

**STATE CONSUMER DISPUTES REDRESSAL COMMISSION, UP
C-1 Vikrant Khand 1 (Near Shaheed Path), Gomti Nagar Lucknow-226010**

**Complaint Case No. CC/417/2016
(Date of Filing : 22 Dec 2016)**

1. Smt. Sarita Singh
Lakhimpur Khiri

.....Complainant(s)

Versus

1. Agrwal Hospital and Oth.
Lakhimpur Khiri

.....Opp.Party(s)

BEFORE:

**HON'BLE MR. Rajendra Singh PRESIDING MEMBER
HON'BLE MR. SUSHIL KUMAR JUDICIAL MEMBER**

PRESENT:

Dated : 14 Sep 2021

Final Order / Judgement

Reserved

State Consumer Disputes Redressal Commission

U.P. Lucknow.

Complaint Case No.417 of 2016

1- Smt. Sarita Singh aged about 30 years

W/o Sri Om Prakash Mourya, R/o Village,
Rani Nagar Colony, Post, Sampurana Nagar,
District, Lakhimpur Khiri U.P.

2- Om Prakash Mourya, Advocate, R/o Village,

Rani Nagar Colony, Post, Sampurana Nagar,
District, Lakhimpur Khiri U.P.

... **Complainants .**

Versus

1- Agarwal Hospital, Dudhawa Chauraha,
City & Post Palia Kalan, District, Lakhimpur
Khiri, U.P. through its Director.

2- Dr. Pushpa Agarwal, Agarwal Hospital,
Dudhawa Chauraha, City & Post Palia
Kalan, District, Lakhimpur Khiri, U.P. .. **Opposite parties .**

Present:-

1- Hon'ble Sri Rajendra Singh, Member.

2- Hon'ble Sri Sushil Kumar, Member

Sri Anil Kumar Mishra, Advocate for the complainants.

None for the opposite parties.

Date 6.10.2021

JUDGMENT

Sri Rajendra Singh, Member - This complaint has been filed by complainant under section 17(A) of the Consumer Protection Act, 1986.

The complainant's case is that, that on 22.4.2015 she had some problem hence, she visited the opposite party no.1 hospital where opposite party no.2 Dr. Pushpa Agarwal charged a fee of Rs.200.000 and examined the complainant. The complainant told her previous history and also about previous Ectopic Pregnancy as well as doctor's advice. The

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opposite party no.2 conducted pregnancy test which was found positive and after that opposite party no.2 prescribed for ultrasound by administering some medicines. On perusal of the ultrasound report, she was told by the opposite party no.2 that there was no problem and the embryo is on correct position. She was advised to take injection and medicines properly. On 29.5.2015 due to severe pain, the complainant became very serious and visited the hospital of opposite party. The opposite party no.2 admitted her in the hospital and gave some medicines and again got conducted ultrasound and advised her to seek opinion of Dr. A.K. Saxena who again conducted ultrasound. Dr. A.K. Saxena told her after examining the ultrasound report that the

baby is not in uterus and it is developing in the fallopian tube. She was advised to consult multi specialty hospital.

On 30.5.2015, the complainant came to Lucknow and consulted Dr. Garima Gupta of Neera Nursing Home, Aliganj. The doctor examined the complainant and stated that the condition of the complainant is very poor. Dr. Garima Gupta again conducted ultrasound test and told that the baby is developing in the fallopian tube and much time has passed. As the baby could not develop in the fallopian tube, she underwent major operation in which it has been removed. The doctor told her that this condition arose due to wrong diagnosis. If the correct diagnosis would have done in the initial stage, the embryo could be transplanted in the uterus by the help of medicines. There was no option except to remove embryo along with fallopian tube. Her first fallopian

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tube was already removed in 2011. All the above noted problems and condition which arose due to severe negligence committed by the opposite parties during diagnosis. The opposite parties doctor has committed serious mistake not only in diagnosis but also failed to administrate proper medication and care, as a result of which the complainant has no chance to conceive in future. The complainant no.1 after facing major operation came out from danger then doctor told her about further care and precaution and also told her that she could not conceive in future. The complainant no.1 was mentally shocked and gone in mental trauma. The doctor advised to consult psychologist. The complainant consulted psychologist and started taking treatment which is still going on. The condition is not satisfactory. This condition of complainant no.1 is only due to negligence and mistake committed by the opposite party to diagnose and observed critical condition of the patient although when the patient was a known patient of damage of one fallopian tube due to Ectopic Pregnancy. As per medical literature in this situation, it is the duty of doctor to become more cautious and required to be confirm by confirmatory test, the doctor (opposite party) was totally failed to do so. This is also severe mistake and negligence in the part of opposite parties. In spite of serious mistake as well as negligence the opposite party charged more than 40,000.00 in medicines as well as boarding charges in hospital. The complainant paid Rs.10,000.00 as a transportation charges in emergency rent of vehicle from hospital to Lucknow and spent more than 2,00,000.00 in treatment, hospital charges, medicines, pathological test, as

