

D.O.F: 21.05.2024

D.O.D: 30.06.2025

**DISTRICT CONSUMER DISPUTES REDRESSAL COMMISSION,  
THANJAVUR DISTRICT THANJAVUR**

BEFORE:

**Thiru.T. Sekar, B.A.,B.L., : PRESIDENT**  
**Thiru. K. Velumani, M.A.B.L., : MEMBER I**

**CC. 92 / 2024****DATED THIS THE 30<sup>TH</sup> DAY OF JUNE'2025**

I.Parivallal,  
S/o. Ilango,  
Door No.768,Kalaigar Nagar,  
2<sup>nd</sup> Street, ,Villar,  
Thanjavur District

: Complainant

Vs.,

Dr. P. Sai Prasad, M.S. Ortho,  
No.119, Kasthuri Hospital,  
Shanmugam Road,  
West Tambaram,  
Chennai-600 045

: 1<sup>st</sup> opposite Party

Dr. Sundaranjan, M.S.,  
No.119, Kasthuri Hospital,  
Shanmugam Road,  
West Tambaram,  
Chennai-600 045

: 2<sup>nd</sup> opposite Party

Dr.A. Mohammed Sadiq, M.D. Anest,  
No.119, Kasthuri Hospital,  
Shanmugam Road,  
West Tambaram,  
Chennai-600 045

: 3<sup>rd</sup> opposite Party

Dr.Krishnamoorthy, M.D., Anest,  
No.119, Kasthuri Hospital,  
Shanmugam Road,  
West Tambaram,  
Chennai-600 045

: 4<sup>th</sup> t opposite Party

Dr.Kiruthika, M.D. Anest,  
No.119, Kasthuri Hospital,  
Shanmugam Road,

West Tambaram,  
Chennai-600 045

: 5<sup>th</sup> opposite Party

Dr.Saravanan, M.S. Plastic Surgery,  
No.119, Kasthuri Hospital,  
Shanmugam Road,  
West Tambaram,  
Chennai-600 045

: 6<sup>th</sup> opposite Party

The Managing Director,  
No.119, Kasthuri Hospital,  
Shanmugam Road,  
West Tambaram,  
Chennai-600 045  
Party

: 7<sup>th</sup> opposite

This complaint is coming for hearing before us on 16<sup>th</sup> day of June, 2025 in the presence of Mr. P. Chandrabose, Counsel for the complainant, Thiru. S. Manikavel Pandiyan, Counsel for the opposite party 1, 3, 4, 6 and 7 and Thiru.V.Porchezhiyan, Counsel for the 5<sup>th</sup> opposite party and 2<sup>nd</sup> opposite party remained exparte, and perused the complainant and opposite party side documents, and the case having stood over to this day for consideration, this Commission passed the following:

### **ORDER**

#### **THIRU. T. SEKAR.,B.A. B.L., – PRESIDENT**

∴ The complainant had filed this complaint under Sec 35 of Consumer Protection Act, 2019 praying this Commission to award compensation/ damages of Rs.50,00,000/- from the opposite parties in favour of the complainant.

**The crux of the complaint is:** The complainant is a driver and the sole bread winner in the family. The complainant had married recently and is surviving with a small baby. On 15.09.2022 at 3.15 P.M. the complainant fell down from a two wheeler (skid fall) accident immediately the complainant was taken to Annai Arul family clinic. The duty doctor assessed the complainant and the complainant was

diagnosed as his right knee area fracture. On the same day i.e. 15.09.2022 the complainant was admitted in Kasthuri Hospital, Thambaram. The doctors diagnosed as normal ECG, normal Doppler study of right lower limb arteries, no evidence of stenosis in arteries. Right lower limb no deep vein thrombosis. Dr.Sai Prasad, has assessed the complainant and found no signs of compartmental syndrome.

On 16.09.2022 the complainant underwent surgery by a team of doctors. Ortho surgeon Dr.p.Sai Prasad,M.S. Ortho, Dr.Sundaranjan, M.S. and Dr.A.Mohamed Sadiq, M.D. Anest., Due to slackness and negligence by the surgeon team there appeared post operative severe pain with swellings to this surgery was a failure one. On the same day the complainant was again taken for surgery second time. Then on the same day under the head of Ortho surgeon Dr.P.Sai Prasad, Dr.Sundaranjan, M.S., and Anesthetist Dr.Krshnamoorthy, M.D. The second surgery was done on the same day. The post-operative findings say compartmental syndrome (because of surgical complications), Fasciotomy was not explained and no consent was received from the complainant's side. Here lateral compartmental released through Postero medial incision superficial and deep posterior compartment released.

