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06/5/19 [CC/15/554]

BEFORE THE STATE CONSUMER DISPUTES REDRESSAL COMMISSION, MAHARASHTRA, MUMBAI

Complaint Case No. CC/15/554

UMESHCHANDRA CHANDU BARKUR,
Address: A-15 Neeta Apartments,
ChaphekarBandhu Marg,
Mulund (East), Mumbai 400 081.Complainant(s)

Versus

1. DR.MIHIRGIRI GOSWAMI,
Address: Maruti Nursing Home,
Gokhale Road, Hanuman Chowk,
Mulund (East), Mumbai 400 081.

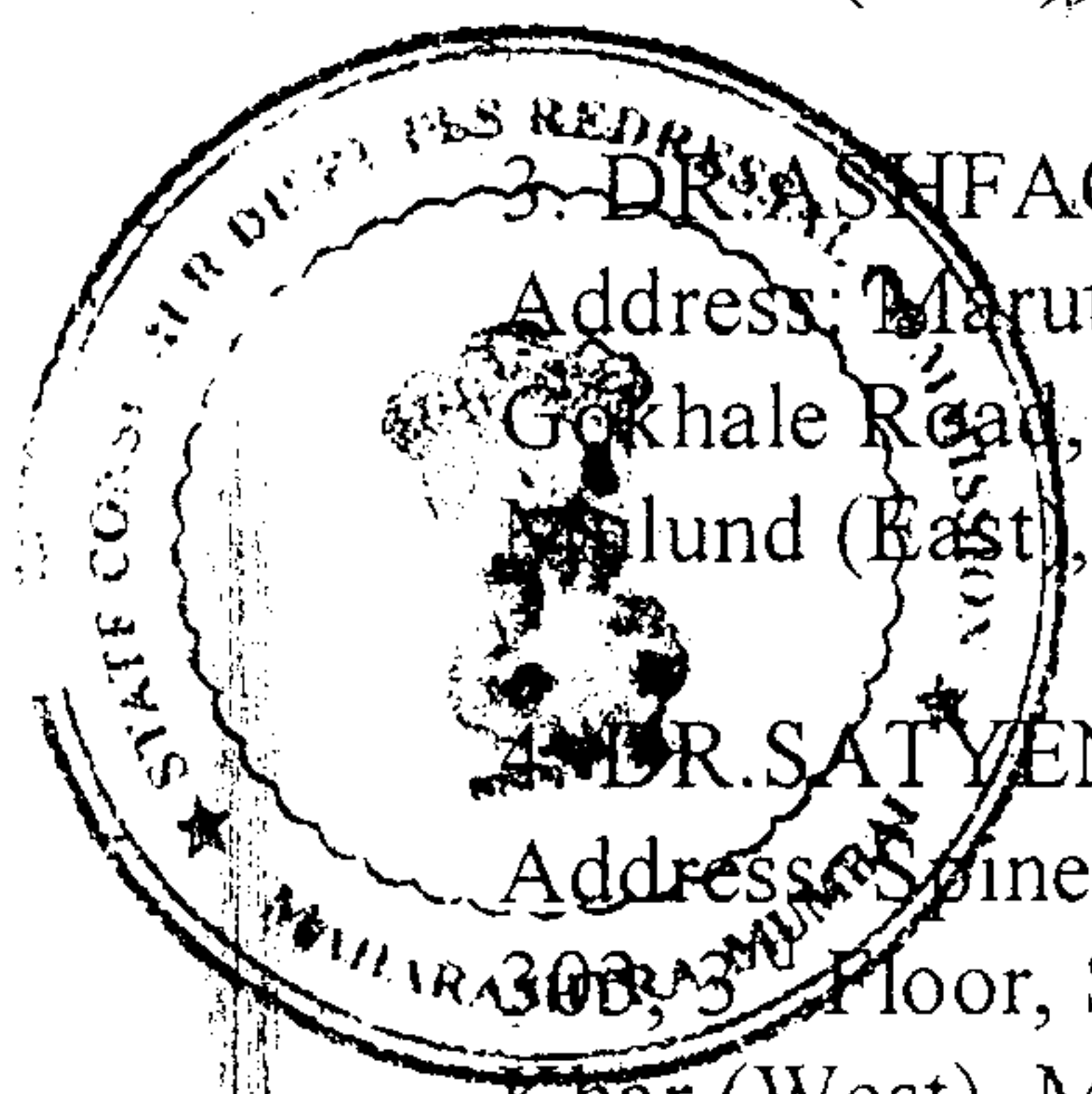
2. MARUTI NURSING HOME,
Gokhale Road, Hanuman Chowk,
Mulund (East), Mumbai 400 081.