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well as transportation and boarding charges at Lucknow. The opposite party has committed negligence which is apparently proved from record and report of the doctors. It is also proved that the complainant suffered financial loses in expenses of treatment, hospital charges, medicines, pathological test as well as transportation and boarding charges at Lucknow. Treatment of the complainant is still going on. She suffered a lot of pain and mental agony for child, which could not be quantified in amounts but the complainant seeks 40 lacs against pain and mental agony and eight lacs against expenses, financial loss and harassment.

In view of above facts, the complainants have prayed to direct the opposite parties to pay Rs.40 lacs for pain and mental agony, loss of child and motherhood. The complainants also prayed that the opposite parties be directed to pay Rs.8 lacs against total treatment and other expenses and also prayed to award Rs.50,000.00 as cost of the suit.

We have heard the Id. Counsel for the complainants Sri Anil Kumar Mishra. Ld. Counsel for the opposite parties Sri Angad Kumar Mishra was present on 6.4.2017 but he had filed his Vakalatnama on 1.3.2017. He had full knowledge of the present case and in spite of it he did not file his written statement.

We have perused the documents and pleadings on record.

First we have to consider about the ectopic pregnancy. In this case the embryo is in the fallopian tube where it was not possible to grow and deliver a healthy child. If in time it has

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not been removed, there are chances of bursting the fallopian tube causing serious harm to the mother may be fatal.

Often, the first warning signs of an ectopic pregnancy are light vaginal bleeding and pelvic pain. If blood leaks from the fallopian tube, one may feel shoulder pain or an urge to have a bowel movement.

Unfortunately, an ectopic pregnancy is fatal for the foetus. It cannot survive outside of the uterus. Quick treatment for an ectopic pregnancy is important to protect the mother's life. If the egg has implanted in the fallopian tube and if the tube bursts, there can be severe internal bleeding. A pregnancy that's ectopic is usually diagnosed at about 4 to 6 weeks into pregnancy. This is a life-threatening condition. An ectopic pregnancy is not a pregnancy that can be carried to term (till birth) and can be dangerous for the mother if not treated right away.

It is considered an ectopic pregnancy whenever the fertilised egg implants outside of uterus. The act is meant to travel down the fallopian tubes and embed itself into the wall of uterus, where it can begin to develop. In an ectopic pregnancy, the egg implants in one of the structures along the way. The most common place this can happen is within the fallopian tubes. The majority of ectopic pregnancies happen here – called a tubal ectopic pregnancy.

An ectopic pregnancy is a medical emergency. The uterus is uniquely suited to hold a growing foetus. It is an organ that can stretch and expand as the foetus grows. The fallopian tubes are not as flexible. They can burst as the fertilised egg develops. When this happens, one can

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experience large amounts of internal bleeding. And ectopic pregnancy needs to be treated right away to avoid injury to the fallopian tube, other organs in the abdominal cavity, internal bleeding and death. Quick treatment for an ectopic pregnancy is important to protect the mother's life.

There are several risk factors that could increase the chance of having an ectopic pregnancy. A risk factor is a trait or behaviour that increases the chance for the developing a disease or condition. One may be at a higher risk of developing an ectopic pregnancy if he had

- i. a previous ectopic pregnancy

- ii. a history of pelvic inflammatory disease (PID), an infection that can cause scar tissue to form in the fallopian tubes, uterus, ovaries and cervix.
- iii. Surgery on one's fallopian tubes (including tubal ligation, also referred to as having your tubes tied) or the other organs of your pelvic area.
- iv. A history of infertility.
- v. Treatment for infertility within vitro fertilisation (IVF).
- vi. Endometriosis (the inner lining of the uterus is called the endometrium; it is shed through the Vagina during menstruation. In endometriosis, fragments of the lining develop in places other than uterus, including the ovaries, fallopian tubes, vagina, peritoneum, or the intestine.)
- vii. Sexually transmitted infections (STIs)
- viii. an intrauterine device (IUD), a form of birth control, in place at the time of conception.
- ix. A history of smoking.

