

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

**FA.NO.98 OF 2018  
AGAINST ORDERS IN CC.NO.155 OF 2008, DISTRICT  
CONSUMER COMMISSION, KARIMNAGAR**

**Between:**

1. Dr.Ch.Ravinder Rao,  
S/o.Ch.Satyanarayana Rao,  
Aged: 68 years, Occ: General Surgeon,  
Adithya Clinic, Behind Seven Hills Complex,  
Opp: Aravinda Hospital, CVRN Road,  
Karimnagar – 505 001.

2. Surya Nursing Home,  
Rep. by Dr.U.V.Vishnuvardhan Reddy,  
S/o.U.Narsimha Reddy,  
Age: 54 years, Mukarampura,  
Karimnagar – 505 001.

....Appellants/Opp.Parties 1 & 3

**And**

1. Aitha Yashaswini,  
D/o.Aitha Damodar Reddy,  
Age: 23 years (Major), Occ: Student,  
R/o.H.No.7-4-367, Near Fire Station,  
Kashmirgadda, Karimnagar – 505 001.

.....Respondent/Complainant

2. Indian Medical Association,  
Telangana State Branch,  
IMA Building, Esamia Bazar,  
Hyderabad – 500 027.  
Rep. by its Chairman.

.....Respondent/Opp.Party No.2

Counsel for the Appellants/Opp.Parties 1 & 3: M/s.V.Gourisankara Rao

Counsel for the Respondent/Complainant:M/s.Gundi Ramulu &  
M/s.Gopi Rajesh & Associates

Counsel for the Respondent/Opp.Party No.2: Notice served

**QUORAM:**

**HON'BLE SMT.MEENA RAMANATHAN...IN-CHARGE PRESIDENT  
&  
HON'BLE SRI K.RANGA RAO, MEMBER-JUDICIAL**

**WEDNESDAY, THE TWENTY FOURTH DAY OF JANUARY  
TWO THOUSAND TWENTY FOUR**

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**Order : (Per Smt.Meena Ramanathan, Hon'ble I/c President)**

1. This is an appeal filed U/s.15 of Consumer Protection Act,1986 against the order dated 24.01.2018 of the District Consumer Commission, Karimnagar made in CC.No.155/2008. The Appellants are the Opposite Party No.1 & 3, Respondent No.1 is the Complainant and the Respondent No.2 is the Opposite Party No.2 in CC.No.155/2008.

2. For the sake of convenience, the parties are described as arrayed in the complaint.

3. Briefly stated, the facts are that the Complainant, a young girl aged 13 years is represented by her father. The factual matrix leading to the filing of the present complaint in brief is as follows:

The Complainant was suffering from intense pain in the abdomen and was admitted by the Opposite Party Doctor in Surya Nursing Home, Karimnagar and was subjected to Ultra Sonography of abdomen and after going through the findings, the Opposite Party Doctor performed Exploratory Laparotomy on 16.09.2006. However, the Complainant developed pain in the abdomen after about a month and was again admitted in Surya Nursing Home, Karimnagar by the Opposite Party Doctor on 20.10.2006. She claims to have undergone a Laparotomy procedure which lasted 2 hours. Again after a month the pain resurfaced and she alleges that the Opposite Party Doctor removed her vital reproductive organs i.e., the left tube and ovary. She had to undergo surgery for the third time at Hyderabad to get relief from the pain. She has been suffering from pain in her abdomen, which was never addressed by the Opposite Party Doctor during the two surgeries performed by him. The present complaint is filed against the negligent treatment provided by Opposite Party Doctor and she is seeking equitable justice and compensation.