On 22.09.2022 again the patient was taken for surgery by another team of doctors Ortho surgeon Dr.P.Sai Prada, M.S. Ortho., Asst. Dr.Sundaranjan, M.S. and Anesthetist Dr.Kiruthika M.D. Anest. Due to the negligent act of the doctors the complainant's Anterior compartmental muscle found necrotized and without the consent of the complainant's family members or complainant the Tibialis anterior was completely removed. On 27.09.2022 team of doctors Ortho surgeon Dr.P.Sai Prasad M.S. Ortho., Asst. Dr.Sundaranjan, M.S., and Anesthetist Dr.Kiruthika M.D., Anest, removed the whole anterior muscles due to necrosis. On 01.10.2022 team of doctors doctors Ortho surgeon Dr.P.Sai Prasad M.S.

Ortho., Asst. Dr.Sundaranjan, M.S., and Anesthetist Dr.Kiruthika M.D., Anest carried out procedures.

On 08.10.2022, Dr.Saravanan, M.S. (Plastic surgeon) Ortho doctors Ortho surgeon Dr.P.Sai Prasad M.S. Ortho., Asst. and Anesthetist Dr.Kiruthika M.D., Anest, harvested opposite thigh for wound cover and the complainant was discharged without any improvement. On 15.02.2023, The Thanjavur Medical College Hospital explained the complainant about foot drop, sensory loss and the cause is failure due to the earlier surgical procedure done by the doctors of Kasthuri Hospital, Chennai for six time due to that the complainant suffered physical injury and pain. On 25.04.2023 Dr.Leo Joseph of Vinodhagan Memorial Hospital examined and narrated the mistakes done by surgeons of Kasthuri Hospital. On 31.05.2023 the Jipmer Hospital, PUduchery advised for further management.

Due to the negligence and fault of the surgeons' tem the complainant suffered tissue death and his muscles were removed without his consent. The complainant was taken to surgical procedure without his consent for six times. The complainant has become a permanently disabled person and the Government of Tamilnadu has issued a disability card with 50% disability and he is unfit to lead a normal life and he cannot do driver job with that income he and his family members including children survived. Now with 50% disability the complainant could not do any job or earnings. It is stated that the negligent treatment given by the opposite party doctors, complainant was subjected to much mental agony besides sufferings and loss of income and the cost of treatment. As such he filed the present complaint for recovery of the said amounts to a tune of Rs.50,00,000/-

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**The written version filed by the 1<sup>st</sup>, 3<sup>rd</sup>, 4<sup>th</sup>, 6<sup>th</sup> and 7<sup>th</sup> opposite parties and 5<sup>th</sup> opposite party is adopted the same as follows:**

The 7<sup>th</sup> opposite party is a reputed hospital and is a Proprietrix concern, the 1<sup>st</sup>, 3<sup>rd</sup>, 4<sup>th</sup>, 6<sup>th</sup> opposite parties are the Doctors who are now attached to the 7<sup>th</sup> opposite party. Hence, the 7<sup>th</sup> opposite party files this common version both on her behalf and on behalf of the 1<sup>st</sup>, 3<sup>rd</sup>, 4<sup>th</sup>, and 6<sup>th</sup> opposite parties

That so far as the case of the complainant is concerned he was admitted at their hospital on 15.09.2022 at around 7.30 p.m. with the complaint of having sustained injuries from an alleged fall from a two wheeler due to skidding near Madambakkam Main Road, the accident was said to have occurred on the same day at around 3.15 p.m. The complainant thus had come to the 7<sup>th</sup> opposite party hospital after about 4 hours from the time of the accident. Further, he himself admits in his complaint that prior to getting admitted in the 7<sup>th</sup> opposite party hospital, he took treatment in another hospital by name Annai Arul Hospital.

When the complainant got admitted with the 7<sup>th</sup> opposite party hospital, the complainant had a swelling in his right knee and leg with pain. At the time of admission, the complainant did not have any signs of compartment syndrome and he was diagnosed with proximal tibia fracture. The 7<sup>th</sup> opposite party feels pertinent to explain about the compartment syndrome at this juncture. That leg in humans are separated into four rooms called compartments. There is no connection between these compartments. It has muscle, nerve and blood vessels inside. Each compartment is covered by fascia (tight plastic cover like layer which will not expand) in its roof. Bone will be the common base for all compartments. When there is a fracture of bones, blood collects into all these compartments. A lot of blood collects inside each compartment, the outside covering will not help to expand, hence, it presses the muscle, nerve, blood vessels. This will cause necrosis (dead tissue) formation. These dead tissues will lead to infection. The compartment syndrome in some cases usually occurs

within 24 hours, in some cases, it may occur within 48 hours. In the case of the complainant there was no compartmental syndrome when he was admitted at 7.30 pm and initially diagnosed but had later occurred within 30 hours from the accident.