3. DR. SHFAQUE DOLARE,
Address: Maruti Nursing Home,
Gokhale Road, Hanuman Chowk,
Mulund (East), Mumbai 400 081.

4. DR. SATYEN MEHTA,
Address: Spine Specialist Clinic,
303, 3rd Floor, S.V. Road,
Khar (West), Mumbai 400 052.

5. PLATINUM HOSPITALS,
Address: Color Scape Shopping Mall,
G-103, D.D. Upadhyay Marg,
Mulund Check Naka, Mulund (W),
Mumbai 400 080.

6. JUPITER LIFELINE HOSPITALS LTD.,
Address: Eastern Express Highway,
Thane (W) - 400 601.Opponent(s)



BEFORE:

Mr.P.B. Joshi, Presiding Judicial Member
Dr.S.K. Kakade, Member

For the
Complainant(s): Advocate Ms.Smita Gaidhanifor complainant.

For the
Opponent(s): Advocate Mr.N.D. Jaywant for opponent nos.1 to 4.
Advocate Mr.Sohail Khan for opponent no.5.
Advocate Mr.Harsh Shah i/b Advocate Mr.Gopinath N.
Shenoy for opponent no.6

ORDER**Per Dr.S.K.Kakade, Hon'ble Member:**

1. This is a case of alleged medical negligence filed by the complainant against treating doctors and hospitals. Deceased Mrs. Kamini, the wife of complainant Mr.Umesh Chandra Chandu Barkur; died on 24th of June 2014 after being treated by doctors, Dr MihirGiriGoswami OP no. 1, Dr AshfaqDolara OP no. 3, Dr.Satyen Mehta OP no. 4 and at the hospitals, Maruti Nursing Home, Mulund- OP no. 2, Platinum hospitals, Mulund OP no. 5 and Jupiter Lifeline hospital limited, Thane - OP no. 6. The complainant has filed consumer complaint against 6 opposite parties alleging medical negligence and deficiency in service during the treatment of his wife from 9th June 2014 to 24th June 2014. The brief facts of this case are as follows.
2. The wife of complainant Mrs. Kamini UmeschandraBarkur was admitted on 9th June 2014 at Maruti Nursing Home, Mulund under the care of Dr.MihirGiriGoswamiOP no. 1 with diagnosis as Cervical Spondylitis at C5 - C6 level. On next day the patient was sent to Gokul Scan Centre, Mulund(west) for MRI of cervical spine.