4. Opposite Party No.1 admits that the Complainant a minor, was suffering from abdominal pains and consulted him on 15.09.2006 and was admitted in Surya Nursing Home i.e., Opposite Party No.3. She was subjected to Ultra Sonography of

Abdomen and this Opposite Party No.1 performed Exploratory Laparotomy on 16.09.2006. She consulted him again after a month with complaints of abdominal pain on 16.10.2006 and was admitted in Opposite Party Nursing Home on 20.10.2006 and was duly referred to a Radiologist for USG of Abdomen. She was diagnosed with Haematometra of left horn of uterus. Needle aspiration POD revealed blood stained serous fluid and once again Laparotomy was done. Necrotic left ovarian tissue excised after explaining to the patient/Complainant's parents and obtaining the consent for the same. They were further advised to go to Hyderabad for further management i.e., rectification of congenital anomalies. This Opposite Party Doctor is a reputed surgeon and there is no negligence or mistake on his part while conducting the operation and seeks dismissal of this false complaint.

5. Opposite Party No.2-Dr.Vasudev, representing Indian Medical Association, A.P.State Branch, submits that Opposite Party No.1 Doctor has given the proper treatment to the Complainant when she approached him with severe pain in the abdomen. There is no negligence on the part of the Opposite Party No.1 and that this is a vexatious complaint to extract money from hospitals/Doctors treating patients under good faith.

6. Opposite Party No.3 is a MBBS Doctor, Physician and owner of Surya Nursing Home and looks after regular post-operative care of all the patients. He only assisted Opposite Party No.1 and Dr.Pranathi. Prior to the operation, the father of the patient and other attendants were explained and informed in detail about the nature and risks of the procedure. All the anomalies are recorded in the case sheet and the Complainant and her family were advised the necessity of consulting a Gynaecologist for rectification of the anomalies. Utmost care was taken before, during and after the operations on both the occasions and he prays the complaint be dismissed with costs.

7. Before the District Forum, the Complainant filed evidence affidavit and Ex.A1 to A43 are marked on her behalf. The Opposite Parties filed their evidence affidavit and Ex.B1 & B2 are marked on their behalf.

8. The District Commission after hearing and considering the material on record, partly allowed the complaint directing the Opposite Parties No.1 to 3 jointly and severally to pay the Complainant a sum of Rs.6,00,000/- towards compensation with interest @ 9% per annum from the date of filing of the complaint i.e., 10.11.2008 till realization and Rs.5,000/- towards costs within one month from the date of receipt of the order.

9. Aggrieved by the said order of the District Forum, the Appellants/Opposite Parties No.1 & 3 filed the appeal contending that the Commission below had failed to consider the following:

- The District Commission failed to consider Ex.A8 which shows that the Complainant was suffering from a mass on the left Fallopian Tube and Ovary. The mass was compressing the uterus. The left Ovary was very close to the uterus. It was suspected by the Sonologist that it may be Dermoid Cyst (Cyst containing thick fluid) which is a congenital defect and also other possibility may be twisted ovarian Cyst with internal Thrombus (internal bleed).
- The District Commission failed to consider Ex.A8 findings and explanation about the nature of disease. Opposite Party No.1 performed Exploratory Laparotomy on 16.09.2006 after obtaining consent from Complainant's father with the assistance of a Gynaecologist Dr.Pranathi, Assistant Professor in Gynaecology, Chemedra Anandarao Medical College.
- The District Commission failed to observe that during Laparotomy, the Opposite Party No.1 performed wedge resection of the Ovary Cyst and sent for Histopathology examination, Appendectomy was also done.

- The District Commission failed to observe that the Complainant left the hospital against medical advice (LAMA) on 20.09.2006 which is clearly evident from Ex.A5 and the Complainant was advised to consult a Gynaecologist for rectification of anomalies.
- The District Commission failed to observe that on 16.10.2006 the Complainant again visited the Opposite Party No.1 with pain in abdomen and she was advised to consult a Gynaecologist suspecting that it may be a Gynaec problem (? Dysmenorrhea/?Renal Colic), which is evident from Ex.A11-Prescription.
- The District Commission failed to observe that when the Complainant again visited the Opposite Party No.1 on 19.10.2016 with a complaint of severe abdominal pain, she was admitted in the hospital and on 20.10.2016 Ultrasound Examination of the abdomen was done, which revealed that the Complainant was suffering from “Bicornuate Uterus with Hematometra in Left Horn -? Rudimentary Horn/Imperforate”, according to Ex.A12.
- The District Commission failed to see that on 20.10.2006, the Opposite Party No.1 assisted by Dr.Sardarunnisa performed Laparotomy upon the Complainant. The operative findings revealed that the size of the left side of Bicornuate Uterus was more. Uterus sound could not be passed by manually. 40 ml clotted blood was aspirated from the left cornuate of the uterus. During Laparotomy, Necrotic ovarian tissues were removed on the left side. All the operative findings were recorded in Ex.A3 Case Sheet. The attendants were informed all the findings noted above.
- The District Commission failed to see that it was clearly mentioned in Operation Notes during first surgery itself on 16.09.2006 that left ovary was cystic i.e., not normal. The Complainant never disputed the same, as evident from Ex.A1. The said diseased left ovary was removed during the second surgery in view of Necrosis in the better interests of the patient, so that there will not be recurrent problems.

