

**THE WEST BENGAL CLINICAL ESTABLISHMENT
REGULATORY COMMISSION.**

Present: Justice Ashim Kumar Roy, Chairperson.

Smt. Sanghamitra Ghosh, IAS, Vice-Chairperson.

Dr. Sukumar Mukherjee, Member.

Dr. Makhan Lal Saha, Member.

Dr. Maitrayee Banerjee, Member.

COMPLAINT ID: KOL/2017/000093.

Mr. Subhasish Ghosh.....Complainant.

-versus-

R.N. Tagore International Institute of Cardiac Sciences & others.....Respondents.

Heard on: 22/09/2017

Date of judgment: 10th November, 2017.

J U D G M E N T.

The complainant is the father of the service recipient, Soumili Ghosh, who breathed her last at Rabindranath Tagore International Institute of Cardiac Sciences, where she was admitted with fever and shortness of breathing.

2. Now the complainant has approached this Commission against the Clinical Establishment and the treating doctors, more particularly against Dr. Deepak Shankar Roy and the staff nurses and other employees of that Clinical Establishment, who attended his daughter in connection with her treatment alleging inter alia as follows:

On 4th May, 2017, the daughter of the complainant aged about 18 years with respiratory distress and fever, was brought at the emergency of **Rabindranath**

Tagore International Institute of Cardiac Sciences and on medical advice admitted under Dr. Deepak Shankar Roy, a Nephrologist. Earlier she was twice admitted in the same hospital in the year 2009 and 2014 for kidney transplantation. At the hospital, blood tests were done and nothing adverse was detected and her heart, liver and kidney were found normal and it was diagnosed that she was suffering from **Pneumonia**, a disease if properly treated and medicated within a week, any patient suffering from such diseases, is always likely to recover within a week. After medication, she started recovering and was stable. She was allowed normal diet and able to attend phone calls and was normal and Dr. Roy decided to discharge her. However, as she was still having little breathing problem while walking and needed external oxygen support, Dr. Kuntal Bhattacharya, Cardiologist was consulted and on his advice, chest X-ray and ECHO was done. The reports revealed except collection of little fluid in the lungs there was no cardiac complications and according to Dr. Bhattacharya, collection of fluid was quite natural for any patient suffering from **renal dysfunction** and he advised to reduce water intake. However, Dr. Deepak Shankar Roy without any further investigation, diagnosed that she was suffering from **tuberculosis** and accordingly prescribed medicines and injections. Soon after administration of those medicines as prescribed by Dr. Deepak Shankar Roy, the condition of patient rapidly deteriorated and once she lost her sense in the toilet. Gradually, she was turning critical and her blood count shows rapid rise of potassium and creatinine. She became unstable, speechless and stopped consuming food and complaining of pain in the abdomen. Although Dr. Roy informed the complainant that the patient was suffering from acute

depression, but stopped all medicines for tuberculosis, realizing that she was wrongly medicated.

On the next day that is on 23rd May, 2017 since her condition became more critical, dialysis started and on 25th May, 2017 she was shifted to ICU and she was put on BIPAP and later on ventilation and on the same day at around 11pm, she expired.

The complainant asserted that his daughter died due to the wrong and negligent treatment by Dr. Deepak Shankar Roy and claimed a compensation of Rs.10 lacs.

3. It be noted prior to lodging of this complaint on 6th June, 2017 an FIR was lodged with Purba Jadavpur Police station and that gave rise to Purba Jadavpur P.S. Case No.62/17 under section 304A of the Indian Penal Code and the investigation is still continuing.

4. Following receipt of the complaint by the Commission, notice was issued against the Clinical Establishment and the treating doctor, Dr. Deepak Shankar Roy was directed to be present on the date fixed for hearing with the further direction for production of the medical file of the service recipient and to file their reply against the case of the complainant.

5. In response to such notice a reply was filed by Dr. Deepak Sankar Roy on his behalf and on behalf of the Clinical Establishment.

6. In the reply, it was inter alia contended as follows:

It was his first contention that the patient died due to **Septicemia**, in a case of Renal Allograft Rejection with a status of post renal transplant.

Then it was contended, the patient Miss. Soumili Ghosh, 19 year old female, known patient of **Focal Segmental Glomerulosclerosis**, who developed end stage renal disease and underwent renal allograft transplantation twice (transplantation in 2009 was rejected within one year and she became dialysis dependent till her second transplant in 2014) and was on triple **immunosuppressants**, namely, **Tacrolimus**, **Mycophenolate mofeti** and **Prednisolone**, presented to this hospital with feature suggestive of lower respiratory tract infection and moderate renal failure. Though her counts were normal her C-reactive protein was very high and she was **dyspnoeic**. Therefore, she was commenced on broad spectrum antibiotic and supportive care. With these, her renal function and infection markers started improving. However, her **dyspnoea** failed to resolve and aggravated on exercise. It was then added, Echocardiography revealed presence of pericardial effusion but excluded any evidence of impending **tamponade** (compression of the heart by an accumulation of fluid in the pericardial sac) and later, CT scan showed patchy areas of consolidation and minimal **pleuro-pericardial effusion**. In the background of her clinical condition and non resolution of her symptoms vis-à-vis morbidity and risk associated with any invasive procedure for a tissue diagnosis, she was put on empirically, on 4-drug anti-tubercular regimen. She showed clinical improvement with ATT and hence it was continued. Oral **Fluconazole** was also added to the regimen for treatment of oral **candidiasis**. However, in spite of all these her renal function dropped suddenly and significantly over a few days. Suspecting an acute rejection episode a pulse of **Methylprednisolone** was administered over next 3 days. Incidentally, her **Tacrolimus** trough level at this point was also found to be very high and her Tacrolimus was stopped. She became **leucopenic** and was

