

Date of Filing :08.04.2022

Date of Order :01.11.2023

**BEFORE THE DISTRICT CONSUMER DISPUTES REDRESSAL COMMISSION-III,
HYDERABAD.**

Present

SRI. M. RAM GOPAL REDDY, PRESIDENT
SMT. J.SHYAMALA, MEMBER
SRI. R.NARAYAN REDDY, MEMBER

Wednesday, the 1st day of November' 2023

C.C.No.259 of 2022

Between:

Smt. C. Lavanya Kumari,
W/o. C. Siva Kumar, age 37 years,
Occ: Housewife, R/o. 1-1-364/19 (SRT 242),
Chikkadapally, Hyderabad.
Ph.No.9032702009.

....Complainant

AND

1. M/s. Guru Nanak Care Hospital (A Unit of CARE Hospitals),
H.No.1-4-908/7/1, Bakaram, Main Road,
Musheerabad, Hyderabad-20,
Represented by tis Managing Director.
2. Dr. Imran Khan, M.D., S/o. Not known,
Major, Occ: Doctor,
C/o. Guru Nanak Care Hospital,
H.No.1-4-908/7/1, Bakaram, Main Road,
Musheerabad, Hyderabad-20.

...Opposite Parties

Counsel for the complainant: Sri K.V. Krishna Rao, Advocates.

Counsel for Opposite Parties : Sri N. Jeevan Kumar, Advocate.

ORDER:

(PER SMT. J. SHYAMALA, MEMBER, ON BEHALF OF THE BENCH)

1. This complaint is filed by the complainant under Section 35 of Consumer Protection Act, 2019 praying to direct the Opposite Parties to pay Rs.25,00,000/- compensation towards the Hospital Charges, costs of Medicines, compensation for mental agony, pain and sufferings with interest @ 18% p.a., costs and to pass such other order or orders as deem fit and proper in the circumstances of the case and interest of justice.

2. The case of the complainant is that she is a house maker and a healthy person. On 31-10-2019, she approached opposite party No.1 hospital due to symptoms of fever, stomach pain and body pains. The hospital authorities referred her to general physician Dr. Imran Khan, opposite party No.2 herein. After examining the complainant, Opposite Party No.2 advised her to be admitted in hospital for complete checkup and necessary tests for proper investigation and accordingly the complainant got admitted in the hospital on the same day i.e., 31-10-2019 as inpatient. Till the time the BP was normal that is 120/90 and the temperature was 98.9 as noted by the hospital authorities and the doctor suspected dengue fever by putting a question mark on the case sheet and advised her to undergo complete blood picture and liver functioning test. As per the discharge summary dated 4-11-2019, it indicated that primary diagnosis for the patient was dengue fever with mild thrombocytopenia with hepatopathy. The discharge summary further shows the reason for admission in the hospital is that the patient complained of high fever with chills associated with body pains, nausea, headache and joint pains for the past four days prior to the admission date. The hospital has conducted ultrasound for abdomen, dengue test, platelet count and WCDC test. The ultrasound scanning showed mild hepatomegaly, gallbladder, wall thickening and edematous pancreas, hypergolic pancreatitis. The complainant was said to have been treated with IV fluids, antibodies, antibiotics and all supportive medicines and was discharged on 4-11-2019 in haemodynamically stable condition as per the discharge summary. The clinical biochemistry report dated 1-11-2019 showed that total bilirubin was 1.73 mg, malarial parasite is negative. The serology report dated 1-11-2019 shows the dengue antibody LGG is negative and dengue antibody LGM is positive and dengue antigen is negative. As per the reports mainly treatment was given for dengue fever, daily platelet test were conducted and noticed that platelets were less than required count till 3-11-2019, but by the date of discharge on 4-11-2019 platelet count was increased to 1.68 lakhs, almost came to normalcy. On the date of discharge the treating doctor verified platelet count and fever, but in spite of constant complaint about stomach ache by the complainant, no proper treatment or advice was given and she was discharged on 4-11-2019 and paid Rs. 1,52,950/- to the opposite party hospital. The complainant was continuously suffering with stomach pain and not able to take diet properly which was neglected by opposite parties. As she became weak and fainted on 6-11-2019 at her home, she was taken immediately in an