- The District Commission failed to see that Dr.Sasi Kala, PW.No.2 never categorically stated that Opposite Party No.1 erroneously removed a healthy ovary. She never stated that the services rendered by the Opposite Parties No.1 & 3 suffered from deficiency.
- The District Commission never examined Ex.A8, A12 and A3 operative findings harmoniously.

10. The point that arises for consideration is whether the impugned order as 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? To what relief?

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

12. The Respondent/Complainant is a young girl of 11 years and was suffering from Acute Abdominal Pain and consulted Appellant/Opposite Party No.1 on 15.09.2006. She was admitted in Surya Nursing Home, belonging to Opposite Party No.3 Doctor. She was subjected to U.S.G. of Abdomen and underwent Exploratory Laparotomy. Again after a month on 20.10.2006, she developed pain in her abdomen and consulted Opposite Party No.1 Doctor and was admitted in Surya Nursing Home on 20.10.2006 and subjected to USG of Abdomen and underwent the Laparotomy procedure for the second time. It is her complaint that instead of providing relief from her ailment, the Opposite Party No.1 Doctor removed vital reproductive organs and she has suffered irreparable damage and ultimately had to undergo surgery for the third time at Hyderabad to get relief from the severe pain suffered by her.

13. Typed progress notes have been provided by counsel for the Appellant as noted on the docket order dated 11.01.2024 and the same has been referred to by us while examining the exhibits. The

age of the Complainant is varying as per the pleadings and the age noted in the exhibits.

14. We have heard the learned counsel for both parties and given careful consideration to the material on record. There is no dispute with regard to the fact that the Respondent/Complainant, a young girl consulted Appellant/Opposite Party No.1 on 15.09.2006 with severe pain in the abdomen. A keen study of Ex.A1 reveals that she was admitted on 15.09.2006 in Surya Nursing Home in the ICU.

15. Initially, the Doctor has recorded –

A case of Appendicitis – but this has been deleted and the patient was posted for surgery on 18.09.2006 at 6 A.M.

The Ex.A4 – the Discharge Card has the following details which are legible and are reproduced below:

*Patient Yashaswini - 12 years female*

*Diagnosis - Exploratory Laparotomy*

**Operative procedure**

*(1) Free Haemorrhagic Fluid in Abdomen*

*(2) Bicornuate Uterus*

*(3) Left Ruptured Ovarian Cyst*

*(4) Left Tube underdeveloped*

*(5) Appendectomy done*

*Right ovarian tube is normal*

*Date of Admission : 15.09.2006*

*Date of Discharge : 20.09.2006*

Ex.A5 – dated 16.10.2006 is the Gynaec record.

Consultant – *Dr.K.Sasikala, M.D., D.G.O. has recorded that the patient- A.Yashaswini, 12 years (Menarche 11 yrs)*

Complaint: *Dysmenorrhea since menarche Lapa/20/10/2006 – Fluid in abdomen (2)Bicornuate uterus laparotomy (3) Lt.Ruptured*

*ovarian cyst (4) Lt. tube underdeveloped (5) Appendectomy (6) Rt. Ovary tube.*

*Previous surgery: Laparotomy & Appendectomy*

*Doctor has advised*

*USG of Pelvis for Uterus and Abdominal Pathology.*

On 10.11.2006, in the same Ex.A5, the Dr.Sasikala has noted that *Fluid collection next to colon.*