The complainant was taken for surgery on 16.09.2022 at 12.00 pm, the swelling had increased in size on the complainant's knee and leg but there were still no signs of compartment syndrome. A closed reduction and internal fixation with plating with minimally invasive technique was done on the complainant by the 1<sup>st</sup> opposite party. On the same day, the complainant suddenly developed severe pain and on examination, a limb was swollen without blebs and by that time the complainant was diagnosed with compartment syndrome which had developed by then. When this was diagnosed, the complainant was again taken for surgery again on the same day at around 9.00 pm. And a fasciotomy surgery (i.e. releasing of coverings of compartment) was done and the skin was left open without suturing and dressing was done which is a proper treatment protocol universally prescribed and the same was followed in the case of the complainant.

After fasciotomy, wound care must be given to decrease chances of infection. The vac dressing is the most advanced treatment available and it was done to the complainant. Wound care consists of thorough wound debridement (removing of all dead tissues) and then vac application. If it is not done, infection will increase and spread to whole leg which may cause amputation and spread to blood and cause severe complications. That is the reason for removal of tibialis anterior muscle which was fully dead. If left untreated all muscle which help in lifting the foot would have been dead and needed to be removed. Since there were three other muscles which work for lifting foot were intact, the decision of removing dead tibialis anterior muscle was done. In further course, exercise of other 3 muscles could have made the patient to lift the foot up. Everything has been

explained to the complainant and his attenders post operatively and the need for exercise has been emphasized even during the hospital stay itself.

Thus the proper procedure was followed in the treatment protocol of the complainant. On 17.09.2022, vac application was done on the complainant and on subsequent days the pain on the complainant's leg had reduced. On 26.09.2022, the vac was removed from the complainant's knees and since there was pus build-up, the pus was removed.. On 27.09.2022 and 01.10.2022, wound debridement and vac application was performed. On 08.10.2022, the vac application was removed from the complainant's leg by the opposite parties. The opposite parties finally flap cover with ssg was also done completing the whole treatment. The wound on the complainant was found to be clean and healthy and hence he was advised to come for both orthopaedic and plastic follow up but the complainant did not come for the same. Therefore, physiotherapy could not be given to the complainant since he did not show up.

Before the surgery and before every procedure, consent was duly obtained from the complainant as per protocol and either the complainant himself or his uncle or brother had given their consent by signing the consent form. The complainant was also well informed and made to be aware of the procedure which he was undergoing and the reason for the procedure was also duly explained to the complainant and his attender, even post operation the progress was explained. The complainant and his attenders had therefore clearly subscribed and authorized the doctors to perform surgeries on him knowing well the chances of postoperative complications of the surgery which were also explained and the complainant had consented before the procedure.

The opposite parties have provided necessary treatment for the injuries of the complainant that too after duly explaining the necessity, procedure involved and duly getting his consent for the procedure. Though such efficient treatment was given to the complainant, he was not able to pay for the surgery expenses which

cost Rs.5,18,147/- through insurance and other sources, the complainant paid a sum of Rs.2,50,000/- and he was still due to pay to the hospital a sum of Rs.2,27,219/- towards surgery and hospital charges and a sum of Rs.55,147/- for non medical charges incurred during the complainant's stay in the 7<sup>th</sup> opposite party hospital. Even though the complainant was unable to pay the above mentioned sum, still they on humanitarian grounds provided free treatment worth Rs.1,00,000/- from 04.10.2022 to 10.10.2022. The complainant had written a letter to the 7<sup>th</sup> opposite party expressing his happiness towards the treatment he had received and in the same letter he had also mentioned that he does not have the financial means to bear further expenses and so he wanted to get himself admitted in a Government hospital for further treatment. That hand written letter written by the complainant clearly specifies that he owes the 7<sup>th</sup> opposite party a sum of Rs.2,82,966/- and that he was unable to pay the same therefore he was leaving the hospital without completing the payment.

The 7<sup>th</sup> opposite party that they are not aware of the kind of treatment undergone by the complainant after 10.10.2022 in the Government hospitals or the other hospitals which he stated in his complaint. When this being the case, the complainant is now making allegations as though the opposite parties are at fault and by making such false and frivolous allegations the complainant is trying to extract money. The allegation of the complainant that he was discharged from the 7<sup>th</sup> opposite party hospital without any improvement is totally false and is being made in the complaint to make out a case against the opposite parties.

After, 10.10.2022, now in the complaint, the complainant claims that he took treatment in the Thanjavur Medical College Hospital, on 15.02.2023 which is after a period of about 4 months and in between what was the treatment and the care taken by the complainant and from whom it was taken are all not stated in the complaint. He also claims to have gone to the other hospitals on 25.04.2023 and 31.05.2023 and as if the doctors in those hospitals have narrated that there



were mistakes done by the surgeons of the 7<sup>th</sup> opposite party which is a bald allegation made by the complainant in his complaint to make out a cause of action for filing this frivolous complaint. There is no evidence for any such doctors making such comments in respect of the treatment provided by the 7<sup>th</sup> opposite party and their doctors. The details of the doctors who gave the treatment, the course of treatment done, and the complications he faced are not mentioned in the complaint. Hence the above complaint is liable to be dismissed on the ground of non-joinder of necessary parties in this complaint.