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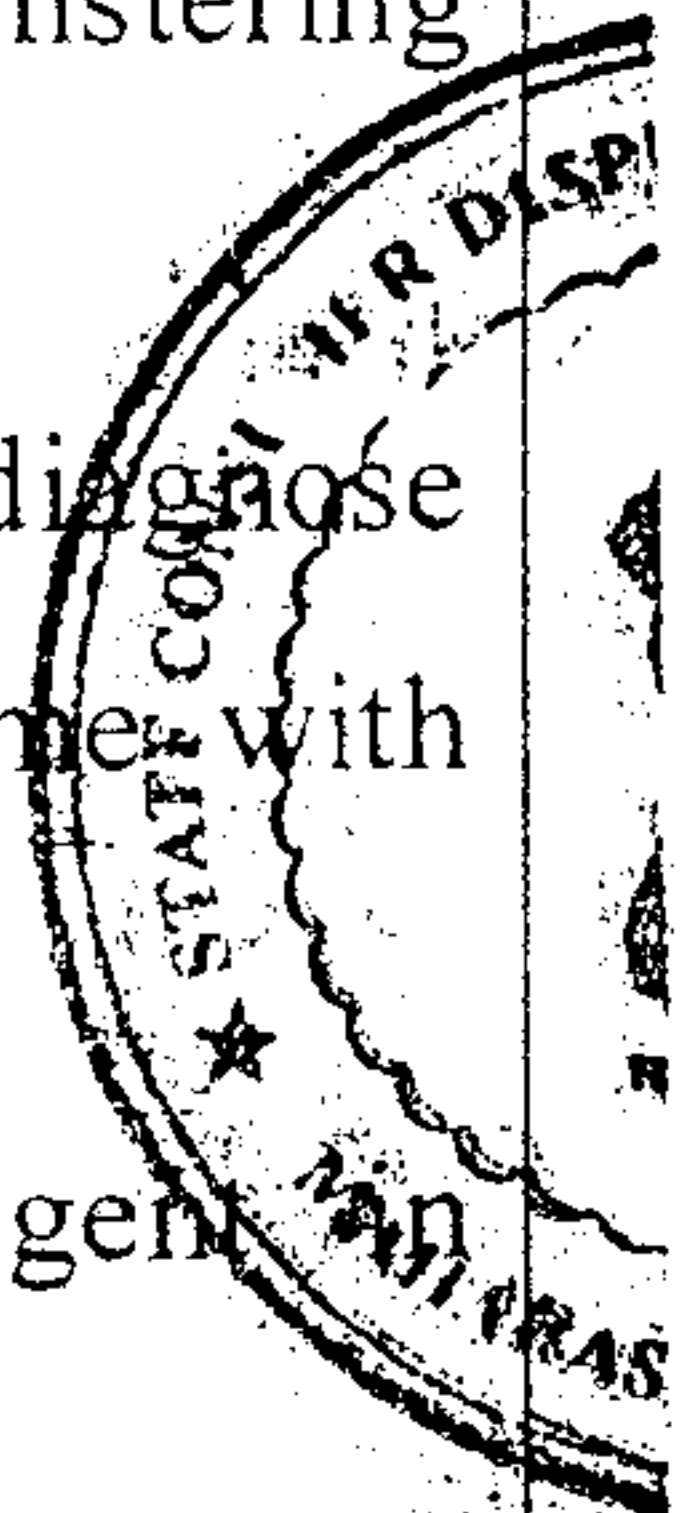
The spine surgeon Dr. Satyen Mehta OP no. 4 examined the patient and advised surgery, to be done at Platinum Hospital, Mulund; the OP no. 5. The surgery was finalized on 16th June 2014. As per request of spine surgeon, Dr. Ashfaq Dolare OP no. 3, the physician examined the patient and certified on 12th June 2014, that the patient was fit for surgery. The patient was referred and admitted in Platinum Hospital on 14th June 2014. The complainant and relatives shifted the patient to another hospital, Jupiter life line hospitals Ltd on 15th June 2014. The patient deteriorated and finally died on 24th June 2014 due to aplastic bone marrow failure. Holding the three doctors and three hospitals responsible for her death due to medical negligence and deficiency in service, the complainant filed consumer case in State Consumer Disputes Redressal Commission, Mumbai.

3. The complainant has prayed for reimbursement of the hospital expenditure Rs. 8,08,554/- (Rupees Eight Lakh Eight Thousand Five Hundred Fifty Four only) spent on medical treatment, Rs. 17,84,592/- (Rupees Seventeen Lakh Eighty Four Thousand Five Hundred Ninety Two only) as compensation based on 12 years of earning of deceased Mrs. Kamini and compensation Rs. 10 lakh towards loss of life, mental agony and liability of unmarried daughter, with interest of 10% from the date of death of patient till date of payment. Complainant has also claimed for the cost of litigation to be quantified at Rs. 50,000/- only.
4. All the six opposite parties opposed the complaint by filing written versions, raising preliminary objections and denied the charges of alleged medical negligence and deficiency in service. All the 6 opposite parties prayed for dismissal of the complaint.

5. Considering the rival contentions and submissions made before us, considering record and scope of the complaint, following points arise for our determination and our findings thereon are noted against them for the reasons given below:

POINTS AND FINDINGS:

<u>Sr.No.</u>	<u>Point</u>	<u>Findings</u>
1.	<p>Whether the complainant proves that the opposite parties are guilty of deficiency in service and medical negligence?</p> <p>(a) Whether OP no.1 and 2 were negligent in prescribing and administering Inj.Zobone to the deceased?</p> <p>(b) Whether OP no.1 & 2 failed to diagnose the bone marrow failure in time with subsequent Aplastic Anaemia?</p> <p>(c) Whether OP no.3 was negligent in giving "Fitness for Surgery"?</p> <p>(d) Whether OP no.4 failed to monitor and communicate the serious nature of the disease to the patient and relatives?</p> <p>(e) Whether OP no.5 failed to deliver the Indoor case records in time and also manipulated the medical records?</p> <p>(f) Whether OP no.6 was guilty of deficiency in service and medical negligence in treating bone marrow</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>No.</p>