*Bicornuate Uterus*

*Right Ovary Cyst*

*Left Ovary not seen.*

On 18.04.2007, vide Ex.A6 – A USG was done on the patient for her complaint of *Bicornuate Uterus, communicating horn on left side, dysmenorrhea since menarche.*

16. From the above records we understand that the patient was having a uterus that is bicornuate with a distended left uterine horn with collection, suggestive of hematometra. She underwent the procedure with the Opposite Party Doctor on 17.08.2006 and the Ultrasound examination performed of the abdomen vide Ex.A12 dated 20.10.2006 – has the following impression:

*UTERUS: Uterus is bicornuate shows distended left uterine horn with collection. Suggestive of hematometra.*

*Right horn shows normal endometrial echo.*

*Cervix & Vagina appear single.*

*Both Ovaries are normal.*

*IMPRESSION: FEATURES SUGGESTIVE OF:*

*BICORNUATE UTERUS WITH*

*HEMATOMETRA IN LEFT HORN*

*-? RUDIMENTARY HORN/IMPERFORATE.*

This USG was performed after the laparotomy procedure on 16.09.2006. She was once again admitted in Surya Nursing Home and underwent laparotomy procedure for a second time on 20.10.2006. During this procedure, the father of the Respondent/Complainant stated that his daughter should have been advised to consult a Gynaecologist for diagnostic and curative technique of laparoscopy and Hysteroscopy; instead the

Opposite Party Doctor removed the 'left ovary and tube' without their consent.

17. PW1 in his Chief Examination has deposed that Opposite Party No.1 Doctor failed to inform them after the Ultrasonography that there was a mass in the uterus and as such it would be a general surgical or gynaec problem. He has also deposed that Dr.Pranathi, M.D., D.G.O. of CHAIMS was called on 16.09.2006 for the surgery.

18. The patient was having a Bicornuate Uterus which means an Uterus that is irregularly shaped. It is a rare congenital condition that can cause complications and can only be treated by surgery. One of the symptoms is painful periods. The issue that remains unanswered is that before the second laparotomy, a USG was performed on the patient as evidenced vide Ex.A8 dated 15.09.2006. This Exhibit which has the following recorded needs to be understood:

*IMPRESSION: Heterogeneous Mass Left T.O. Region which  
Compression Uterus and Left Ovary Very Closed  
to Uterus.  
? Dermoid Cyst.  
OR  
Twisted Ovary Cyst. With Internal Thrombus.*

Ovaries can become enlarged (masses or tumors) due to Cysts. The vast majority of Ovarian Neoplasms in young girls and young women are not cancerous. This test was performed on the advice of Opposite Party No.1 Doctor and the Ultrasound examination of abdomen was performed on 20.10.2006 vide Ex.A12 and the uterus was suggestive of hematometra. Hematometra means accumulation of blood in the uterus.

19. The Opposite Party No.1 Doctor should have paid due attention to these two reports before conducting the second laparotomy on 20.10.2006. Early diagnosis is essential and despite the two reports, the Opposite Party No.2 Doctor failed to diagnose the patient's condition and proceeded to perform the second

laparotomy on 20.10.2006. Hematometra can occur in pre menarchal, reproductive age females and the reason should be properly assessed. It may be due to various reasons – congenital anomalies, previous surgery, blockage of genitourinary outflow. Without assessing the cause, the Opposite Party No.2 Doctor conducted the second laparotomy at Opposite Party No.3 Hospital.

