Kamalamma as family pensioner beneficiary. The complainant also filed other documents such as health card of employee viz., B. Venkataiah, temporary card issued in the name of B. Kamalamma for the employee health scheme and Aadhar Cards of Venkataiah and Kamalamma which are marked as Exs.A-5 to A-8. The Ex.A-2 is the original receipt dated 29-12-2016 issued in the name of Kamalamma for Rs.1,00,000/- by Mallika Hospitals which shows that the said Rs.1,00,000/- was acknowledged while receiving cheque No.704441 of S.B.I., Nagarkurnool, towards PTCA and two stunts. The Exs.A-1 and A-2 are legal notices issued by the doctor J. Mahesh Babu, Director of Mallika Hospitals, i.e., the OP to the complainant and the reply notice got issued on behalf of the complainant addressed to the advocate of the OP respectively.

8. The opposite party opposed the allegations of the complainant and also stated that the complainant is not at all questioning any negligence in respect of providing medical treatment/services rendered by the OP, i.e., either by diagnosis or surgery if any or post operative treatment. In this regard, it is observed that the present complaint is filed on the allegation of non-supply of requisite papers, which are necessary to claim reimbursement of medical bills, which are supposed to be supplied by the OP hospital. On the other hand, it is observed it is admitted fact that non-payment of total fee and also the cheque was not yet submitted for collection, without realisation of the cheque amount, the OP had not given the copies of medical bills and other documents as stated above to the complainant. It is also stated by the OP that the complainant's case is not for non-rendering of services towards treatment or surgery or diagnosis and the main allegation is only in respect of non-issuance of hospital bills at the time of taking the dead body of his mother. It is also stated that moreover the complainant himself assured to come back and collect the bills after realisation of the post dated cheque. It is also averred that at no point of time the complainant or her mother informed that they are eligible for family pension and the said Venkataiah, who is the father of the complainant and husband of the patient Kamalamma, was a pensioner and Kamalamma was eligible for medical reimbursement. No prejudice will be caused to the OP, if bills are issued even on credit basis, if the complainant requested the OP to issue them for medical reimbursement, by taking the dead body of his mother.

9. As per the statement made in the counter and his evidence affidavit, it is revealed that the OP had never insisted to issue post dated cheque on 30-12-2016 and any amount even during the course of treatment or on the last day of the death of the complainant's mother and the OP doctor also provided requisite/necessary treatment, without collecting the procedural charges. In this aspect, it is scrutinized the said statement. It is understood that if it is so, the amount incurred for the treatment and medicines for all the days from 27<sup>th</sup>, 28<sup>th</sup>, 29<sup>th</sup>, and till the evening of 30<sup>th</sup> of December, 2016, i.e., almost 3 days has to be Rs.1,50,000/- + Rs.3,00,000/-. If it is so, the OP doctor had charged for the total Rs.4,50,000/- and he is under obligation to issue the bills raised against the said amount with full particulars of medicines and description of the treatment charged by him and he is responsible to show the same by raising bills on such and such occasions and dates. But, there is no evidence placed in the record to show the amount spent by the OP doctor while providing the treatment and medicines on credit basis for the complainant's mother. On the other hand,

the OP stated that the bills were given for Rs.1,00,000/- and Rs.50,000/- towards partial payment of treatment and purchase of medicines. It is also stated that the OP doctor has given best treatment like Angioplasty and stents were done to save the life of the complainant's mother as the condition of her was deteriorating, even without collecting the procedural charges. The OP did not produce those copies of bills and the other bills for Rs.3,00,000/-. The Ex.A-3, receipt placed by the complainant shows that Rs.1,00,000/- by way of cheque was received by the OP hospital towards PTCA + two stents. The another bill for Rs.50,000/- and Rs.3,00,000/- have not placed in the record by either party. It is not the case of deciding cheque bounce, but the right of the consumer to collect the bills in advance from the hospital to avail reimbursement facility along with copies of receipts if paid, test reports, admission card or if any other document necessary for reimbursement from the hospital. It is observed that in failure to provide the said papers, the complainant could not avail reimbursement facility for his mother during the hospitalization life time of her. The complainant has lost his opportunity to avail such facility due to lack of requisite medical bills/papers/reports etc.