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The risk can also increase as one gets older. Woman over a 35 are more at risk than younger women. Many women who experience an ectopic tendency don't have any of the above risk factors. The early symptoms of ectopic pregnancy can be very similar to typical pregnancy symptoms. However, one may experience additional symptoms during an ectopic pregnancy which includes fainting, hypotension, shoulder pain and rectal pressure. When a tube bursts, one may feel sharp lower abdominal pain. This is a medical emergency and one needs to contact the doctor immediately.

An ectopic pregnancy is typically diagnosed during one's body checkup in which the Dr will perform several tasks to first confirm a pregnancy, and then look for the ectopic pregnancy. It can be affirmed by a urine test, a blood test, an ultrasound exam. And Ectopic pregnancy is an emergency and treatment for this condition is very important. Ectopic pregnancy is typically discovered very early in pregnancy. Most cases are found within the first trimester (the first three months). It usually is discovered by the eighth week of pregnancy. Trans – vaginal ultrasound examination is the best way to diagnose and ectopic pregnancy. And intra– Ukraine pregnancy can usually be seen by five – six weeks gestation.

There are several ways that an ectopic pregnancy can be treated. In some cases, the doctor may suggest using a medication called methotrexate to stop the growth of the pregnancy. This will end your pregnancy. It is given through an injection and this option is less invasive than surgery, but

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it does require follow-up appointments with the doctor. In severe cases, surgery is often used. Most women who have had an ectopic pregnancy can go on to have future successful pregnancies. There is a higher risk of having future ectopic pregnancies after you have had one.

In most cases, one can still have a baby if one has had one of the fallopian tubes removed. One has a pair of fallopian tubes and eggs can still travel down your remaining tube.

Now we come to the present case. It has become very much clear that the ectopic pregnancy can be very well diagnose in the early 4 to 5 weeks of pregnancy. If there is history of previous ectopic pregnancy and one of the fallopian tubes has already been

removed from the body, the risk is very high for future ectopic pregnancy. A good and qualified gynaecologist can very well anticipate the risk of ectopic pregnancy particularly in the case where there had been the history of previous ectopic pregnancy.

Now we see the complaint. In the complaint it has been written that on 22 April 2015, the complainant after feeling pain/problem visited the opposite party's Hospital where the component told his previous history and previous ectopic pregnancy. The pregnancy test was conducted and found positive. The opposite party prescribes medicines and asked for ultrasound test. In para three of the complaint the complaint has written that after seeing the ultrasound report it was told by the opposite party no 2 that there is no problem. We have seen the report dated 22 April 2015. There is written II Tube block . The photocopy of the report has been filed

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which is not legible but pregnancy test is written as positive today. Some medicines have been prescribed. The complainant had not mentioned the last date of menstruation. There is no date of expected delivery. How can one guess about the date of expected delivery or date of the last menstruation. There is no prescription of follow-up checkup of Agrawal Hospital.

After more than a month the complainant took her wife to the hospital of opposite party where he was told that the baby is developing in the fallopian tube and advised him to consult the multispecialty hospital. Thereafter the complainant brought her wife to Lucknow on 30 May 2015 and thereafter she was operated. The Complainant did not disclose the last date of menstruation it is not possible to know as to on 22nd April 2015 the pregnancy was of how many weeks ? There is no prescription of next-day so we are unable to ascertain what the opposite parties recommended? The prescriptions of the first ectopic pregnancy has also not been filed by the complainant. It is not clear as to in which hospital the first ectopic pregnancy was shown and operated.

It is the duty of complainant to submit all the relevant papers and the papers should be clear so one can read it. On the back of the prescription of a full party there is something written as to repeat for confirmation. It is not clear that for which test it has been written. There is nothing on record as to how old the pregnancy was? After going through all the records and documents we are of the view that there is no negligence on the part of the opposite party. The complainant

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could not prove negligence on the part of the opposite party so the complaint of the complainant is liable to be dismissed.

ORDER

The complaint is dismissed.

The stenographer is requested to upload this order on the Website of this Commission today itself.

Certified copy of this judgment be provided to the parties as per rules.

(Rajendra Singh)

(Sushil Kumar)

Member

Member

Judgment dated/typed signed by us and pronounced in the open court.

Consign to record.

(Rajendra Singh)

(Sushil Kumar)

Member

Member

Jafri, PA II

Court 2

**[HON'BLE MR. Rajendra Singh]
PRESIDING MEMBER**

**[HON'BLE MR. SUSHIL KUMAR]
JUDICIAL MEMBER**