

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

**C.C.287/2014** ✓

**Between :**

Dr.N.Premanadham,  
S/o.Rama Dasu , Hindu, male,  
Aged 59 years, Associate Professor (Retired),  
S.V.Medical College, Tirupathi,  
Chittoor District.  
Presently residing at Plot No.201,  
III Floor, Sai Naveen Paradise, 9<sup>th</sup> Street,  
Ramjinagar, Nellore.

...Complainant ✓

And

Dr.G.Ramesh Ramayya,  
F.R.C.S. (Eng.) FRCC(Edin)  
M.Ch.(Liver Pool),  
Urologist Surgeon , Reg. No.8914,  
Prameela Hospitals,  
D.N.5-9-34/2/1A  
Hindu, Male Aged years,  
Near New MLA Quarters,  
Basheerbag, Hyderabad.

... Opposite pParty ✓

Counsel for the Complainant : M/s.Prabhakar Sripada

Counsel for the Opposite Party : M/s.Asadulla Pasha

**CORAM :** Hon'ble Sri Justice M.S.K. Jaiswal, President.  
And

Hon'ble Smt. Meena Ramanathan, Lady Member

**TUESDAY, THE FOURTEENTH DAY OF DECEMBER,  
TWO THOUSAND TWENTY ONE .**

**Order:**

1. This is a complaint filed by the Complainant under Section 17(1)(a)(i) of the Consumer Protection Act, 1986 praying to direct the opposite party as follows:

- to pay a sum of Rs.50 lakhs i.e. Rs.37,50,000/- towards compensation and Rs.11,69,660/- towards the expenses incurred by the complainant ;
- to award future interest @ 12% p.a. from the date of complaint till the date of realisation; and
- to award costs.

2. The brief facts of the case are as follows:

The complainant is a retired govt. employee and he was a private medical practitioner before he entered into the govt. service. He suffered with pain and swelling in his back and approached opposite party in the month of April,2012. On 27.4.2012 the opposite party admitted the complainant as inpatient in his hospital and conducted several tests and finally diagnosed

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that the complainant was suffering with Nephrocutaneous Fistula with upper moiety pyanephrosis with pherinephric abscess. On 3.5.2012 the opposite party conducted surgery to the complainant's left Nephrocutony GA and removed the affected part of the left kidney. The complainant was in the hospital of the opposite party as an inpatient for about 4 months for treatment and he was discharged on 20.8.2012. Inspite of the surgery and long treatment, the complainant still suffered severe pain and oozing.

The complainant submits that he consulted another doctor by name Dr.O.Ramesh who referred him to CLEAR Diagnostic Centre Pvt. Ltd. Tirupathi. Several tests were conducted and Dr.K.Ritesh DNB RD, Radiologist came to the conclusion that left renal remnants are in the kidney with recurrent sinus. The complainant submits that the opposite party failed to remove the entire inflammatory fibrous mass from the left kidney, as a result of which it led to chronic discharge of sinus from his left kidney.

As the pain increased unbearably, the complainant consulted Dr.K.Ramesh Raju at Visakhapatnam, who referred him to Vijaya Medical Centre, Visakhapatnam where several tests were conducted and according to the reports it appeared that there are small irregular cystic areas in the left renal fassa. As per the suggestion of the Doctor of Vijaya Medical Centre to undergo surgery for the removal of left renal Parenchymal Remnant, the complainant got admitted in G.Kuppuswamy Naidu Memorial Hospital, Coimbatore and underwent surgery on 16.4.2013 and was discharged on 27.4.2013. After the said operation there is no pain and oozing and the ailment of the complainant was totally healed.

The complainant submits that the opposite party most negligently conducted surgery to his left kidney without taking proper care which resulted in leaving the remnants in his left kidney due to which he suffered both physically and mentally. The complainant submits that he incurred total expenditure of approximately Rs.8,79,260/-towards surgeries, tests etc. and Rs.2,90,000/- towards loss of pay as he was on leave for several days.

The complainant submits that though the opposite party claimed huge amounts from him, he did not take proper care in conducting the operation and if the opposite party removed the affected part of the diseased upper moiety of left kidney, he might have not undergone surgery for the 2<sup>nd</sup> time by spending huge amounts. The complainant got issued a regd. demand notice dt.7.4.2014 to the opposite party demanding to pay Rs.50 lakhs towards compensation and expenses incurred for which the opposite party issued a reply notice with all false and untenable allegations. Hence the complaint seeking directions to the opposite party as stated supra in para no.1.