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	failure and consequently septicaemia and multi organ failure?	
2.	Whether the complainant is entitled for compensation?	Yes.Partly
3.	What Order?	As per the final order

6. We have gone through the documents on record – complaint memo, written statements, expert opinions, and written notes of arguments by parties, medical literature and the case laws submitted by both the parties. The exhaustive list of medical literature submitted by both parties is as follows-

Medical Literature submitted

By Complainant

- 1). Bone Marrow Failure, Chapter 21 Hematology Clinical Principles and Applications 3rd edition, pages 461 to 466
- 2). Aplastic Anaemia. Blood disease: Davidsons principles and practice of medicine 22nd edition pages 467to 468
- 3). Aplastic anaemia, chapter 33 Williams Hematology, 7th edition, pages 469 to 481
- 4). Disorders of Platelets and vessel wall, Bone Marrow Failure Syndrome including Aplastic Anaemia and Myelodysplasia, Harrison's Principles of Internal Medicine 19th edition volume 2, pages 482 to 491

By Opposite party no.3

- 1). Research article "An etiological reappraisal of Pancytopenia- largest series reported to date from single tertiary care Teaching Hospital" bye shriArvind Jain and ManjiriNanivadekar. Pages 521 to 530
- 2). Chapter 21 Bone Marrow Failure by Elaine M. Keohane from Haematology Clinical Principles and Applications pages 530 to 535
- 3). Relevant extract on Aplastic Anaemia from Davidsons Book: Principles and Practice of Medicine pages 536 537
- 4). Extract on Aplastic Anaemia from Williams Hematology, 11th edition pages 538 to 550
- 5). Relevant extract from Harrison's Principle of Internal Medicine, 19th edition pages 551 to 559

By Opposite party no.6

- 1). Disorders of granulocytes and monocytes chapter 60, Harrison's principles of Internal Medicine 18th edition; pages 573 to 586
- 2). Approach to infection in patients receiving cytotoxic chemotherapy for malignancy, Chapter 47, Principles of Critical Care, 3rd edition, pages 589 to 616
- 3). Fungal sepsis, chapter 86 Textbook of Critical Care- including trauma and emergency care, 2016 Jaypee Brothers Medical Publishers (P) Limited; pages 617 to 629
- 4). Infection in immunocompromised host, chapter 88, Textbook of Critical Care- including trauma and emergency care, 2016 Jaypee brothers medical Publishers p Limited pages 630 to 636
- 5). Tuberculosis of the Skeletal System by SM Tuli, 4th edition, pages 638 to 645

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- 6). Spinal Tuberculosis: Review by Pramod Kumar Garg, Dilip Singh Somvanshi, The journal of spinal cord medicine 2011, volume 34, number 5, 646- 658
- 7). Tuberculosis of Spine: Neurological deficit by Anil K Jain, Jaswant Kumar, Eur. Spine J (20 13)22, (Suppl 4) S 624-S 633, pages 659 to 667
- 8). Kyphosis in Spinal Tuberculosis- prevention and correction by Anil K Jain and others, pages 668 to 679
- 9). Cervical spine tuberculosis causing instability and neurological compromise: Case report by Ahmed Ramadan Sadek and others, J R Soc Med Sh Rep 2011; 2.47. DOI 10. 1258/ Shorts. 2011.011040 , Pages 680 to 682
7. The concept of medical negligence is being dealt with settled principles of the law that govern it. Reasonable degree of care and skill means that the degree of care and competence that an "ordinary competent member of the profession who professes to have those skills would exercise in the circumstance in question." The burden of proof is correspondingly greater on the person who alleges negligence against a doctor than a charge of negligence against the driver of motor car.
8. The Hon'ble Supreme Court in the landmark case of *Dr.LaxmanBalkrishna Joshi vs. Dr.TrimbakBapuGodbole*, AIR 1969 SC 128, has held that with the best skill in the world, things sometimes go wrong in medical treatment or surgical operation. A doctor cannot be blamed to be negligent simply because something goes wrong or someone else of better skill or knowledge would have prescribed a different treatment or operated in a different way. In the landmark judgment of *Indian Medical Association vs. V.P.Shantha*,

the Apex Court has decided that the skill of a medical practitioner differs from doctor to doctor and it is incumbent upon the Complainant to prove that a doctor was negligent in the line of treatment that resulted in the death of the patient. It is for the Complainant to prove the negligence or deficiency in service by adducing expert evidence or opinion and this fact needs to be proved.

