

Office of the West Bengal Clinical Establishment Regulatory Commission

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Case Reference: WBCERC/SOU/24/2024-25

Present: Justice Ashim Kumar Banerjee (Retired), Chairman

Dr. Makhan Lal Saha,

Dr. Sukumar Mukherjee,

Dr. Maitrayee Banerjee,

Smt. Madhabi Das,

Ms. Rima GhoshComplainant

- Versus-

Atlas Health Point, SonarpurRespondent

Heard on: June 13, 2024 ,

Judgment on: July 11, 2024 .

On October 6, 2023 Ryan Ghosh, a three years old child had a fall resulting in right limb injury. He was immediately taken to Baruipur Sub-divisional Hospital and then to Atlas Health Point Hospital at Sonarpur at 4.30 p.m. where Ryan was admitted under Dr. Gourab Naskar. Pertinent to note, Dr. Naskar was introduced to the patient

family by the CE. Dr Naskar did synthetic casting with local anesthesia at about 7.30 p.m. as per record produced by Atlas before us. The patient had tremendous pain and had a complete sleepless night. The RMO on duty Dr Sougata Naskar and Dr Soumyodeep Biswas tried to contact Dr Naskar and in fact made four calls to Dr Naskar at 2 a.m, 5 a.m., 9 a.m. and 4.30 p.m. Ultimately, Dr Naskar attended the patient, as per the hospital, at 4.45 p.m. and removed the plaster. There had been superficial burn during plaster cutting that was conservatively managed. The records would show, the patient had immense pain and swelling. The patient had saturation in the right hand at the rate of 72 per cent at 4.30 p.m according to the hospital record.

A three year old child was given synthetic plaster cast that too with anesthesia at 7.30 p.m. on October 6, 2023 and the plaster was removed after almost 24 hours. During this period, admittedly, four phone calls were made to the concerned Orthopedic Surgeon who failed to attend the patient.

After removal of plaster, it appeared that the patient had substantial injury in muscle and viscera. He was immediately taken to higher set-up where he was advised immediate surgery. The family was

counselled about possible outcome of the surgery. They did not proceed further here and proceeded to Apollo Chennai where the surgery was done.

The child was presented online where we found, limb could be saved however the numbness on the finger tips are still there and the boy cannot properly use his right hand. The treating doctors have not given hope as to the normal functioning of the injured hand.

We heard the matter on June 13, 2024. On our request Dr. Mukul Bhattacharya, HOD, IPGMER, was present to assist us as expert.

Dr Bhattacharya and our esteemed member Dr. Maitrayee Banerjee have given their written opinion which are set out hereunder: -

DR. MUKUL BHATTACHARYA

- 1) ***"Dr. Gaurav Naskar the treating Doctor not followed the standard treatment protocol during the treatment of patient RAYAN GHOSH at ATLAS HEALTH POINT, 282, Purba Baidya Para, Khirishtala More, SONARPUR.***
- 2) ***Atlas Health Point – Service Provider Hospital***
 - a) ***Appointed doctor GOURAV NASKAR for treatment.***

- b) RMO(on duty) on 7/10/23 and 6/10/23 treated the patient during emergency situation- not as per protocol.*
- c) Administration and RMO on duty should realize the actual emergency situation and should take necessary steps- Referral to Higher Center/ any other Surgeon (Orthopedic)/ Ambulance call to Doctor (treating doctor)*
- d) Not even tried to manage the complication of treatment- properly."*

DR. MAITRAYEE BANERJEE

"On 06.10.2023 Ryan Ghosh was admitted at Atlas Health Point with minimally displaced comminuted fracture in the distal shaft of the right radial ulna . Manipulation and reduction were done on 06.10.2023 itself at 7 p.m by Dr Gourab Naskar. The baby's mother complained to the hospital staff that from 2 p.m the baby's fingers were swollen and bluish. The Clinic and the doctors on the duty did not heed her pleas. The treating doctor did not attend till 6 p.m the next day evening. He removed the plaster and offered to replaster. The family however left and sought the services of Dr Jayanta Bhattacharya who immediately

requested for urgent admission to Peerless Hospital as the distal radial pulse was not palpable and there was paresthesia of all five fingers of the right hand. He explained about the guarded prognosis of the operation. The family however decided to go to Apollo Chennai. There he was diagnosed with right forearm compartmental syndrome, for which a POP slab was used to immobilize the injured limb followed by active and passive stretching exercises of flexor muscles of forearm. The child was present at the hearing and is clearly still not able to function with his right hand normally.

The lapses were both medical negligence as the case did not require synthetic plaster in the first place. However, negligence by the CE Atlas Health Point cannot be overlooked. Precious 14 to 16 hours got wasted which culminated in the catastrophe”.

On a combined assessment of the medical records, it appears the patient suffered compartment syndrome. The response given by the Atlas also mentioned that they counselled the patient family about the probable outcome of the treatment as well as possibility of compartment syndrome that would ex facie show that they had in mind such possibility. Yet, the concerned Orthopedic Surgeon did synthetic

casting of a three year old child and neglected him by not attending the patient despite repeated phone calls made by the RMO.

From the records produced by the complainant, it appears that they had incurred substantial expenses for travel on more than one occasion involving substantial expense apart from the treatment cost.

Reimbursement of such cost is definitely a justified claim made on behalf of the complainant. Yet, we cannot be a mere onlooker when we find that a young boy of three years old would probably lose most effective organ of his body being the right hand. The boy is entitled to appropriate compensation.

It is true no amount of compensation would bring back the functioning of the right limb. Yet, we must appropriately compensate him to ameliorate the grievance of his parents.

The concerned orthopedic Surgeon would be beyond our reach as we are not authorized to question his treatment procedure. We leave it open for the patient family to take appropriate measure in that regard.

We cannot absolve the hospital from their responsibility. On their own showing, the patient had continuous trouble soon after the procedure

and that trouble persisted for about 24 hours. They did not take any positive measure except calling Dr Naskar for four times. They should have arranged an alternative Orthopedic Surgeon. Had it been done at the appropriate time, the hand could have been saved. The hospital did not care to do so.

We impose a compensation of Rs. 5,00,000/- to be paid to the boy. CE is directed to make a fixed deposit of Rs. 5,00,000/- in the name of the boy making his mother Smt Rima Ghosh as natural guardian in a suitable interest bearing fixed deposit in any Nationalized Bank. The mother would be entitled to withdraw the monthly interest to meet the expense for the welfare of the child. The fixed deposit could only be encashed on maturity after the boy attains majority.

The fixed deposit as directed above be made within a month from date.

We also direct Atlas to pay Rs. 3,00,000/- as the cost of travel and other medical expenses that the patient family had to spend. We grant liberty to Atlas to pay the said sum of Rs. 3,00,000/- in ten equal monthly instalments payable on and from August 16, 2024 and thereafter on the fifteenth day of each succeeding month.

In default of payment of anyone instalment the balance would then become payable along with interest @ 7 percent p.a until realization.

The complaint is disposed of accordingly.

Sd/-

(ASHIM KUMAR BANERJEE)

We agree,

Sd/-

Dr. Makhan Lal Saha,

Sd/-

Dr. Sukumar Mukherjee,

Sd/-

Dr. Maitrayee Banerjee,

Sd/-

Smt. Madhabi Das,

Subin Halder
SH

Secretary
West Bengal Clinical Establishment
Regulatory Commission