3 The opposite party filed written version denying the allegations made in the complaint and contending that the complainant suppressed the facts about his previous treatment at their hospital since 1998. The opposite party conducted operation on the complainant for a very difficult complex kidney stone in left kidney and informed that the part of the kidney from where the stone has been removed was infected and not functioning and the said part of the kidney may give rise to problems in the future or may have recurrence of the stone. After the operation the complainant was keeping good health for a period of 14 years. In the year 2011, the complainant developed a small pus discharge from the site of the earlier stone removal. After consulting many other doctors, the complainant came to the opposite party in January, 2012. The opposite party immediately performed a special test called sonogram which revealed a small tract discharging pus from upper part of the left kidney for which he suggested that it can be managed by medication and if it gets worse a surgery needs to be conducted. The complainant opted for medical management and four months later he again came on 28.4.2012 to the opposite party with 10 days history of fever and pain in left flank and he was toxic with signs of septicaemia.

The opposite party immediately admitted the complainant and conducted necessary tests and because of severity of sepsis he was sent for percutaneous ultrasound guided drainage for stabilisation of his condition to an experienced and nationally renowned Radiologist Dr. TLN Praveen where it is tested positive for pseudomonas aeruginosa (a deadly bacterial infection). As the complainant continued to have spikes of fever even on Meropenam Therapy, the opposite party team of urologists decided to conduct urgent surgery on the complainant and it was also made clear to him that it would not be possible to operate on only the upper part of the kidney but the entire kidney will have to be removed using a technique of subcapsular nephrectomy. On 3.5.2012 Subcapsular Nephrectomy was conducted and the complainant's clinical condition stabilised.

The opposite party submits that it is totally unfair to say that the healthy portion of the kidney was removed leaving behind the pyonephrotic part i.e. upper moiety. Histopathological report of the first surgery showed cavities with necrotic tissues measuring around 10 cm. in size with two poles. As per the second surgery only a focal remnant was left behind. Such focal remnants have been proven to be not uncommon especially in subcapsular nephrectomy.

The opposite party submits that there was no negligence on their part while treating the complainant for an emergency removal of kidney which was dreadfully infected. The complainant consulted half a dozen doctors in different cities for their second opinions and later on got a minor surgery in



Coimbatore for removal of remnants of tissue which could not be seen by the opposite party at the time of the removal of the infected kidney due to the area being infected and full of pus and inflammation. The opposite party submits that there is no deficiency in service on their part and prayed for dismissal of the complaint with costs.

4 Evidence Affidavit filed by the complainant. Exs.A1 to A11 marked on behalf of the complainant. Chief Examination Affidavit of the opposite party filed. Exs.B1 to B7 marked on behalf of the opposite party. Written Arguments of both sides filed.

5. Heard both sides and perused the material on record.

6. The points that require our consideration are :

- i. Whether the opposite party has been deficient and negligent in the treatment given to the complainant as alleged?
- ii. If yes, is the complainant entitled to the reliefs as prayed for in the complaint?

7. Points 1 & 2 : The complainant a medical practitioner approached opposite party for treatment in the month of April,2012. It is also submitted by the complainant that he has been getting treatment from opposite party periodically from 1998. A careful study of the records and submissions reveal the following points:

- a. The complainant aged 59 years and an Associate Professor at S.V. Medical College, Tirupati has been getting treatment from opposite party from 1998 onwards.
- b. Although the complainant has failed to provide details of his medical issues in the year 1998, the opposite party submitted in the written version that a left percutaneous nephrolithotomy was performed in the upper moiety of the left kidney. According to the opposite party doctor, the complainant was born with a congenital abnormality in the left kidney and the upper moiety was badly infected.
- c. The operation was conducted and the complainant was informed that the part of the kidney from where the stone was removed was infected and not functioning. He was also told that this part of the kidney may give rise to problems in the future or that there may be reoccurrence of the stone.



8. The present complaint has been filed in the year 2015 with regard to a pus discharge from the site of the earlier surgery. The complainant consulted the opposite party in January, 2012 and was advised that the problem can be managed by medication but if the pain gets worse, surgery would be necessary to remove the infected kidney/or part of the kidney. He was admitted as inpatient on 27.4.2012 and several tests and examinations were conducted and finally he was diagnosed as suffering from 'nephrocutaneous fistula with upper moiety pyelonephrosis with perinephric abscess'.

