

**District Consumer Disputes Redressal Commission  
South 24 Parganas  
Baruipur, Kolkata-700 144**

**Complaint Case No. CC/199/2014  
( Date of Filing : 02 May 2014 )**

1. SMT. ANANDAMAYEE MAJUMDER, Wife of Parimal Majumder.  
residing at 2/90, Gandhi Colony, Police Station- Jadavpur, Kolkata- 700092.

.....Complainant(s)

Versus

1. DR. G.K. MOHANTY, OF 'SMRUTI'  
8, Nabanagar, Jadavpur, P.S.- Jadavpur, Kolkata- 700032.

.....Opp.Party(s)

**BEFORE:**

**SHRI ASHOKE KUMAR PAL PRESIDENT  
JAGADISH CHANDRA BARMAN MEMBER  
SMT. SANGITA PAUL MEMBER**

**PRESENT:**

**Dated : 06 Dec 2022**

**Final Order / Judgement**

**Sangita Paul, Member**

This is a case filed by Smt. Anandamayee Majumder, wife of Shri Parimal Majumder of 2/90, Gandhi Colony, P.S. Jadavpur, Kolkata-700092, against Dr. G.K. Mohanty, with a prayer for directing the OP to pay a sum of Rs. 3,00,000/- only to the complainant for medical expenses of the complainant and to pay a sum of Rs. 4,00,000/- as compensation due to wrong treatment and gross medical negligence adopted by the OP.

OP is Dr. G.K.Mohanty. The address is Smruti, 8 Naba Nagar, Jadavpur, Kol- 700032.

The complainant by filing this case states that on May 2013, the complainant's daughter namely Chaitali Majumder went to the clinic of Dr. G.K. Mohanty with high fever, chest pain and respiratory distress. The patient was being treated by Dr. G.K.Mohanty. The condition of the complainant's daughter was becoming serious. The doctor was informed by the complainant that, the patient's condition was becoming worse, but the Doctor did not care and assured the complainant, that, her daughter would be cured very soon.

The complainant states that, due to gross medical negligence of the OP, the patient died. Due to medical negligence of the OP, the patient faced trouble. The complainant spent a considerable amount of Rs. 300000/- but her daughter did not survive. Due to wrong treatment of Dr. G.K.Mohanty, the patient died.

That, the cause of action of this case arose on May, 2013 when the complainant's daughter was under the treatment of the OP and finally on 10.11.2013, when the complainant's daughter died due

to wrong treatment of the OP. The clinic of the OP is within the jurisdiction of this Ld. Commission.

Hence, the complainant prays for directing the OP, to pay a sum of Rs.3,00,000/- to the complainant for medical expenses of the OP, and to pay a sum of Rs. 4,00,000/- as compensation for wrong treatment and gross medical negligence.

In the written version, the OP, Dr. G.K.Mohanty states that, the petition is vexatious, harassing and misleading.

That the complainant has no cause of action to file the complaint.

That the incident can not be treated as rarest of rare cases. The petition was filed with a view to malign the image of the doctor. There is no resultant injury due to negligent act of the doctor. The doctor cannot be held liable for the mishap.

Ms. Chaitali Majumder visited the chamber of the OP with the complainant for cough and cold and weakness. There was no complaint of respiratory distress. The OP treated her as per homoeopathic practice and ascertained double precautions. Form the various tests; it appears that the patient was improving. The medicines which were administered to the complainant's daughter are correct. There was no negligence. The treatment showed signs of improvement as Hb%, platelet counts become normal. The patient was feeling better after administration of medicine. The OP never detected any complaint of chest pain. So, the OP did not feel necessity of chest X-Ray. The complainant never complained of chest pain of her daughter.

A doctor is not negligent if he acts in accordance with the standard practice. The patient and her parents were very irregular on follow-up treatments which had resultant effect of this mishap and the same is owing to irresponsible approach by the parents of the patient. The patient remained absent, when she was asked to contact. Long absence of follow up has aggravated the problem. Timely reporting is a major factor. The OP informed the patient that she needed prolonged treatment, as she was having bronchial symptoms and food restrictions were also imposed. But, she used to take medicines only when her problem became unbearable. Due to non observance of the follow-up programmes, the patient's case became critical and the mishap occurred. But, no liability of medical negligence fastened on the Doctor. The patient last visited on 19.10.2013. In between 19.10.2013 to 1.11.2013, no report was sent to the doctor. As the patient's condition was not reported to the doctor, he cannot be held liable. The doctor primarily treating cannot be held liable for medical negligence. Following the homoeopathic guidelines, the patient was responding.

At CMRI, the cause of death was shown as sepsis and multi organ failure and the antecedent cause shown was tuberculosis. The cause and antecedent cause appear to have no match.

The patient never cooperated with the doctor. The OP doctor was never negligent in his duty.

The OP prays for dismissal of the instant complaint.

The instant case was filed on 2.05.2014 and the case was admitted in 19.05.2014. On 23.12.2014, the OP files WV, copy served. The complainant filed evidence on affidavit on 13.01.2015. OP files questionnaire on 21.01.2015. On 5.02.2015, the complainant files reply. OP, by filing a petition

prays for treating his WV as evidence on affidavit. On 27.03.2015, OP files BNA. Accordingly, final order was passed. The complainant preferred an appeal in FA/A/945/15, dated 30.08.2018 at honourable SCDRC. Honourable SCDRC set aside the impugned order passed in CC/199/2014 and remanded to the Commission for further hearing afresh. On 21.03.2022, the complainant prayed for amendment. On 6.06.2022, the complainant was directed to amend to petition of complaint. On 29.06.2022, the complainant files amended complaint petition. Argument was heard on 18.08.2022. Accordingly, we proceeded for giving judgment on 06.12.2022.