The opposite parties submit that there have not been any acts of negligence as alleged by the complainant. The surgeries performed in the opposite party's facility have been done with utmost care. The treatment provided to the complainant in the opposite party's facility is in par with the norms prescribed and the protocols advised universally for treatment. Hence there is no medical negligence on the part of the opposite parties. Hence prayed to dismiss the complaint.

The complainant to prove his case had filed proof affidavit along with 9 documents and the same has been marked as Exhibit A-1 to A-9. The 7<sup>th</sup> opposite party had filed proof affidavit along with 24 documents and the same has been marked as Exhibit B-1 to B-24.

**The points for determination are : 1. Whether there is any deficiency in service on the part of the opposite party ?**

**2. If so to what relief the complainant is entitled for ?**

**POINT NO. 1** The complainant is a driver and the sole bread winner in the family. The complainant had married recently and is surviving with a small baby. On 15.09.2022 at 3.15 P.M. the complainant fell down from a two wheeler (skid fall). Immediately after the accident complainant was taken to Annai Arul Family Clinic. The duty doctor assessed the complainant and the complainant was

diagnosed as his right knee area fracture. On the same day i.e. 15.09.2022, the complainant was admitted in Kasthuri Hospital, Thambaram. The doctors diagnosed as normal ECG, normal Doppler study of right lower limb arteries, no evidence of stenosis in arteries. Right lower limb no deep vein thrombosis. Dr.Sai Prasad, has assessed the complainant and found no signs of compartmental syndrome.

On 16.09.2022 the complainant underwent surgery by a team of doctors, Ortho surgeon Dr.p.Sai Prasad,M.S. Ortho, Dr.Sundaranjan, M.S. and Dr.A.Mohamed Sadiq, M.D., Anest., Due to slackness and negligence of the surgeon team, there appeared post operative severe pain with swellings due to this surgery was a failure one. On the same day, the complainant was again taken for surgery second time. Then on the same day, under the head of Ortho surgeon Dr.P.Sai Prasad, Dr.Sundaranjan, M.S., and Anesthetist Dr.Krshnamoorthy, M.D. The second surgery was done on the same day. The post-operative findings say compartmental syndrome (because of surgical complications), Fasciotomy was not explained and no consent was received from the complainant's side. Here lateral compartmental released through Postero medial incision superficial and deep posterior compartment released.

On 22.09.2022, again the patient was taken for surgery by another team of doctors Ortho surgeon Dr.P.Sai Prada, M.S. Ortho., Asst. Dr.Sundaranjan, M.S. and Anesthetist Dr.Kiruthika M.D. Anest. Due to the negligent act of the doctors, the complainant's Anterior compartmental muscle found necrotized and without the consent of the complainant's family members or complainant, the Tibialis anterior was completely removed. On 27.09.2022 the team of doctors, Ortho surgeon Dr.P.Sai Prasad M.S. Ortho., Asst. Dr.Sundaranjan, M.S., and Anesthetist Dr.Kiruthika M.D., Anest, removed the whole anterior muscles due to necrosis. On 01.10.2022, team of doctors doctors Ortho surgeon Dr.P.Sai

Prasad M.S. Ortho., Asst. Dr.Sundaranjan, M.S., and Anesthetist Dr.Kiruthika M.D., Anest carried out procedures.

On 08.10.2022, Dr.Saravanan, M.S. (Plastic surgeon), Ortho doctors Ortho surgeon Dr.P.Sai Prasad M.S. Ortho., Asst. and Anesthetist Dr.Kiruthika M.D., Anest, harvested opposite thigh for wound cover and the complainant was discharged without any improvement. On 15.02.2023, The Thanjavur Medical College Hospital explained the complainant about his foot drop, sensory loss and the cause is failure due to the earlier surgical procedure done by the doctors of Kasthuri Hospital, Chennai for six time due to that, the complainant suffered physical injury and pain. On 25.04.2023, Dr.Leo Joseph of Vinodhagan Memorial Hospital examined and narrated the mistakes done by surgeons of Kasthuri Hospital. On 31.05.2023 the Jipmer Hospital, Puduchery advised for further management.

Due to the negligence and fault of the surgeons' team the complainant suffered tissue death and his muscles were removed without his consent. The complainant was taken to surgical procedure without his consent for six times. The complainant has become a permanently disabled person and the Government of Tamilnadu has issued a disability card with 50% disability and he is unfit to lead a normal life and he cannot do driver job with that income he and his family members including children survived. Now with 50% disability the complainant could not do any job or earnings. It is stated that the negligent treatment given by the opposite party doctors, complainant was subjected to much mental agony besides sufferings and loss of income and the cost of treatment. As such he filed the present complaint for recovery of the said amounts to a tune of Rs.50,00,000/-

Per contra, the 7<sup>th</sup> opposite party had contended that the complainant is concerned he was admitted at their hospital on 15.09.2022 at around 7.30 p.m. with the complaint of having sustained injuries from an alleged fall from a two wheeler due to skidding near Madambakkam Main Road, the accident was said

to have occurred on the same day at around 3.15 p.m. The complainant thus had come to the 7<sup>th</sup> opposite party hospital after about 4 hours from the time of the accident. Further, he himself admits in his complaint that prior to getting admitted in the 7<sup>th</sup> opposite party hospital, he took treatment in another hospital by name Annai Arul Hospital.

