

**BEFORE THE TELANGANA STATE CONSUMER DISPUTES REDRESSAL
COMMISSION:HYDERABAD**

**FA NO.93/2017 AGAINST CC No.324/2014 ON THE
FILE OF DISTRICT FORUM-II, HYDERABAD.**

Between :

Sanka Naganadh Sai,
S/o.S.Chinni Bala Krishna Gupta,
Flat No.101, Star Homes,
Mallikarjuna Nagar,
Bagh Amberpet, Hyderabad 500 013.

....Appellant/
Complainant

And

1.Dr.Dharmesh Kapoor, M.D., D.M., MRCP,
Global Hospitals, Lakdikapool,
Hyderabad - 500 004.

2. Dr.Ravindranath, M.D.,
Global Hospitals, Lakdikapool,
Hyderabad - 500 004.

... Respondents/
Opposite parties

Counsel for the Appellant : Smt.K.Padma Latha

Counsel for the Respondents : Mr.G.Venugopal Rao-R1.
Mr.T.Rajendra Prasad- R2.

**FA NO.108/2017 AGAINST CC No.324/2014 ON THE
FILE OF DISTRICT FORUM-II, HYDERABAD.**

Between:

1.Dr.Dharmesh Kapoor, M.D., D.M., MRCP,
Global Hospitals, Lakdikapool,
Hyderabad - 4.

2. Dr.Ravindranath, M.D.,
Global Hospitals, Lakdikapool,
Hyderabad - 4.

... Appellants/
Opposite parties

And

Sanka Naganadh Sai,
S/o.S.Chinni Bala Krishna Gupta,
Flat No.101, Star Homes,
Mallikarjuna Nagar,
Bagh Amberpet,
Hyderabad 500 013.

... Respondent/
Complainant

Counsel for the Appellants : Mr.G.Venugopal Rao-Appellant no.1
Mr.T.Rajendra Prasad-Appellant no.2.

Counsel for the Respondent : Smt.K.Padma Latha.

CORAM : Hon'ble Sri Justice M.S.K. Jaiswal, President.
And
Hon'ble Smt. Meena Ramanathan, Lady Member

THURSDAY, THE THIRTIETH DAY OF SEPTEMBER,
TWO THOUSAND TWENTY ONE.

Oral Order:

1. Both the appeals are being disposed of by this common order as they arise out of the same judgement i.e. the order of the District Forum-II, Hyderabad in C.C.No.324/2014 dt.12.1.2017.
2. Aggrieved by the order dated 12.1.2017 in C.C.No.324/2014, on the file of District Forum-II, Hyderabad, the complainant preferred F.A.No.93/2017 and the opposite parties filed F.A.No.108/2017.
3. For the sake of convenience, the parties are referred to as arrayed in the complaint.
4. The brief facts of case are as follows:
 The complainant's father late Sri S.Ch.B.K.Gupta, was admitted with the complaints of SOB, drowsiness, decreased urine out put with a provisional diagnosis of left leg cellulites in Kamineni Hospitals, Koti, Hyderabad on 17.5.2012. After examination he was diagnosed as a case of K/C/O/DM, HTN, Cirrhosis of Liver with decomposition with Ascities with left leg cellulites with sepsis with respiratory failure and with renal failure and worsened urine output and the doctors put him on life support, but his condition did not improve and the Kamineni Hospital authorities explained the bad prognosis of the patient to the complainant (his son).
 In the above circumstances, they consulted opposite party no.2 for the treatment of his father and it is the complainant's contention that he was assured that they would be able to cure the patient. Based on this assurance he shifted his father from Kamineni Hospital to Global Hospitals, Lakdikapool Branch, Hyderabad on 20.5.2012 at 7.30 p.m. The complainant deposited a substantial sum in the opposite party no.2 hospital but by the next day at 12 p.m., the patient was declared dead. The cause of death was recorded as 'Cardio Pulmonary Arrest'. In a short span of 17 hours, the opposite party administered around 24 injections and used various medicines worth Rs.1,26,096/-. The complaint is filed against the illegal gain exhibited by the opposite parties and the fact that even when the patient is at the end stage the

bill is astronomical. He contends that owing to the gross deficiency in service of the opposite parties and the monetary loss and pain he has suffered, filed the present complaint claiming compensation of Rs.10,00,000/- along with refund of Rs.1,97,654/- spent towards the hospital expenses, to pay interest and costs payable by both the opposite parties jointly and severally.

5. Opposite parties have stated in their written version that the complainant herein admitted his father in their hospital in a critical condition and they explained all possible risks and complications that may arise and deny having given any assurance to the complainant. The plea of the complainant that they gave him assurance is not correct and they have only provided appropriate treatment to the patient and have not committed any breach of duty in their care. The treatment provided is not against the medical ethics as alleged by the complainant. There is neither negligence nor deficiency in service and all tests conducted and treatment given is only to safeguard the life of the patient. The opposite parties state that they informed the complainant about all the expenses incurred by the hospital and also handed over the necessary documents. The present complaint is false and frivolous and made with a malafide intention to extract money from them. With these submissions they seek that the complaint may be dismissed.