### **POINTS OF CONSIDERATION:**

1. Is the complainant a consumer?
2. Is there any deficiency in service and Unfair trade Practice adopted by the OP?
3. Is the complainant entitled to get relief as prayed for?

### **DECISION WITH REASONS:**

1. On perusal of records and documents, it appears that, the complainant's daughter Ms. Chaitali Majumder became sick and visited the clinic of Dr. G.K.Mohanty. It is a pay clinic. Being dissatisfied, the complainant went to K.P.C Medical College and Hospital. From K.P.C Medical College, the complainant went to Calcutta Medial Research Institute. In these two hospitals, the complainant had to spend a considerable amount for her daughter's treatment. So, it is proved that the complainant is a consumer u/s 2 (7) of the Consumer Protection Act, 2019.
2. The OP is a renowned homoeopathic physician. The complainant went to Dr. G.K.Mohanty for treatment. The complainant's daughter was treated by Dr.G.K.Mohanty for six months. As the complainant's daughter was feeling bad, it was reported to Dr. Mohanty, but it appears that, Dr. Mohanty did not take the complainant's case seriously. As it was seen that the victim was not responding to his treatment, the doctor could refer her case to other physician. At the initial stage, the patient went there with high fever, chest pain and respiratory distress. The patient underwent with normal medication. The doctor did not suggest for any test. Only homoeopathic medicines were administered. The patient's condition was deteriorating. At this juncture, it is pertinent to mention that, the patient needed more care. The doctor noticed that the condition of the patient was becoming worse; she is not responding to his treatment, the doctor should have taken steps. If the patient would have been referred to another doctor, the patient's treatment might be started in a new direction. The complainant and her family members failed to understand that the patient should be treated by other doctor. The patient was shifted to other doctor, but it was late. Then on 1.11.2013 the complainant was referred to Dr. Pranab Kumar Das. And Dr. Pranab Kumar Das advised for hospitalization. On the same date, the complainant was admitted to K.P.C Hospital. Then at CMRI Hospital. In the discharge certificate of K.P.C Hospital, it was written, that her right side of the face was affected by oral ulcer, fever continued for last two months. She needed nebulazation etc. Lastly, the patient was shifted to the CMRI Hospital. The patient expired on 10.11.2013. In the discharge certificate of CMRI Hospital, the immediate cause of death was SEPSIS with multi-organ failure and the antecedent cause of death was Disseminated Tuberculosis. In CMRI, numerous tests were made. It revealed that, she had bronchitis. Had she been treated earlier, she could have survived. It is due to the deficiency in service and unfair trade practice, adopted by Dr. G.K.Mohanty that the patient did not survive. Dr. G.K.Mohanty did not refer

the patient to other doctor or else he did not advise for hospitalization. Hence the 2<sup>nd</sup> point is decided in favour of the complainant and against the OP.

3. The complainant is a distressed mother. She lost her daughter for sheer negligence of the treating doctor G.K. Mohanty. The complainant spent considerable amount of Rs. 300000/- for her daughter's treatment. But it is a matter of great regret that her daughter died after a battle of 7 months (from May to November 2013). The complainant tried her best to give her daughter a good medication and treatment. But with no result. She went to the doctor G.K.Mohanty, who was a homoeopathic doctor. He treated the complainant's daughter, but his treatment was not satisfactory. He did not treat seriously. Seeing his patient's (complainant's daughter) deteriorating condition, the doctor treated her for six months for earning money. By that time, the patient's condition was out of control. She was shifted to K.P.C Memorial Hospital and CMRI. At last, she died. Her problems aggravated when she was brought to the hospital. The complainant lost her daughter for wrong treatment and the medical negligence of Dr. G.K.Mohanty. The complainant was harassed by Dr. G.K.Mohanty. She spent time in mental agony but never got a right advice from her doctor. Hence, the complainant is entitled to get relief as prayed for. As a result, the third point is decided in favour of the complainant and against the OP.

Finally, the complaint case succeeds. Hence, it is

### **ORDERED**

That the complaint case be and the same is allowed on contest against the OP with cost of Rs. 20,000/- (Rupees Twenty Thousand).

That the OP is directed to pay Rs. 3,00,000/- (Rupees Three Lakh) with 10% interest p.a. w.e.f 01.05.2013 to the complainant as medical expenses of the complainant's daughter within 60 days from the date of this order.

That the OP is directed to pay a compensation to the tune of Rs. 50,000/- (Rupees Fifty thousand) to the complainant for wrong treatment and gross medical negligence of her daughter, mental agony and harassment of the complainant within 60 days from the date of this order.

That the litigation cost of Rs. 20,000/- (Twenty thousand) is to be paid within 60 days from the date of this order.

That the complainant is at liberty to put the order into execution if the orders are not complied with within 60 days from the date of this order.

Let a copy of the order be supplied to the parties concerned free of cost.

That the Final order will be available in the following websites, namely: [www.confonet.nic.in](http://www.confonet.nic.in).

Dictated and corrected by me.

(Sangita Paul)

Member

**[ SHRI ASHOKE KUMAR PAL ]  
PRESIDENT**

**[ JAGADISH CHANDRA BARMAN ]  
MEMBER**

**[ SMT. SANGITA PAUL ]  
MEMBER**