9. In *Kusum Sharma and Ors Vs. Batra Hospital and Research Centre and Ors*, the principles have been laid down as follows:

"94. On scrutiny of the leading cases of medical negligence both in our country and other countries especially United Kingdom, some basic principles emerge in dealing with the cases of medical negligence. While deciding whether the medical professional is guilty of medical negligence following well known principles must be kept in view:-

I. Negligence is the breach of a duty exercised by omission to do something which a reasonable man, guided by those considerations which ordinarily regulate the conduct of human affairs, would do, or doing something which a prudent and reasonable man would not do.

II. Negligence is an essential ingredient of the offence. The negligence to be established by the prosecution must be culpable or gross and not the negligence merely based upon an error of judgment.

III. The medical professional is expected to bring a reasonable degree of skill and knowledge and must exercise a reasonable degree of care. Neither the very highest nor a very low degree of

care and competence judged in the light of the particular circumstances of each case is what the law requires.

IV. A medical practitioner would be liable only where his conduct fell below that of the standards of a reasonably competent practitioner in his field.

V. In the realm of diagnosis and treatment there is scope for genuine difference of opinion and one professional doctor is clearly not negligent merely because his conclusion differs from that of other professional doctor.

VI. The medical professional is often called upon to adopt a procedure which involves higher element of risk, but which he honestly believes as providing greater chances of success for the patient rather than a procedure involving lesser risk but higher chances of failure. Just because professional looking to the gravity of illness has taken higher element of risk to redeem the patient out of his/her suffering which did not yield the desired result may not amount to negligence.

VII. Negligence cannot be attributed to a doctor so long as he performs his duties with reasonable skill and competence. Merely because the doctor chooses one course of action in preference to the other one available, he would not be liable if the course of action chosen by him was acceptable to the medical profession.

VIII. It would not be conducive to the efficiency of the medical profession if no Doctor could administer medicine without a halter round his neck.

IX. It is our bounden duty and obligation of the civil society to ensure that the medical professionals are not unnecessary harassed or humiliated so that they can perform their professional duties without fear and apprehension.

X. The medical practitioners at times also have to be saved from such a class of complainants who use criminal process as a tool for pressurizing the medical professionals/hospitals particularly private hospitals or clinics for extracting uncalled for compensation. Such malicious proceedings deserve to be discarded against the medical practitioners.

XI. The medical professionals are entitled to get protection so long as they perform their duties with reasonable skill and competence and in the interest of the patients. The interest and welfare of the patients have to be paramount for the medical professionals."

10. The liability of a doctor arises not when the patient has suffered any injury, when he is treated in good faith but when the injury has resulted due to the conduct of the doctor which has fallen below that of reasonable care. Thus, the doctor is not liable for every injury suffered by a patient. He is liable for only those that are a consequence of a breach of his duty. Hence, once the existence of a duty has been established, the complainant must still prove the breach of duty and the causation. In case there is no breach or the breach did not cause the damage, the doctor will not be liable. In order to show the breach of duty, the burden on the complainant would be to first show what is considered as reasonable under those circumstances and then that the conduct of the doctor was below this degree.

11. Therefore keeping the law laid down by Hon'ble Supreme Court and the principles of medical negligence in mind hereby the present facts and the evidence before us in the present case are assessed

REASONS:

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As to POINT No.1 Deficiency in service and medical negligence

12. 1(a) Prescription and administration of Inj.Zobone (Zoledronic acid)

The advocate for complainant submitted that complainant's wife got admitted in Maruti Nursing Home OP no. 2 on 9th June 2014 with the complaints of neck stiffness and pain in the neck. On the day of admission in the evening she was given injection Rofkos (Zobone) by the nursing staff as per the prescription of opposite party no.1 doctor. On page number 888 of the complaint compilation, the charges for same injection are levied, also that was admitted by the opposite parties no. 1 and 2. It was contended by the complainant's advocate that there was reaction to this injection mainly in the form of multiple joints and extremities pain, as mentioned in the medical record of Maruti Nursing Home, page 65, Exhibit C, mentioned that there was post Zobone arthralgia. Deceased Mrs Kamini was sent for MRI of cervical spine on 10th June 2014 to Gokul Scan Centre, the report of which on page number 62, Exhibit B, conclusion of which reads as follows;