commenced on Granulocyte Colony Stimulating Factor. An assay for CMV was also sent the result of which is awaited. Considering her deteriorating renal status she was commenced on intermittent **haemodialysis** through a temporary central venous dialysis access. A repeat Echocardiography excluded any deteriorating cardiac status or pericardial effusion. But her clinical condition continued to deteriorate in spite of best efforts and she finally succumbed to it. She was seen by Dr. Debdatta Bhattacharya / Dr. Debabrata Chattopadhyay, Dr. Kuntal Bhattacharya (Cardiologists), Dr. Sujan Bardhan (Pulmonologist) during her hospital stay.

7. At the time of hearing, it was claimed from the side of Clinical Establishment that against the actual bill of Rs.2,97,341/- a discount of Rs.2,52,341/- was allowed and only a sum of Rs.45,000/- was paid by the patient party.

Although such claim of discount was not disputed by the complainant but claimed earlier no rebate was granted.

8. The petition of complaint, the reply of the treating doctor and the medical file of the service recipient produced before the Commission was very carefully perused together with other materials on record.

9. The complainant as also the treating doctor, Dr. Deepak Sankar Roy and the person representing the Clinical Establishment were heard at length.

10. We find Soumili Ghosh was a post-kidney transplant patient. In the year 2009 she for the first time underwent renal allograft transplantation. However, within a year such transplantation failed and was rejected. Thereafter, she was on dialysis till 2014 and in the same year she underwent second kidney transplantation. After second kidney transplantation the patient was on regular

immunosuppressant. Then in May 2017, she was admitted at R.N. Tagore International Institute of Cardiac Sciences with features of LRTI and deteriorating renal function. At the hospital she was examined by cardiologist and pulmonologist and diagnosed to have pleural and pericardial effusion.

On the face of **immunocompromised** status she was put on empirical antitubercular drug therapy. Her condition deteriorated further and she was put on hemodialysis and on May 23rd, 2017 she developed respiratory distress and was put on BIPAP and then on ventilation. It is evident from the medical file Dr. Deepak Shankar Roy under whom she was admitted has not only visited the patient regularly and considering symptoms also consulted cardiologist and pulmonologist. The Commission also finds that she received treatment as per standard protocol. Therefore no case for deficiency in service by the Clinical Establishment or by the treating doctor can be said to have been made out.

Last but not least, in the instant case, essentially the allegation of medical negligence and wrong treatment is against Dr. Deepak Sankar Roy, however, while making such allegations, some omnibus allegations have also been made against the Clinical Establishment and the other doctors who participated in the treatment. Although the authority of the Commission to deal with a case of negligence against a medical practitioner is restricted by the first proviso to section 38 of the West Bengal Clinical Establishment (Registration, Regulation and Transparency) Act, 2017, still we have to consider the role of the treating doctor i.e., the medical practitioner to arrive at our conclusion as to whether the Clinical Establishment by itself or through whom it provided service to the patient, committed negligence or deficiency in service.

Having regards to above, it shall remain open to the complainant to approach the concerned State Medical Council, if so advised.

We, however not inclined to ignore certain alarming facts surfaced on the face of the bill. Those are enumerated below:-

- (a) The treating doctor, Dr. Deepak Shankar Roy while attended the patient in general bed charged Rs. 450/- per visit. However, while seeing the patient in the ICCU it was Rs. 1250/- per visit.
- (b) For providing ventilator support to a patient, the patient needs to be intubated. It is found from final bill that in addition to charge for ventilator, a separate charge for intubation was levied. In all cases while administering general anesthesia, no where a separate charge for intubation is levied.

We further find, in this case, several expensive and costly investigation has been advised and done:-

- i) Pre cath profile Rs. 4000/-
- ii) Urine for culture and sensitivity Rs, 1450/-
- iii) LFT within a span of five days twice, each cost for Rs. 1500/-
- iv) PCR for cytomegalovirus quantification Rs. 16520/-
- v) D dimer Rs. 2330/-
- vi) Procalcitonin Rs. 5030/-
- vii) ECHO screening on 11-05-17 and 25-05-17 Rs. 2840/- each
- viii) CT scan of chest Rs. 5630/-

Since, ultimately, against the total bill of Rs.2,97,341/-, the complainant has to pay only Rs.45,000/- and the balance amount of Rs.2,52,341/- was not charged. We do not propose to proceed any further on this issue.

This complaint accordingly stands dismissed.

Sd/-
Justice Ashim Kumar Roy,
Chairperson

Sd/-
Smt. Sanghamitra Ghosh, IAS, Vice-Chairperson.

Sd/-
Dr. Sukumar Mukherjee, Member.

Sd/-
Dr. Makhan Lal Saha, Member.

Sd/-
Dr. Maitrayee Banerjee, Member.

Authenticated



Secretary
W.B.C.E.R.C.
Kolkata-1