20. At this juncture, we refer to the deposition of PW2 – the Radiologist.

*“My scan observations was patient had bicornuate uterus with blood clot in left horn. Which is otherwise called as Haemotometra. Both the ovaries appeared normal. The criteria for suggesting the ovaries to be normal is depending upon the size of the ovaries. I did not observe any Cyst over the ovaries. Normally also there will be fluid in P.O.D. I found that uterus enlarged in view of the Haemotometra in the left horn.”*

21. He has conducted the trans abdomen Ultra Sonography on 20.06.2006 and did not find any ultrasound features of ovarian torsion on the left side. Only when the patient consulted Dr.Sasikala on 10.11.2006, that is soon after the laparotomy procedure on 20.10.2006, the Doctor has deposed as PW2 as follows:

*“She undergone Laparotomy and Appendectomy at Karimnagar. USG performed on 10.11.2006 was suggestive of non-communicating horn on Left side of Bicornuate uterus with small collection of fluid collection in endometrium. Rt. Cornua-81x43x21 mm. Entometrial echo 10 mm. Lt. cornua-35x33x18 mm. Fluid collection of 13x8.8 mm adjacent to colon. Rt. Ovary with a cyst of 31x30 mm size. Left ovary not seen.”*

22. When this was done by the Opposite Party No.1 Doctor, the parents of the young girl ought to have been informed and their consent taken. In his written version, the Opposite Party No.1

Doctor has submitted that “*Laparotomy was done through same old incision. Uterus enlarged bicornuate, left horn tense thick, remains of left ovary were small necrotic? Gangrenous. Necrotic left ovarian tissue*”, but this is not supported by the USG trans abdomen report nor does the discharge summary support the findings. If he thought that the left ovarian tissue was necrotic or gangrenous, then it should be supported by a biopsy report and it needs to be diagnosed by blood tests. This reveals the deficiency and negligence of the Opposite Party No.1 Doctor. He conducted the two procedures without due care and skill and further removed the young patient’s left ovary and tube without the necessary preliminary tests to confirm the necrosis or that the gangrenous tissue was cancerous.

23. In their grounds of appeal, the Appellants/Opposite Parties 1 & 3 have urged that consent was taken for passing the uterine sound for draining the Hemotoma. The Respondent/Complainant has accepted this in his deposition but has also submitted that no consent was taken for removal of left ovary and fallopian tube. This aspect needs to be reiterated and emphasized. Rarely ovarian or tubal necrosis is present at the time of surgery. Torsed ovaries can and should be salvaged whenever possible and resection reserved for malignancy in those patients in whom malignancy is suspected. Without following any of these procedures, the Appellants/Opposite Parties have failed to explain why they removed the “*Necrotic ovarian tissues on the left side.*”

24. Further, the patient was in their facility only for a few days after having undergone this major procedure. There is no record of the post-operative care or reports on the evidence of a necrotic ovary. What is the approach the Opposite Parties should have taken with the patient with an “adnexal mass?” Oophorectomy is only indicated if malignancy is suspected. For most young girls with non-malignant ovaries, ovary conservation is the normal practice. Diagnostic evaluation includes pelvic imaging preferably with ultrasound.

25. The Commission below has reasonably observed that in the ultrasonography report conducted before the second surgery it is mentioned that both the ovaries are normal and the Appellant/Opposite Party No.1 Doctor has also deposed in his chief examination that he did not send the tissue and fluid for investigation. The Commission below has relied on a decision of the Hon'ble National Commission in ***Dr. Stepheena, Fathima mata Mission hospital and others Vs. Lilly Joseph and another 2015 (1) CPR 347 (NC)*** wherein it was held that:

*“the consent must be informed and not blanket in nature before starting surgical interference.”*

26. In the glaring absence of a pathological report and the fact that Ex.A8 and A12 did not reveal any abnormality of the left ovary, we concur with the findings and conclusion of the Commission below and hold the Appellants/Opposite Parties as deficient and negligent. The Doctor who conducted the surgery is an Urologist and the hospital where the surgery was conducted did not have the necessary facilities and the patient should have been immediately referred to a hospital having the required imaging and diagnostic facilities and a Gynaecologist.

27. ***In Nizams Institute of Medical Sciences Vs. Prashanth Dhanakha, II (2009) CPJ 61 (SC) = III (2010) SLT 3G, Hon'ble Apex Court observed:***

*“We are also cognizant of the fact that in a case involving medical negligence once the initial burden of them is discharged by the Complainant by making out case of negligence on the part of the hospital or the doctor concerned the onus then shifts on to the hospital or to attending the doctors and it is for the hospital to satisfy the Complainant that there was no lack of care.”*