6. Before the District Forum, Evidence Affidavit of the complainant as PW.1 filed. Evidence affidavits of Mr.A.Roop Kumar-cousin and Mr.Narsing Ramesh - friend of the complainant as PWs.2 & 3 filed. On behalf of the complainants, Exs.A1 to A40 documents marked. No documents were marked on behalf of the opposite parties.

7. The District Forum partly allowed the complaint directing the opposite parties 1 & 2 jointly and severally to pay a sum of Rs.1,00,000/- (Rs.50,000/- each) to the complainant and to pay a sum of Rs.5000/- (Rs.2,500/- each) . The District Forum granted 45 days for compliance from the date of the order. In case of non compliance of the order within the stipulated time, the complainant is entitled for interest @ 9% p.a. from the date of the order till the date of realisation.

8. Aggrieved by the orders given by the Forum below the appellant/complainant preferred F.A.No.93/2017 with the following grounds:

- a). The Forum has failed to understand the nature of medical profession, the degree of responsibility on the medical practitioners and

the concept of Doctor - Patient relationship which forms the foundation of legal obligations between the doctor and the patient.

b). In the instant case, the respondent/opposite party doctors have visited the patient at Kamineni Hospital, Hyderabad and have assured that they would improve his condition. The Forum failed to consider this assurance given by the respondent/opposite party doctors.

c). The patient was in a critical condition and there was no necessity to subject the patient to several tests and this aspect was not appreciated by the Forum in their order. The evidence of PWs. 1 to 3 was not considered in the proper perspective and the claim of the appellant/complainant was only partly allowed.

The appellant/complainant prayed to allow the appeal by modifying the orders of the District Forum and enhance the compensation as prayed for in the complaint.

9. Aggrieved by the order of the District Forum, appellants/opposite parties preferred F.A.No.108/2017 with the following grounds:

a). The condition of the deceased was very critical and the respondent/complainant shifted the patient to their hospital (Global) voluntarily. The appellants/opposite parties categorically submit that they have not given any assurance to the respondent/complainant as alleged by him. The Forum below ought to have considered the fact that the doctors at Kamineni informed the respondent/complainant that the condition of the deceased/patient was very critical and that he may collapse at any time;

b). The Forum below was wrong in holding that the acts of the appellants/opposite parties are unfair and passed the afore said order relying heavily on the allegations submitted by the respondent/complainant which are not supported by any material evidence;

c). The Forum below has drawn wrong inferences from the pleadings taken by the respondent/complainant. The appellants/opposite parties started the treatment to the patient only after obtaining general informed consent and by explaining all the risk factors.

The appellants/opposite parties prayed to set aside the order of the District Forum.

10. The point for consideration is whether the impugned order passed by the District Forum suffers from any error or irregularity or whether it is liable to be set aside, modified or interfered with in any manner?

11. The admitted facts are that :


- i). the complainant's father late Sri.S.Ch.B.K.Gupta aged 69 years was admitted in Kamineni Hospitals, Hyderabad on 17.5.2012. After examination, he was diagnosed as a case of K/C/O/DM, HTN, Cirrhosis with decomposition with Ascities with left leg cellulites sepsis with respiratory failure with renal failure and worsened urine output.
- ii). Ex.A1 - JUSTIFICATION submitted by Kamineni Hospitals also states that the patient has been on ventilator and his condition has not improved. The attendants of the patient have been explained with regard to the bad prognosis of the patient and they shifted him to an other local hospital with LAMA hoping for better management.
- iii). It is also admitted that the deceased was shifted to the opposite party hospital on 20.5.2012 at 7.30 p.m.

12. We have perused the detailed order of the Forum below and the main controversy that requires our consideration is whether the opposite parties have committed deficiency in service and medical negligence in the treatment accorded to the patient and for the short period he has been in their hospital was he charged a hefty sum unfairly?

13. In support of their claim, the complainant has referred to Ex.A1 wherein the deceased was on Ventilator support and that his condition was very critical and that this report was shown to the opposite parties. He has also raised the plea that it was on the assurance of the opposite parties that he shifted his father to their hospital. The fact that the patient was shifted against the medical advise hoping for better management is very categorically recorded in Ex.A1.

The complainant counsel submitted her detailed Written Arguments and oral submissions reiterating that the complainant's father was dishonestly advised by the opposite parties/Doctors for wrongful gain. Much emphasis has been given to the non-issuance of medical records, shifting of a patient under ventilator support and treating the patient with a heavy dose of injections and being burdened with an exorbitant bill. On the basis of these circumstances, the complainant contends that it establishes the hypothesis of guilt.