ambulance to Apollo Hospital, Hyderabad. The doctors at Apollo Hospital after conducting ultrasound scan for abdomen liver function test and other CBP test once again, informed that patient was suffering from hepatitis-E and proper treatment was not given by a gastroenterologist on previous occasion that is at OP no.1 hospital. It is further submitted that OP1 hospital even though taken ultrasound, test report indicates hepatitis-E, they neglected to refer the complainant to a gastroenterologist due to which the infection was increased and she was kept in ICU for 3 days and the doctors at Apollo Hospital could not give confidence of survival of complainant for 48 hours initially, but by God's grace after 3 days of aggressive critical treatment, the complainant was recovered. Due to the negligence of OP.No.1 hospital and OP.No.2 doctors treatment, properly not diagnosing the problem of the complainant and not given proper treatment, she has to suffer pain and mental agony besides all her family members also suffered tension and mental agony and incurred heavy expenditure for her treatment without any fault from their side, hence the complainant is entitled to claim compensation of Rs. 3,62,379/- that she incurred in Apollo Hospital. On 4-11-2020, complainant issued a legal notice to opposite parties claiming Rs. 25,00,000/- towards compensation due to medical negligence and deficiency of service by opposite parties. The opposite parties denied the same in their reply notice dated 25-12-2020 and they opined that the oral intake and hydration was not taken care by the complainant at her home resulting in her condition to deteriorate by which is not correct, hence this complaint.

3. The opposite parties filed their written version admitting the admission of complainant in their hospital and discharged on 4-11-2019 after the necessary treatment. The version of the opposite parties is that the complainant approached them with high grade fever, chills associated with body pains, nausea, headache and joint pains of about 4 days duration, hence for provisional primary diagnosis of dengue fever, which was confirmed with laboratory investigation and upon the laboratory report the complainant was given appropriate treatment as per the textbook standards for the symptoms by undertaking requisite investigations. At the time of discharge the complainant's condition was stable and oral medications were advised and if any complaints are developed post discharge the complainant was advised to report back to the hospital. If the complainant had difficulty in taking food the same ought to have brought to the notice of the opposite parties which was not

done by the complainant and if the same is not brought to the notice of the opposite parties it would be highly impossible for the opposite parties to give the effective treatment. All the investigations that is ultrasound for abdomen, LFT, CBP done at opposite party hospital. The ultrasound report indicated mild hepatomegaly gallbladder was thickened, edematous pancreas hypoechoic echo texture this report with symptoms of the complaint of fever, low platelet count and IgM dengue test positive suggest dengue fever with mild thrombocytopenia with hepatopathy is the correct diagnosis in the clinical setting. It is submitted that viral hepatitis-E can be treated by general medicine specialist also and mostly the treatment is symptomatic which was offered to the complainant and the most of the cases the treatment for the viral hepatitis-E can also be done at home. The ultrasound cannot specifically diagnose hepatitis-E and that hepatitis due to dengue fever also same findings as in hepatitis-E will be revealed in ultrasound. Apart from this hepatitis due to both hepatitis-E and dengue fever the symptoms may be same and so is the treatment which mostly is hydration combined with symptomatic treatment. What is revealed by the complainant is and it can be easily presumed that complainants oral intake and hydration was not taken care of at her home resulting in which her condition must have deteriorated at home and complainant failed to report back for further consultation and treatment. The problem with the liver was also diagnosed and standard treatment as per the medically acceptable protocol was given to the complainant. Either hepatitis due to hepatitis-E or dengue fever the treatment is the same which is symptomatic combined with proper hydration. It is further submitted that viral hepatitis-E is a self-limiting disease and there are no medications to decrease infection and only symptomatic treatment can be given in it which is what has been done in the instant case. The opposite parties are pious towards the patient, whoever approaches the hospital and always discharge its duties with great care and diligently by maintaining good cordial relationship with the patients. The allegations leveled against the opposite party are vehemently denied and complainant is put to strict proof of the said allegations. The complainant with a sinister motive to defame opposite party reputation and with an ill motive to extract money illegally has filed the present complaint. There is no negligence on part of the opposite party. The baseless allegations against the opposite parties is to enrich themselves by causing wrongful loss to opposite party. The opposite parties gave a suitable reply on 4-12-2020. The complainant has never informed the

opposite parties with respect to her abdominal pain. The said allegations are made with an ulterior motive by the complainant and complainant is not entitled for any amounts much less Rs. 25 lakhs. There is no cause of action accrued for complainant to file the present complaint, hence does not deserve for any reliefs from this forum. Therefore, prayed to dismiss the complaint with exemplary costs.