When the complainant got admitted with the 7<sup>th</sup> opposite party hospital, the complainant had a swelling in his right knee and leg with pain. At the time of admission, the complainant did not have any signs of compartment syndrome and he was diagnosed with proximal tibia fracture. The 7<sup>th</sup> opposite party feels pertinent to explain about the compartment syndrome at this juncture. That leg in humans are separated into four rooms called compartments. There is no connection between these compartments. It has muscle, nerve and blood vessels inside. Each compartment is covered by fascia (tight plastic cover like layer which will not expand) in its roof. Bone will be the common base for all compartments. When there is a fracture of bones, blood collects into all these compartments. It lot of blood collects inside each compartment, the outside covering will not help to expand, hence, it presses the muscle, nerve, blood vessels. This will cause necrosis (dead tissue) formation. These dead tissues will lead to infection. The compartment syndrome in some cases usually occurs within 24 hours, in some cases, it may occur within 48 hours. In the case of the complainant, there was no compartmental syndrome when he was admitted at 7.30 pm and initially diagnosed but had later occurred within 30 hours from the accident.

The complainant was taken for surgery on 16.09.2022 at 12.00 pm, the swelling had increased in size on the complainant's knee and leg but there were still no signs of compartment syndrome. A closed reduction and internal fixation with plating with minimally invasive technique was done on the complainant by the 1<sup>st</sup> opposite party. On the same day, the complainant suddenly developed

severe pain and on examination, a limb was swollen without blebs and by that time the complainant was diagnosed with compartment syndrome which had developed by then. When this was diagnosed, the complainant was again taken for surgery again on the same day at around 9.00 pm. And a fasciotomy surgery (i.e. releasing of coverings of compartment) was done and the skin was left open without suturing and dressing was done which is a proper treatment protocol universally prescribed and the same was followed in the case of the complainant.

After fasciotomy, wound care must be given to decrease chances of infection. The vac dressing is the most advanced treatment available and it was done to the complainant. Wound care consists of thorough wound debridement (removing of all dead tissues) and then vac application. If it is not done, infection will increase and spread to whole leg which may cause amputation and spread to blood and cause severe complications. That is the reason for removal of tibialis anterior muscle which was fully dead. If left untreated all muscle which help in lifting the foot would have been dead and needed to be removed. Since there were three other muscles which work for lifting foot were intact, the decision of removing dead tibialis anterior muscle was done. In further course, exercise of other 3 muscles could have made the patient to lift the foot up. Everything has been explained to the complainant and his attenders post operatively and the need for exercise has been emphasized even during the hospital stay itself.

The opposite parties have provided necessary treatment for the injuries of the complainant that too after duly explaining the necessity, procedure involved and duly getting his consent for the procedure. Though such efficient treatment was given to the complainant, he was not able to pay for the surgery expenses which cost Rs.5,18,147/- through insurance and other sources, the complainant paid a sum of Rs.2,50,000/- and he was still due to pay to the hospital a sum of Rs.2,27,219/- towards surgery and hospital charges and a sum of Rs.55,147/- for non medical charges incurred during the complainant's stay in the 7<sup>th</sup> opposite

party hospital. Even though the complainant was unable to pay the above mentioned sum, still they on humanitarian grounds provided free treatment worth Rs.1,00,000/- from 04.10.2022 to 10.10.2022. The complainant had written a letter to the 7<sup>th</sup> opposite party expressing his happiness towards the treatment he had received and in the same letter he had also mentioned that he does not have the financial means to bear further expenses and so he wanted to get himself admitted in a Government hospital for further treatment. That hand written letter written by the complainant clearly specifies that he owes the 7<sup>th</sup> opposite party a sum of Rs.2,82,966/- and that he was unable to pay the same therefore he was leaving the hospital without completing the payment.

The opposite parties submit that there have not been any acts of negligence as alleged by the complainant. The surgeries performed in the opposite party's facility have been done with utmost care. The treatment provided to the complainant in the opposite party's facility is in par with the norms prescribed and the protocols advised universally for treatment. Hence, there is no medical negligence on the part of the opposite parties. Hence, prayed to dismiss the complaint.