It is necessary to distinguish fact from fiction. It is not as if the opposite parties came to Kamineni Hospital and forcibly shifted the patient to their facility. For non production of the Case Sheet and medical records, the complainant and his counsel should have pursued the matter in the lower Forum itself. If it was so important then they could have been more insistent and vigilant at the inception itself.



It is not as if the opposite parties coerced and forcibly shifted the complainant's father to their facility. This decision was only voluntarily taken by the complainant and he cannot state that the opposite parties assured him of saving his father. No doctor can promise that they will cure all the problems. It is only the duty of care and commitment that they can exercise towards the patient. The Forum has greatly emphasised this assurance given by the opposite parties but have not relied on any documentary evidence to sustain this. It is the endeavour of every doctor/hospital to provide the best care to their patients. It is with this belief that patients go to the hospital, however this cannot form the basis of the complaint.

Prior to being shifted to the opposite party hospital the patient/deceased was suffering from renal failure, cirrhosis of liver and many other complications. Some basic principles emerge in dealing with cases of medical negligence. Negligence is the breach of duty exercised by a medical professional who is expected to bring a reasonable degree of skill and knowledge while treating the patient. It is only if his conduct falls below this standard of competence can it be termed as negligence. The complainant has made very loud accusations against the opposite parties doctors stating that the promise made by them is unfair. The opposite parties have never promised the complainant that they will save the life of the deceased. They can only provide the treatment and try their level best. As long as the doctors perform their duties and exercise a degree of professional skill and competence they cannot be held guilty of medical negligence and the Forum has expressed this appreciating the material on record.

14. We have perused the evidence affidavit filed by complainant as PW.1 and also evidence affidavits of PWs.2 & 3 and what is very obvious is that the complainant was well aware of the extremely critical condition of his father. He has tried his level best to save him and has contacted Global Hospital for further consultation. He has stated in his evidence that the doctors of opposite party hospital visited the patient and discussed his condition with the duty doctor at Kamineni Hospital and then the patient was shifted to Global Hospital (Opp.party). This does not in any way mean that the opposite parties have given their assurance to save the patient. To construe this as a promise and lay the blame on the opposite parties is extremely unfair and unnecessary.


The evidences of PWs.1 to 3 repeatedly state that they believed the assurance of opposite party no.2 and patient was shifted to Global Hospital on 20.5.2012 at 7.30 p.m. Every medical practitioner will try to save the patient and in this case, the patient was in a critical condition and the prognosis was very poor. They could not in any way have promised something that was not in

their capacity. Blaming the doctors unjustly could have been avoided especially when the patient was in a critical condition.

15. The complainant has also urged that the opposite parties have conducted tests when the patient was in a critical condition and knowingly caused him much monetary damage. The fact that the patient was in the facility of the opposite parties only for 17 hours is admitted and he was in an extremely critical condition. As per the submissions of opposite parties 1 & 2 who were working in the hospital during that period, the complainant paid the amounts to the hospital for providing treatment to the deceased. Therefore, it is the hospital who collected the amount and may be directed to pay the same to the complainant.

16. We have perused the record of Global Hospitals filed by the complainant vide Ex.A11 to A36. He has paid a total amount of Rs.2,17,654/- to the Global Hospital who has not been made a party to the present complaint. The patient was admitted on 20.5.2012 at 19.35 and died on 21.5.2012 at 12.20 p.m. The duration in the hospital was short and tragic. The opposite parties have conducted number of tests. We appreciate the fact that the treating doctors have tried their level best to save the life. The patient was in the ICU for barely one day and in an extremely critical state.

17. A close perusal of Ex.A29 reveals that in a short period the patient was administered more than 40 injections and the cost of these injections is given as Rs.11,300/-, Rs.45,200/-, Rs.10,000/- so on and so forth. The complainant has failed to substantiate his case by providing any expert evidence to contend that the treatment provided to the patient was unnecessary and unwarranted. The bills for all the amounts paid for are submitted by the complainant and there is no justification in stating that the course administered was wrong or negligent. The opposite parties have provided the care deserving to the patient who was undoubtedly in an extremely critical condition. The impugned order has acknowledged the fact that as per medical records maintained by Kamineni Hospital, the patient may die in a short period. Certainly, this information was within the capacity of the complainant and yet he chose to admit his father in the care of the opposite parties. For providing treatment at great expense, the Forum below adversely passed the order directing opposite parties 1 & 2, who are only the treating doctors to refund a sum of Rs.1 lakh to the complainant. Presenting the complainant with an excessive or supposedly exorbitant bill cannot be termed as deficiency in service or negligence.



18. In view of the afore said discussion, F.A.No.93/2007 filed by the complainant is dismissed and F.A.No.108/2017 filed by the opposite parties is allowed. Order of the District Forum -II,Hyd. in C.C.No.324/2014 is set aside.


PRESIDENT


LADY MEMBER

Dated: 30.9.2021