4. During the course of trial, the complainant examined as PW1 and got marked Exs.A1 to A9. Ms. Meenakshi Sachdeva, Hospital Chief Operating Officer and Sri Syed Khaja Rahmatulla, Senior Manager, Legal of the Guru Nanak Care Hospital examined as Dw1 and got marked Ex. B1 & B2. The expert Doctors opinion given by DH&MO is marked as Ex.C1. Both parties filed their written arguments along with citations. Heard by both.

5. After perusal of pleadings, documents the following points are raised for consideration:

1. Whether there is any Medical negligence on the part of the Opposite Parties in treating the complaint ?
2. Whether the complainant is entitled for the reliefs prayed for?
3. To what extent?

6. Point Nos.1 & 2:

There is no dispute that, the complainant got treated at Opposite party No.1 Hospital from 31/10/2019 to 4/11/2019 as per Ex.A1 and A3. As per the clinical biochemistry report dated 1-11-2019 of the complainant, mainly treatment was given for dengue fever. Daily platelet tests were conducted and noticed that platelets were less than required count till 3-11-2019, but by the date of discharge on 4-11-2019 platelet count was increased to 1.68 lakhs, almost came to normalcy, hence complainant was discharged on 4-11-2019 in hemodynamically stable condition and complainant paid Rs. 1,52,950/- charges to the opposite party hospital. As the complainant became weak and fainted on 6-11-2019 at her home, she was taken immediately to Apollo Hospital, Hyderabad, where she underwent ultrasound scan for abdomen, liver function test and other CBP tests were done as per Ex.A4 and Ex.A9 and started treatment for Hepatitis-E. The contention of the complainant is that, OP1 hospital even though taken ultrasound test report indicate hepatitis-E, they neglected to refer the complainant to a gastroenterologist due to which the infection was increased and the complainant was kept in ICU for 3 days and after aggressive critical

treatment, the complainant was recovered and the complainant incurred heavy expenditure for her treatment without any fault from her side, hence the complainant is entitled to claim Rs. 3,62,379 that she incurred in Apollo Hospital along with compensation.

6.(a). The opposite parties filed Ex.B1 Discharge summary admitting the treatment of complainant at their hospital from 31/10/2019 to 4/11/2019 but denies any negligence or improper diagnosis and vehemently argued that, the appropriate treatment was given for her symptoms duly making her to undergo necessary investigations and at the time of discharge the patient was in an improved condition and was taking oral feed. The opposite parties also opined that ultrasound cannot specifically diagnose Viral Hepatitis-E and that hepatitis due to dengue fever also same findings as in Hepatitis -E will be revealed in ultra sound. Either hepatitis due to hepatitis-E or dengue fever the treatment is the same which is symptomatically combined with proper hydration and further contended that, the viral hepatitis-E is a self-limiting disease and there are no medications to decrease infection and only symptomatic treatment can be given in it which is what has been done in the instant case. The complainant also filed a complaint against Opposite parties before DM&HO on the ground of Negligence cause irreparable harm, paralysed incompetence and breach of ethics, which was presented before enquiry committee for detailed enquiry and a report dt.05/07/2023 was submitted and a copy of the same is filed before this Commission and marked as Ex.C-1. The contents of the expert committee are as follows:

Necessary investigation were done which revealed platelets 1.38 lakhs, Dengue 1 GM antibody positive total bilirubin 1.73 mgdl, ALT 199 AST 500 provisional diagnosis: Dengue fever with mild thrombocytopenia with hepatitis,

ultrasound abdomen, mild hepatomegaly, Gallbladder wall thickened and edematous Gastroenterologist opinion taken patient was treated supportively with IV fluids, udiliv, heptagon, pantoprazol, paracetamol

patient was discharged in hemodynamically stable condition

After the discharge patient suffered with stomach pain and nausea and was notable to take diet properly. She was taken to Apollo hospital, Hyderguda. She was admitted and necessary investigation done with which revealed

*Total bilirubin 5.4 mg/dl
ALT 319 IU/L
AST 136 IU/L*

Hepatitis E 1gm antibody –positive

Patient was diagnosed with viral hepatitis E and proper treatment was given to the patient. After five days patient has been discharged

Patient was already given treatment for hepatitis at Gurunanak Care hospital

Impression: *After gone through the available treatment records, opined that there is no medical negligence occurred in the treatment given to the above*

Hence, the expert committee opined that, there is no medical negligence by opposite party hospital and Doctor in treating the complainant.