9. As per the opposite party submissions, the complainant was toxic with signs of septicaemia. Since the complainant was in a life threatening situation, surgery was conducted and it was also explained to him that the entire kidney would have to be removed. A technique of subcapsular nephrectomy was considered the best and safest way to remove the infected kidney. The possibility of a subcapsular nephrectomy surgery could leave remnants behind - this fact was also explained to the complainant who is a senior pathologist himself.

10. The complainant has alleged that the surgery conducted by the opposite party was done negligently and the healthy functional part of the kidney was removed instead of the diseased upper part of moiety of the left kidney.

The complainant's initial complaint in the year 1998 was with regard to a PCNL and was having c/o. discharge on & off from left lumbar region for 8 months before the 2<sup>nd</sup> admission to the opposite party hospital. A perusal of the Discharge Summary reveals that in the last one week discharge aggravated associated with Pyrexia, pain and swelling vide Ex.B1. Physical examination revealed "Left flank region pus discharge + pain and induration". Ex.B1 is dated 20.8.2012 and he was discharged with special instructions to bring the old reports and given a list of medicines to continue. Final diagnosis was "Nephrocutaneous fistula with upper moiety pyelonephrosis with Perinephric abscess".

Focal renal abscesses typically occurs in the setting of pyelonephritis, particularly in patients with anatomical abnormalities that are pre disposed to infection. Mostly, the kidney may have suffered previous episodes of infection and be chronically pyelonephritic and scarred. This typically develops in patients with diabetes mellitus or in the setting of delayed treatment.

11. The complainant came to the opposite party doctor in January, 2012 and was advised low dose of antibiotic therapy. He presented himself

again on 28.4.2012 with signs of septicaemia and was admitted immediately. Because of the severity of sepsis and continuous spikes of fever, he was advised to undergo sub capsular nephrectomy. This was conducted by three urologists and the record filed as Ex.B3 supports this submission of the opposite party doctor. The complainant was discharged after a prolonged stay in the opposite party no.1 hospital .

The opposite party no.1 doctor has submitted in his written version that the subcapsular nephrectomy was done in an emergency setting. He has further submitted that the aim of the surgery was to bring down and control the septicaemia and in such settings, focal remnants can be left behind. Those can be tackled in an elective setting once the complainant comes out of sepsis.

12. According to the complainant as stated in his evidence affidavit, the opposite party is trying to cover up his negligence by stating that as per the 2<sup>nd</sup> surgery such focal remnants have been proven to be not uncommon – especially in subcapsular nephrectomy”. It is the complainant’s case that the opposite party neither informed the process of surgery nor did he appraise him of the future problems as there are some remnants left in the kidney during surgery.

The point that requires to be adjudicated is whether the focal remnants were left behind negligently by the opposite party doctor?

13. After the 2<sup>nd</sup> surgery, the complainant was in the opposite party hospital for a prolonged period. In spite of the surgery and the course of treatment he was still suffering from pain and pus discharge. He consulted Dr.O.Ramesh working in S.V.Medical College, Tirupathi and Dr.K.Ritesh-Radiologist and came to a conclusion that the renal remnants in the left kidney meant that the surgery conducted by opposite party was most negligently done. He had to undergo a surgery at Coimbatore to have the remnants removed. This was done on 13.4.2013 at G.Kuppuswamynaidu Memorial Hospital, Coimbatore by Dr.Ganesh Gopalakrishnan. We have studied the exhibits filed by the complainant in support of his complaint.

Ex.A4 is the C.T.Scan taken at Clear Diagnostic Center Pvt. Ltd. referred by Dr.O.Ramesh, dated 22.12.2012

Ex.A5 is the CT Scan report taken at Vijaya Medical Centre and the conclusion is “There is an oblong 5.8 x 3.8 x 3.9 cm (CCxAPxTV) nodular soft tissue density mass in the left renal fossa.” This report is dated 13.2.2013.



Ex.A6 is the Discharge Summary issued by G.Kuppuswamy Naidu Memorial Hospital. Diagnosis : Nephrocutaneous Fistula. Procedure: Completion Nephrectomy with Excision of Fistulous Tract.

The same exhibit has the following notes recorded:

"Entire mass of fibrous tissue with kidney was excised. Frozen sections taken confirmed presence of kidney tissue in the specimen".