That the complainant deposed that due to road accident, he admitted in the hospital of opposite party no.7 and he was treated by the doctors of the 7<sup>th</sup> opposite party hospital for injury to his right leg. He stated that his occupation is driver and the sole bread winner in the family and he had married recently and is surviving with a small baby. In the first instance, the complainant was taken to Annai Arul Family clinic the duty doctor who has referred him to opposite party hospital for treatment of fracture to his leg. When the complainant got admitted with the 7<sup>th</sup> opposite party hospital, the complainant had a swelling in his right knee and leg with pain. At the time of admission, the complainant did not have any signs of compartment syndrome and he was diagnosed with proximal tibia fracture. The 7<sup>th</sup> opposite party feels pertinent to explain about the compartment

syndrome at this juncture. That leg in humans are separated into four rooms called compartments. There is no connection between these compartments. It has muscle, nerve and blood vessels inside. Each compartment is covered by fascia (tight plastic cover like layer which will not expand) in its roof. Bone will be the common base for all compartments. When there is a fracture of bones, blood collects into all these compartments. It collects lot of blood inside each compartment, the outside covering will not help to expand, hence, it presses the muscle, nerve, blood vessels. This will cause necrosis (dead tissue) formation. These dead tissues will lead to infection. The compartment syndrome in some cases usually occurs within 24 hours, in some cases, it may occur within 48 hours. In the case of the complainant there was no compartmental syndrome when he was admitted at 7.30 pm and initially diagnosed but had later occurred within 30 hours from the accident.

On Calcaneal Pintraction till the open reduction and internal fixation of fracture tibia was performed on 16.09.2022. After surgery, he was shifted to ICU. In late night he developed with deep and persistent pain in his right leg. On the same day he had tingling pain in the right leg. At about 7.30 PM, the opposite party doctor removed three sutures from the site of surgery and suddenly puss gushed out from the surgical wound site. As such the wound was kept opened and was administered with anti biotics and IV Fluids. Complainant complained about the tightness in his right lower leg but was not attended by the opposite parties. As there was gross infection as well as persistent severe pain, tightness the complainant. The opposite parties warned the complainant with the complication of compartment syndrome. The consequences of said syndrome will result severe tissue damage with loss of body function or even death. On that the opposite party doctor informed the complainant that with the treatment of fasciotomy the pain would subside and discharge of puss would stop. On that pretext again he was shifted to operation theatre and opened all the compartments involving in right

leg on 22.09.2022, even then there is no relief to the complainant. That the opposite parties doctors prolonged his stay in the hospital assuring him that they would discharge him after completely eradication of infection. The complainant was also suffered another complication of foot drop occurred to the right leg of the complainant. As there was no improvement and as the condition of the complainant was deteriorating the complainant and his relatives insisted for discharge for taking treatment at higher centre. As the opposite parties could not give any relief to the complainant and on the other hand his condition was deteriorated, the complainant was still due to pay to the 7<sup>th</sup> opposite party a sum of Rs.2,27,219 towards surgery and hospital charges and a sum of Rs.55,147/- for non medical charges incurred during the complainant's stay in the 7<sup>th</sup> opposite party hospital by the complainant on humanitarian ground. There after, the complainant admitted in Thanjavur Medical College Hospital, Thanjavur, Vinodagan Memorial Hospital Thanjavur and JIPMER Hospital, Pondicherry. Thereafter, for skin grafting the complainant incurred expenditure of for correction of drop foot. All these amounts are forcibly spent by complainant for correct treatment and to save from the negligent treatment given by the opposite parties. It is the case of the complainant that opposite party has knowledge about the consequences of compartment syndrome but neglected in handling the same and thereby driven the complainant to take treatment at Kasthuri Hospitals. Though the PW1 was cross examined, nothing was elicited contrary to the pleadings of the complainant except giving suggestions to the complainant. Ex.A1 to A9 disclosing that he has taken treatment at higher centre as he could not rectify his disease from opposite party hospital. It is observed that if the opposite parties have given right treatment keeping in view of complications of compartment syndrome, there would be no necessity to the complainant to take treatment at higher centre. The complainant could escape from severe complication of amputation of his right leg due to treatment taken at Kasthuri



Hospitals. So the Discharge Summary of Kasthuri Hospital is disclosing the nature of treatment given to the complainant.