"End plate erosion at C 5/6 level, which abnormal signal intervening disc. Altered marrow signal is seen in C5 and C6 vertebrae associated with multiloculated pre, para vertebral, foraminal and epidural as described.... Findings are suggestive of infective aetiology like Koch's. Clinical correlation and follow-up are suggested." Learned advocate for complainant invited our attention to the letter from FDA (Food and Drug Administration), Director General of Health Services, New Delhi dated 5th May 2015, giving information about the indications for the said injection Zoledronic

acid. Page 726 of complaint compilation. Submitted that among the indications mentioned in the letter, infection in the cervical spine is contraindication for injection Zobone. It was contended by advocate for complainant that without ascertaining indication, injection Zobone was given, which was deficiency in service. Special literature provided by the manufacturer Cipla company, page 728 mentions special precautions in administering the injection in various conditions, infection is one of them. It was also contended by complainant's advocate that Maruti Nursing Home purchased medicines and sold to the patient when it was not having valid licence to hold stock of medicine, page 492 is the letter from Food and Drug Administration (FDA) dated 28th January 2016 in which it is specially stated that Maruti Nursing Home did not hold pharmacy licence to procure and sell medicines. Learned advocate for the opposite parties 1 and 2, Advocate Jayawant, submitted that the complainants have not submitted the evidence to prove the negligence of Op no.1 and 2. No independent medical opinion is on record to prove the contentions of the complainants. In view of above discussion, we are of the opinion that, injection Zobone was prescribed Ad Hoc and was given to the patient without looking into the indications for the injection. And this itself is negligence and deficiency in service.

13. Learned advocate for complainant also submitted that, there were manipulations in record as the later on submitted medical record is different from the one that was handed over by the sister in the ward. It was contended by the learned advocate for OP no.1 that the doctor has the system and habit of writing rough notes that are later on made fair as medical record, hence there was difference. It

is difficult to accept the contention of the opposite party. There was negligence in not maintaining proper record as per the guidelines of Code of Medical Ethics (2002) by the Medical Council of India. Hence we answer **POINT No. 1 (a) as AFFIRMATIVE.**

14. 1(b) Failure of Diagnosis of bone marrow failure in time:

Learned advocate for complainant stated that in Maruti Nursing Home, blood was checked daily and the reports were available. The laboratory reports of complete blood count are placed on record pages 85 to 90. From the date of admission 9th June 2014 to 14th June 2014, there is a progressive reduction in the values of white blood cells, platelets and haemoglobin. It was contended by the complainant's advocate that these values were not reviewed in time by the treating doctors, which later on surfaced as pancytopenia due to bone marrow failure and led to aplastic anaemia. Duration of stay in Maruti nursing home was from 9th June 2014 to 14th June 2014, there was failure in diagnosis of bone marrow failure, so timely intervention, was not done as that was not diagnosed. It was contended by advocate for the opposite parties no. 1 to 3, that the pancytopenia was due to infection in the cervical spine. He invited our attention to research article submitted by opposite parties, " An aetiological reappraisal of pancytopenia- largest series report to date from a single tertiary care Teaching Hospital" from BMC Haematology 2013 online Journal <http://biomedcentral.com/2052-1829/13/10>, pages 521 to 529. Page 3 of the article mentions, "Infections causing pancytopenia was the second commonest cause of pancytopenia in our study accounting for 64 (25.6 %) cases". From the indoor case record of deceased Mrs. Kamini, Maruti Nursing Home, no mention of the blood reports and suspicion of

diagnosis was found. Hence we are of the opinion that there was a failure to diagnose the bone marrow failure at Maruti Nursing Home, that led to aplastic anaemia. Hence we answer **POINT No.1 (b)** as **AFFIRMATIVE**.

15. 1(c) Fitness for Surgery by OP 3

In continuation with the discussion above in POINT 1 (b), as per page number 71 of medical records Maruti Nursing Home, OP no. 3 Dr. Ashfaq Dolare examined deceased patient on 12th June 2014, and gave fitness to undergo surgery, provided advised investigation CRP report comes normal. Learned advocate for complainant contended that OP no. 3, did not review the blood reports and thus failed to consider the diagnosis of bone marrow failure. There are no other notes on indoor case record written by Dr. Dolare. We are of the opinion that this is an act of omission and hence the answer to **POINT no.1 (c)** is **AFFIRMATIVE**.