The complainant relied upon the following judgments

- 1) Md. Tajuddin vs Mohd Abdul Rehman –ALD 2007(3) 145
- 2) Rekha Gupta Vs Bombay Hospital Trust –II 2003 CPJ 160 NC
- 3) Arpana Datta Vs Apollo Hospitals Enterprises – 2002 ACJ 954
- 4) Joseph @ papachan vs Dr. George Moonjely – 1995 ACJ 253

The opposite parties also relied upon the following citations :

- 1) Jacob Mathews Vs State of Punjab- (2005) 6 SCC-1
- 2) CP Sreekumar Vs S. Ramanujam- (2009) 7 SCC-130
- 3) Kusum Sharma & ors Vs. Batra Hospital & medical research case -2010-(3) SCC-480
- 4) Dr. (Mrs) Chandu Rani Akhouri & ors Vs Dr.MA Methusethupathi & ors – 2002 livelaw (SC) 391
- 5) Branch Manager, Indigo Airlies, Kolkatta & others Vs Kalpana Rani Debbarma & ors – (2020) 9 SCC 424
- 6) Ravneet Singh Bagga Vs KLM Royal Dutch Airlies & ors –(2000) 1 SCC 66

After going through the order Pronounced on 22 March 2022 by Hon'ble NCDRC in CONSUMER CASE NO. 82 OF 2007, "*In the instant case, the Complainant has not produced any expert opinion to support his case. In our considered view, that merely because the patient did not survive after the treatment is not a sufficient ground to hold doctor of hospital for deficiency in service or medical negligence. The treatment was as per the reasonable standard of care, therefore, no fault lies with them*". We would like to rely upon a precedent of Hon'ble Supreme Court, in the case of *Jacob Mathew v State of Punjab*, it was observed that:- *A mere deviation from normal professional practice is not necessarily evidence of negligence. Let it also be noted that a mere accident is not evidence of negligence. Which course is more appropriate to follow, would depend on the facts and circumstances of a given case.*

Based on above citation, Ex.C1 expert Doctors opinion and available material exhibits, it is difficult to attribute medical negligence against the Opposite Parties. The Complainant failed to prove any medical negligence, hence, the Complaint is liable to be dismissed and the complainant is not entitled for the reliefs prayed and the complaint is liable to be dismissed.

7. Point No.3 :- In the result, the complaint is dismissed.

Dictated to steno transcribed and typed by her pronounced by us on this the 1st Day of November' 2023.

Sd/-
MEMBER

Sd/-
MEMBER

Sd/-
PRESIDENT

APPENDIX OF EVIDENCE
WITNESSES EXAMINED

For Complainant:

PW1 - Smt. C. Lavanya Kumari.

For Opposite Parties:

DW1:Ms. Meenakshi Sachdeva, Hospital Chief Operating Officer and Sri Syed Khaja Rahmatulla, Senior Manager, Legal of OP.1 Hospital.

DOCUMENTS MARKED

For Complainant:

Ex.A1 – is the copy of Discharge Summary and Lab reports of CARE Hospitals.

Ex.A2 – is the copy of Discharge Summary and Lab reports of Apollo Hospitals.

Ex.A3 – is the copy of Medical bills of CARE Hospitals.

Ex.A4 – is the copy of Medical bills of Apollo Hospitals.

Ex.A5 – is the copy of Legal Notice issued by complainant dt.04.12.2020.

Ex.A6 –is the copy of Reply notice issued by Opposite Parties dt.25.12.2020.

Ex.A7– is the copy of Acknowledgments,dt.10.12.2020 (2).

Ex.A8–is the copy of letter addressed to Gurunanak Hospital from the husband of the complainant, dt.24.09.2021.

Ex.A9– is the copy of Patient Registration Record issued by Apollo Hospitals, dt.06.11.2019.

For Opposite Parties :

Ex.B1 – is the copy of Discharge summary of the Complainant, dt.04.11.2019.

Ex.C1 – Report by expert Committee.

Sd/-
MEMBER
KPS

Sd/-
MEMBER

Sd/-
PRESIDENT

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