On the other hand, the opposite party no.7 has given evidence through affidavit stating that there is no negligence on their part in the treatment given to the complainant and as the opposite parties returned the amount paid by the complainant the opposite party has not come under the purview of Consumer Protection Act and it is also stated that the entire treatment is in accordance with the medical standard and that there is no negligence on their part and that inspite of symptoms of the patient they could not identify the compartment syndrome is not correct and thereby pleaded that complaint is not tenable and liable to be dismissed. In the proof affidavit of the opposite party no.7 to some extent admitted the development of complications regarding the compartment syndrome but however denied the negligence attributed to him. The surgery of fasciotomy was done for the first time on 16.09.2022 but whereas the opposite parties in para no.8 of their counter stated that they planned redo-fasciotomy and did extended fasciotomy on 22.09.2022 in 6 operation theatre. Whereas in Reply Notice Dt: 11.03.2015 the opposite parties did not speak of extended fasciotomy or redo-fasciotomy and the said plea of redo-fasciotomy or extended fasciotomy did not figure in the Discharge Summary. It was simply stated that they had done debridement. It is due to negligence of the opposite parties as they did not respond to the complaints of the severe pain and tightness in the leg and thereby delayed diagnosis of compartment syndrome which resulted in gross infection and foot drop to the complainant. Though the opposite parties denying the symptoms of compartment syndrome of the complainant but the opposite parties falsely stating that complainant was presented in the opposite party hospital with impending compartment syndrome. So the contention of impending compartment syndrome and feeble Distal ATA is not shown in discharge summary. So many important treatment aspects were not shown in the discharge summary and other aspect

during his proof affidavit of the opposite party no.7 stated that all the aspect of treatment shown in the case sheet but the case sheet was not filed by the opposite parties. On going through the evidence affidavit and counter filed by the opposite parties and the way of answering of the opposite party no.7, it is establishing some sense of negligence on the part of opposite parties in treating the complainant. On the other hand, the burden lies on the complainant to prove negligent treatment of opposite parties. Except examining himself, the complainant did not choose to examine the doctors who have given treatment in Kasthuri Hospital. In such sense there is no expert/technical authority to say about the negligent treatment of the opposite parties but in cumulative reading of complaint, counter, evidence affidavits and the documents filed by the complainant, it is established that there would be a chance of amputation of right leg of the complainant if he has not taken treatment in the higher centre. On the request of the complainant and his relatives, the opposite parties have discharged the complainant otherwise the opposite parties would have continued the treatment in their hospital though there is no possibility of giving better treatment and there would be possibility of amputation of right leg of the complainant. As such in that angle it can be viewed that there is some sort of negligent attitude on the part of opposite parties in rendering services to the complainant. As such deficiency in service is appeared on the part of opposite parties in rendering their services as such they are liable to reimburse to some extent to the complainant. The opposite parties have given treatment after receiving the amount of Rs.2,50,000/- from the complainant. As their treatment is causing hardship to the complainant the opposite party has discharged the complainant leaving a sum of Rs.2,82,966/- to the complainant on humanitarian grounds. As such it cannot be said that the treatment rendered by the opposite parties is on free of cost. Thus the opposite parties are squarely covered by the definition of Consumer Protection Act. On that pretext the opposite parties shall not escape from their liability. The opposite parties relied upon so many settled precedents in support of their contentions stating that as

they have not charged anything they have not come under the definition of service provider and that as there is no negligence on their part they are not liable to pay compensation. As discussed above the opposite parties have rendered services after taking the amount from the complainant and their way of treatment which required treatment from the higher centre shows their negligent treatment towards the complainant, are not covered with the Rule of Law as discussed in the citations relied upon by the opposite parties. The citations and the study material about the subject surgery and the symptoms compartment syndrome in the Medical Counsel notifications are somewhat closely related to the present facts of the case and as such they are relied upon in disposal of the present case.

On account of incorrect and negligent treatment by the opposite parties, the complainant had been continuously suffering since 16.09.2022 , the day he was operated and still suffering. He was compelled to submit him body for various tests in a number of hospitals/diagnostic centres. He is unable to walk of him own and requires an attendant round-the-clock to assist him. He has been compelled to visit various doctors for his examination at Pondicherry along with his wife/attendant. Medication and physiotherapy is continuously being done. His personal privacy has been invaded. He is unable to give comfort to his family and has become a burden on the family. His right leg has become weak and fragile. Even after continuous treatment for two years by specialists there is no further recovery in disability and neuropathy of right leg of complainant which has resulted due to negligence of opposite party – 7<sup>th</sup> hospital. He is unable to walk freely as he was walking before operation. He has and is still suffering mental trauma of physical handicapped, financial loss on medication desks, travelling to Pondicherry on four occasions with round-the-clock attendant cetera only on account of gross medical negligence and deficiency in service of opposite parties. A sum of nearly ₹ 5 Lacs have been spent till now by the complainant in the operation, room charges, medicines, tests, travelling, attendant and special diet

during his stay in opposite party's hospital and other hospitals. The loss suffered by complainant cannot be equated with money however the complainant lodges a claim for compensation treatment expenses cetera for ₹ 50 lakhs. In view of the sufferance and agony of the complainant due to the treatment of the opposite parties which led to treatment at higher centres shows some amount of negligence on the part of the opposite parties as such the opposite parties are liable to compensate the complainant. In this clause of relief we are of the opinion that as he is disabled by 50% so he should be given ₹ 1 lakh for each percent of disablement that is ₹ 50 lakhs for this disablement because it is a lifelong pain for the complainant and his family members. The complaint case is decided accordingly.