16. 1(d) monitoring and communication of the serious nature of the disease

It was contended by advocate for complainant that OP no. 4, Dr. Satyen Mehta, the neurosurgeon, who was supposed to operate upon the patient in Platinum Hospital. On 11th June 2014, examined the patient and advised investigations and medical fitness. As per his instructions deceased Mrs. Kamini was shifted to Platinum Hospital, OP no. 5, on 14th June 2014. OP no. 4, examined the patient in Platinum Hospital on 14th June 2014. After finding the general condition of patient was not good, clinically diagnosed as, "patient was in septicaemia"; he advised ICU treatment for the patient and postponed the operation. Page number 66 from medical record of Maruti Nursing Home and page

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numbers 80, 81 from Medical record of Platinum Hospital. Advocate for OP no. 4 submitted that he has taken all the care and advised ICU care in Platinum Hospital. We are of the opinion that, since OP no. 4, was the treating neurosurgeon, he should have reviewed the patient and should have informed the nature and seriousness of the disease, there is no document supporting his role in this regard and so this was an act of omission on his behalf. Answer to **POINT no.1 (d)** is **AFFIRMATIVE**.

17. 1(e) Indoor Case Records-Failure of delivery and manipulation by OP5:

Learnd advocate for the complainant submitted that at OP no. 5, Platinum Hospital, the initial admission process on 14th June 2014, was not as per protocol. Since the discharge card from Maruti Nursing Home did not mention the serious nature of the disease, initially the patient was not admitted immediately. Only after Dr.Satyen Mehta examined and diagnosed that the patient was in "septicaemia", the patient was shifted to ICU after quite some time. On advice of doctor relatives, deceased Mrs. Kamini was shifted late in the evening on 15th June 2014, to tertiary Care Hospital, Jupiter Hospital, Thane. For the copy of medical records Platinum Hospital was requested by complainant through application, he did not receive the same for more than one week period. He had to apply again. Applications Page 113 and 115 dated 6th August 2014 and 31st July 2014. Advocate for complainant invited our attention to incompleteness of medical record and also manipulation on pages 116, 117. Advocate for OP no. 5, advocate Shaikh submitted that, all due care for treatment of the patient was taken by OP no.5. The patient was advised platelets, FFPs and blood also the same was arranged. Dr.Shenoy submitted and discussed

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in detail the medical aspects of aplastic anaemia, aetiopathogenesis, classification, drugs causing aplastic anaemia. He invited our attention to the ICU treatment provided to the patient in Platinum Hospital. We have perused indoor case record of the patient (pages 76 to 81 and 116-117 of complaint compilation). Also perused the evidence submitted by OP no. 5 and the copy of indoor case record pages 700 to 712. Our findings are: The admission paper is incomplete, no plan of treatment mentioned, no documentation of serious condition of the patient informed to relatives, no documentation support that the patient was admitted in ICU of platinum Hospital. The medical record submitted in evidence pages 700 to 712 appear to be written later. Thus there is a failure to maintain good record that is helpful in knowing the condition of the patient in the hospital, treatment planned and given, proper information given to the patient relatives and condition at the time of discharge, may it be against medical advice found lacking. Failure to provide copy of medical record within 72 hours of the application itself is deficiency in service. Non maintenance of proper medical record is the act of omission. Hence we answer the POINT no. 1 (e) as **AFFIRMATIVE**.

18. 1 (f) Treatment of septicaemia and multiorgan failure at OP no.6.

Advocate for complainant submitted that deceased Mrs. Kamini was treated at OP no. 6, Jupiter Hospital of Thane from 15th June to 24th of June 2014. During the treatment it was informed to the complainant that with the diagnosis of bone marrow failure and aplastic anaemia, efforts to activate bone marrow were being done, at the same time with the treatment of septic shock and multiorgan failure. As per the learned advocate for complainant there was huge expenditure during the treatment at Jupiter Hospital, Thane. Advocate for OP no. 6

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Jupiter Hospital, advocate Dr. Shenoy, invited our attention to the pleadings-complaint, in which there was no specific allegation of negligence. We have perused written statement filed by OP no. 6, evidence affidavit and medical record (pages no.215 to 455 of complaint compilation) submitted by Jupiter Hospital and notes of arguments. We find that proper documentation consisting of admission assessment form, emergency assessment forms, doctors progress notes, CCU progress notes, various consents- general, special and informed, investigation charts, antibiotic monitoring charts, blood compatibility reports, hourly monitoring charts, critical Care flow sheets, nurses notes, critical Care treatment sheets, diet sheets, patient family education record etc. All the necessary efforts to treat the serious patient in ICU of Jupiter Hospital, were done by team of doctors. We don't find any act of commission or omission, deficiency in service or medical negligence by OP no.6. And hence answer to **POINT no.1 (f)** is **NEGATIVE**.