10. On further examination of the pleadings, it is manifest that it is not the case of negligence of treatment or in conducting the tests etc., but it is only the case of non-issuance of required medical bills and other papers by the OP to claim the reimbursement under family pension scheme.

11. The crux of the case is that the complainant could not claim the reimbursement due to non-supply of required medical bills for Rs.1,50,000/- and other expenditure and due to lack of other test reports, admission card and discharge sheet etc., whatever necessary for reimbursement of the medical expenses. It is not relevant to examine the other aspects in respect of the case filed by the OP under Negotiable Instruments Act and as such, the version of the OP that the instant case is only a counter blast case of N.I. Act complaint filed by him against the complainant herein also not at all considered. As the complainant has filed this complaint under the Consumer Protection Act, 1986, which is a special Act for the protection of rights of the consumer, the purview of this Commission is confined to determine whether there is any deficiency in rendering services on their part in furnishing the required papers so as to enable the complainant to claim reimbursement. It is not fair on the part of the OP to say that the required medical bills would have been furnished only after payment of total fees as charged by the OP. It is the duty of every

doctor or hospital to furnish all the medical bills, test reports, admission card etc., to the patient or to the persons relating to the patient. No doubt, it is required to furnish the same to the complainant for any legal necessity. In the instant case, the complainant deposed that he has requested the OP doctor to furnish all the required bills as stated above by saying that his mother is eligible for medical reimbursement expenses. It is thus the requisite papers and medical records are necessary to claim reimbursement and they are needed for that purpose.

12. It is also observed from the records that the mother of the complainant was admitted on 27-12-2016 and was treated by the OP doctor and also informed about her deteriorated health condition only on 30-12-2016 after issuance of the cheque for Rs.3,00,000/-. The contention of the OP that the complainant simply kept quiet without initiating any action till he received the legal notice in respect of the cheque bounce case dated 21-2-2017 and after knowing the dishonour of cheque for Rs.3,00,000/-. The complainant has filed this complaint within time for redressal of the consumer dispute on the basis of deficiency of services since the OP doctor has failed to furnish all the required bills for his legal entitlement of reimbursement of expenses. It is thus, we the Commission, without hesitation hold that the non-issuance of medical bills and other required papers to the complainant from the OP's hospital amounts to deficiency of services on the part of the OP. Though the complainant requested for the above said papers and bills, the OP doctor avoided to furnish the same to the complainant on the basis of non-payment of full amount towards the treatment, due to which the complainant could not make reimbursement for the payment made to the OP. The non-furnishing of details of treatment and medical bills by the OP attributes deficiency in services. It is the obligatory duty of every hospital or the doctor who treated the patient, to furnish all the records containing the treatment given including the medicines administered and nature of the operation etc., if any, to the patient or his/her family members. The complainant also cited some judgments including the Regulations 2002 of the Indian Medical Council. As per the said Medical Council of India Regulations, *"if any request is made for medical records either by the patient or the authorised attendant or local authorities involved, the same may be duly acknowledged and documents shall be issued within a period of 72 hours"*.

13. In the instant case, the OP has filed the documents viz., attested copy of case sheet of Kamalamma, original C.D., and other papers such as the



assessment form etc. The submission of the above papers before the Commission has no use to the complainant because he already lost his opportunity besides her mother and as such his right of getting the bills within the time has been denied by the OP. It is also observed that the complainant made request for the medical bills and other papers for reimbursement, but they are not given by the OP at the time of treatment till the death of Kamalamma and also on subsequent dates. The complainant confirmed that his mother was eligible for reimbursement for her treatment under family pension and the same was informed to the OP doctor and requested for bills and other necessary papers. On the other hand, the OP contended that he was never informed that the bills are required for reimbursement and not informed for any reimbursement facility to the patient. It is an admitted fact that the required medical and other papers and bills are not been issued either to the complainant or his other family members by the OP only for want of full payment of amount for the treatment given by the OP.