14. The issue that requires to be comprehended is that in subcapsular nephrectomy - the thickened capsule is left attached to the peritoneum or diaphragm. Because it requires less time than the classic nephrectomy. This approach is preferred and particularly indicated in patients who are considered poor surgical risks. In the instant case, the complainant presented a pathological condition where the condition of the kidney rendered a classic nephrectomy tedious and difficult. Nephrectomy after pyonephrosis, repeated acute pyelonephritis or chronic pyelonephritis is a challenge for any surgeon. None of the doctors, the complainant consulted have stated that the sub-capsular nephrectomy was done negligently. The risk of such remnant renal parenchyma is obviously more with subcapsular technique than the classic nephrectomy.

15. In this case the infection was a major concern and subcapsular nephrectomy was the only choice to remove the kidney without injury to surrounding structures. The aim is to analyze whether the opposite party doctor performed the procedure negligently. On the material available and the arguments advanced, we find that the opposite party doctor chose the surgical technique best suited and the fact that the complainant was in life threatening situation cannot be overlooked. It is also pertinent to add that the complainant was a patient of the opposite party doctor for more than a decade and has been in his care for a long time. No expert opinion has been advanced by the complainant to conclude that the surgery was performed negligently. With these observations, we conclude that the complaint is devoid of any merits.

16. In the result, complaint is dismissed.

   
**PRESIDENT** **LADY MEMBER**

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**Dated : 14.12.2021**

## APPENDIX OF EVIDENCE

### Witnesses Examined

#### For the complainant

Evidence affidavit of the  
Complainant filed.

#### For the opposite party

Evidence Affidavit of the  
opposite party filed.

#### **Exhibits marked on behalf of the complainant:**

- Ex.A1 : Photostat copy of Essentiality Certificate dt.20.8.2012 issued by Pramila Hospitals in favour of the complainant.
- Ex.A2 : Photostat copy of Essentiality Certificate dt.20.8.2012 issued by Pramila Hospitals.
- Ex.A3 : Photostat copy of Admission and Discharge Summary of the Complainant issued by Pramila Hospitals.
- Ex.A4 : Photostat copy of CT Scan KUB Region – Plain. of the complainant issued by CLEAR Diagnostic Center Pvt. Ltd. dt.22.12.2012
- Ex.A5 : Photostat copy of CT Scan Report of the complainant issued by Vijaya Medical Centre dt.13.2.2013.
- Ex.A6 : Photostat copy of Discharge Summary of the complainant dt.27.4.2013 issued by G.Kuppuswamy Naidu Memorial Hospital, Coimbatore.
- Ex.A7 : Photostat copy of Surgical Pathology Report of the complainant dt.20.4.2013 issued by G.Kuppuswamy Naidu Memorial Hospital.
- Ex.A8 : Photostat copy of bill dt.27.4.2013 issued by G.Kuppuswamy Naidu Memorial Hospital, Coimbatore in favour of the complainant .
- Ex.A9 : Photostat copy of In Patient Receipt dt.27.4.2013 issued by G.Kuppuswamy Naidu Memorial Hospital in favour of the complainant .
- Ex.A10 : Copy of the legal notice dt.7.4.2014 issued by the complainant to the Opposite party .
- Ex.A11 : Copy of the reply legal notice dt.16.5.2014 issued by the opposite party to Mr.G.Siva Mohan Rao, Adv. for the complainant.

#### **Exhibits marked on behalf of the opposite party:**

- Ex.B1 : Photostat copy of Admission & Discharge Summary of the Complainant dt.20.8.2012 issued by opposite party.
- Ex.B2 : Photostat copy of medical report of the complainant dt.20.1.2012, 21.1.2012, 7.4.2012 & 28.4.2012 issued by opposite party .
- Ex.B3 : Photostat copy of medical report with regard to the health status of the complainant and treatment prescribed and given to him for the period from 29.4.2012 to 1.8.2012.
- Ex.B4 : Photostat copy of Medical Report of the complainant from 1.8.2012 to 5.8.2012.
- Ex.B5 : Photostat copy of Medical Report of the complainant from 6.8.2012 to 20.8.2012.
- Ex.B6 : Photostat copy of legal notice dt.7.4.2014 issued on behalf of the complainant to the opposite party.
- Ex.B7 : Photostat copy of reply legal notice dt.16.5.2014 issued on behalf of the opposite party to the counsel for the complainant.


  
**PRESIDENT      LADY MEMBER**

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**Dated : 14.12.2021**