As to POINT No.3 - Entitlement for compensation:

19. In view of above discussion from Points 1 (a,b,c,d,e and f) the complaint proves the deficiency in service and medical negligence of the opposite parties 1 to 5. This can be termed as cumulative negligence. By holding them responsible for acts of commission and omission, the complaint is entitled for compensation and we think it will be just and proper to award the same as follows:-

A. The complainant has filed Bills/receipts of payment for the medical treatment to opponents which are at page nos.123 to 126, total amount of which comes to Rs.8, 08,554 and hence, the complainant is entitled for the said amount as reimbursement of medical expenses. Hence reimbursement of the medical

expenditure Rs. 8,08,554/- (Rupees Eight Lakh Eight Thousand Five Hundred Fifty Four only) is hereby awarded to complainant.

B. The age of deceased at the time of death was 48 years and so she had 10 more years for retirement as Assistant teacher, the job she had since 18th July 1995. Page 127, Exhibit v, Certificate from the Employer School. She used to earn Rs. 8,000/- approx. per month, so for next 10 years, the income expected was Rs. 9,60,000/-. After spending for self the one third amount, the remaining for the family was Rs. 6,24,000/- which is just and proper compensation for loss of her salary of 10 years and the simple interest @ 9 % per annum to take care of the growth in salary along with the dearness increase in salary. Hence, complainant is entitled for the said amount.

C. Compensation for mental agony Rs. 5,00,000/-.

As to POINT No.4 What order?

20. In view of answers to Point Nos. 1 (a, b, c, d, e and f), 2 and 3, the consumer complaint deserves to be allowed partly against opposite parties no. 1 to 5 only and hence we pass the following order:

ORDER

1. The Complaint is partly allowed with costs quantified at Rs. 25,000/- only (Rupees Twenty Five Thousand Only) to be paid by the Opposite Parties No. 1 to 5 jointly and severally.
2. It is hereby declared that the Opposite Parties No. 1 to 5 are guilty of deficiency in service and medical negligence.

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3. The Complainant is entitled for Rs.8,08,554/- (Rs.Eight Lakh Eight Thousand Five Hundred and Fifty Four Only) towards reimbursement of the medical expenditure incurred by the complainant with interest @ 9% from the date of filing of complaint till realization. The amount should be paid within 2 months from the date of this order, in default the interest will carry @ 12% p.a.

Out of Rs.8,08,554/- (Rs.Eight Lakh Eight Thousand Five Hundred and Fifty Four Only) Opposite Parties No.1, 2 and 3 should pay jointly and severally Rs.6,00,000/-(Rs.Six Lakh Only) and Opposite Parties No.4 and 5 should pay jointly and severally Rs.2,08,554/- (Rs.Two Lakh Eight Thousand Five Hundred Fifty Four Only) to the Complainant.

4. The Opposite Parties No.1, 2 and 3 should pay jointly and severally Rs.4,00,000/- (Rs.Four Lakh Only) to the complainant for loss of income of the deceased. Opposite Parties No.4 and 5 should pay jointly and severally Rs.2,24,000/-(Rs.Two Lakh Twenty Four Thousand Only) to the Complainant towards loss of income of the deceased.

The above amounts should be paid within 2 months from the date of this order, failing which the amount will carry interest @ 12% p.a. from the date of this order till realization.

5. The Opposite Parties No.1, 2 and 3 should pay jointly and severally Rs.4,00,000/- (Rs.Four Lakh Only) to the Complainant towards compensation for mental agony within 2 months from the day of this order failing which the amount will carry interest @12% p.a. from the date of this order till realization.

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6. The Opposite Parties No.4 and 5 should pay jointly and severally Rs.1,00,000/- (Rs. One Lakh Only) to the Complainant towards compensation for mental agony within 2 months from the day of this order failing which the amount will carry interest @12% p.a. from the date of this order till realization.

7. There is no order against Opposite Party No.6 as there is no medical negligence proved against it.

Free certified copies of the order be furnished to the parties forthwith.



Announced
Dated 21st February 2019.

Sd/-

[P.B. Joshi]
Presiding Judicial Member

Sd/-

[Dr.S.K.Kakade]
Member

Certified Copy Free
06.05.19
For Registrar
State Commission, Mumbai