14. Both side parties have quoted citations, but they are all not applicable to the present case, except some of the citations in respect of the deficiency of services on the part of the hospital in failure to furnish the medical bills on request of the patient. The other citations are relating to the medical negligence factors and decisions. Whereas, the instant case is purely on the services to be provided towards the patient in respect of the issuance of the required papers for reimbursement of the medical expenses. It is also found that there is a legal necessity to get those papers by the complainant so as to claim the reimbursement of the medical expenses under family pension. But the complainant has not placed any piece of evidence on record to arrive the correct amount of reimbursement that he is entitled out of the amount of Rs.1,50,000/- incurred in the hospital. So, it is not possible to order for refund of the said amount by the OP and hence the first relief sought in the complaint cannot be considered. However, the Commission conclude that there is a deficiency in services on the part of the OP doctor in providing the required medical bills, admission card, treatment done, discharge sheet, medical reports etc., to the complainant within time. Hence, the OP is liable to pay an amount of Rs.1,00,000/- towards compensation for the loss sustained by the complainant by all means. It is therefore, we the Commission hold that a consolidated compensation of Rs.1,00,000/- is reasonable to be granted to the complainant.

15. In view of the above discussion, the point Nos.1 and 2 go in favour of the complainant and against the OP and decided accordingly.

16. Point No.3:- Having regard to the above findings, the complainant is entitled to get only compensation of Rs.1,00,000/- for the loss sustained by him and Rs.20,000/- towards the costs of the proceedings from the OP. The point No.3 is decided accordingly.

17. In the result, the complaint is partly allowed, directing the OP to pay an amount of Rs.1,00,000/- towards consolidated compensation by all means and Rs.20,000/- towards the costs of the proceedings to the complainant within one month from the date of receipt of this order.

Typed to dictation, corrected and pronounced by us in the open Commission on this the 6<sup>th</sup> day of August, 2021.

**Sd/-  
MEMBER**

**Sd/-  
PRESIDENT**

Appendix of evidence  
List of Witness examined

**On behalf of Complainant:**

- Nil -

**On behalf of Opposite Party:**

- Nil -

**List of documents marked:-**

**On behalf of Complainant:-**

- Ex.A-1: Photostat copy of Legal Notice issued by OP, dt.21-2-2017.
- Ex.A-2: Photostat copy of Reply Notice, dt.27-2-2017.
- Ex.A-3: Original Cash Receipt, dt.29-12-2016.
- Ex.A-4: Photostat copy of Pension Papers of B. Venkataiah.
- Ex.A-5: Photostat copy of Health Card of B. Venkataiah.
- Ex.A-6: Photostat copy of Temporary Health Card of B. Kamalamma.
- Ex.A-7: Photostat copy of Aadhar Card of B. Kamalamma.
- Ex.A-8: Photostat copy of Aadhar Card of B. Venkataiah.

**On behalf of OP:**

- Ex.B-1: Photostat copy of Assessment Form issued by OP, dt.27-12-2016.
- Ex.B-2: Original C.D.
- Ex.B-3: Photostat copy of Cheque for Rs.3,00,000/-, dt.13-2-2017.
- Ex.B-4: Copy of Petition in CC No.227/2017 renumbered as CC No.318/2017 before JMFC-cum-Spl. Mobile Court, Mahabubnagar.
- Ex.B-5: Copy of Letter issued by HDFC Bank, dt.15-2-2017.

**Sd/-  
PRESIDENT**

Case No. \_\_\_\_\_

Date of Disposal: \_\_\_\_\_

Free copy of order delivered to  
Complainant/Opposite Party  
by hand or dispatched on: \_\_\_\_\_

Dis.No. \_\_\_\_\_, Dt. \_\_\_\_\_

Copy to:

1. Sri G. Rangaiah, Advocate, Mahabubnagar for the complainant.
2. Sri N. Ravi Kumar, Advocate, Mahabubnagar for the opposite party.