**ORDER :** The opposite parties are jointly and severally directed to pay ₹ 15 lakhs to the complainant towards compensation.

The opposite parties are jointly and severally directed to pay ₹ 10 lakhs to the complainant towards doctor's fees, hospital charges, medicines, for different type of tests and travelling.

The opposite parties are jointly and severally directed to pay ₹ 1 lakh to the complainant towards extra nourishment.

The opposite parties are jointly and severally directed to pay ₹ 50 lakhs to the complainant towards permanent burning sensation, pain, suffering, disfigurement of right knee, services of an attendant, cost of the petition, mental torture and agony.

The opposite parties are jointly and severally directed to pay all the above reliefs with interest at a rate of 10% from 15.09.2022 within 45 days from the date of judgement of this complaint case otherwise the rate of interest shall be 15% from 15.09.2022 till the date of actual payment.

This order is dictated by the President to the Steno-Typist, transcribed, typed by her and corrected, signed and pronounced by us in open Commission, today on this 30<sup>th</sup> June'2025.

(Sdxxx)  
**MEMBER:1**

(Sdxxx)  
**PRESIDENT**

**LIST OF DOCUMENTS MARKED ON THE SIDE OF THE COMPLAINANT**

<b>Exhibits</b>	<b>Date</b>	<b>Description of Documents</b>
Ex. A1	28.03.2024	Legal notice copy
Ex. A2	12.04.2024	Postal receipts 6 nos original
Ex. A3		Ad Cards 6 nos original
Ex.A-4	15.04.2024	One cover returned Dr.A. Mohamed Sadiq (No such person) original
Ex.A-5	15.09.2022	Annai Arul Family clinic Emergency summary original
Ex.A-6	11.10.2022	Kasthuri Hospital Discharge summary original
Ex.A-7	15.02.2023	Thanjavur Medical college Xerox
Ex.A-8	25.04.2023	Vinodagan Memorial Hospital Thanjavur Xerox
Ex.A-9	31.05.02023	JIPMER Hospital, Pondichery

**LIST OF DOCUMENTS MARKED ON THE SIDE OF THE FIRST  
OPPOSITE PARTY**

<b>Exhibits</b>	<b>Date</b>	<b>Description of Documents</b>
Ex. B-1		Picture showing compartments in the lower leg
Ex. B-2		Extract of medical journal being international journal of care of the injured 34 (2003) S-A 43-S-A46:
Ex. B-3		Extract of medical journal being international journal of orthopaedics and Traumatology
Ex.B-4		Extract of medical journal being Pitta GBB dos Santos TFA dos Santos FTA da Costa Filho EM Syndrome compartmental pos-fratura de plato tibial. Rev Bras Ortop

Ex.B-5		Extract of medical journal NCBI bookshelf. A service of the National Library of Medicine, National institute of Health statpearls (internet) Treasure island
Ex.B-6		Extract of medical journal 4 NCBI bookshelf. A service of the National Library of Medicine, National institute of Health.
Ex. B-7		Extract of medical journal being Ortho Trauma
Ex. B-8		Extract from medical journal being Advances in skin and wound care
Ex. B-9		Extract from medical journal being Noguchi T, Hirao M Okamura G, et al Early resection of the Tibialis Anterior Tendon for Tendon exposure After Total Akle Arthroplasty to prevent deep infection. A report of Three cases in patients with Rheumaoid Arthritis Cureus
Ex. B-10	16.09.2022	Consent of Anesthesia Form dated 16.09.2022
Ex. B-11	16.09.2022	Informed consent for surgery form dated 16.09.2022
Ex. B-12	16.09.2022	Informed consent for surgery form dated 16.09.2022
Ex. B-13	16.09.2022	Consent of Anesthesia Form dated 16.09.2022
Ex. B-14	17.09.2022	Informed consent for surgery form dated 17.09.2022
Ex. B-15	22.09.2022	Consent of anesthesia Form dated 22.09.2022
Ex. B-16	22.09.2022	Informed consent for surgery form dated 22.09.2022
Ex. B-17	27.09.2022	Consent of Anesthesia Form 27.09.2022
Ex. B-18	27.09.2022	Informed consent for surgery form dated 27.09.2022
Ex. B-19	01.10.2022	Consent of Anaesthesia form dated 01.10.2022
Ex. B-20	01.10.2022	Informed consent for surgery form dated 01.10.2022
Ex. B-21	08.10.2022	Consent Anesthesia form dated 08.10.2022
Ex. B-22	01.10.2022	Informed consent for surgery form dated 01.10.2022
Ex. B-23	11.10.2022	Letter issued by the complainant to the opposite parties dated 11.10.2022

Ex. B-24	08.05.2024	Reply notice dated 08.05.2024 issued by the opposite parties
Ex.B-25	10.05.2024	Acknowledgment dated 10.05.2024

**(Sdxxx)**  
**MEMBER:1**

**(Sdxxx)**  
**PRESIDENT**