

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

Present: Justice Ashim Kumar Roy, Chairperson.

Dr. Sukumar Mukherjee, Member.

Dr. Madhusudan Banerjee, Member.

COMPLAINT ID: KOL/2017/000181.

Mr. Subhas Chandra Nath.....Complainant.

-versus-

Peerless Hospitex Hospital & Research Centre Ltd. & other.....Respondents.

Date of judgment: 06th December, 2017.

J U D G M E N T.

The complainant, who himself is the service recipient, a known patient of Type-II Diabetes Mellitus, Hypertension, Lower Urinary Tract Symptoms (LUTS) and on regular medication, took admission at Peerles Hospitex Hospital and Research Centre Ltd (for the sake of brevity, hereinafter referred to as "*Peerless Hospital*") on July 13th, 2017, with Dysuria (painful urination) and Burning Micturition (difficulty in urination with burning sensation).

2. Now, he has approached this Commission alleging that on the basis of a medical test report of N.G. Medicare, he was suffering from High Ketone and UTI and on being advised by Dr. A.N. Chowdhury, attached to the Clinical Establishment, he was admitted at the said hospital and accommodated in a special ward. After admission, he was administered high dosage of antibiotic and had to undergo a series of tests. Although he never had any problem of Asthma, still he was put on nebulizer for two long hours at the emergency ward. While he was being shifted to the special ward in a wheel-chair by a female staff, he suffered some minor injuries, cut and bruises due to a fall inside the washroom as

he had to go there without any support. At the hospital he was not treated by any Urologist or Diabetologist, even though he was a chronic diabetic patient and having high blood pressure and due to withdrawal of his regular diabetic medicines, his sugar level went up. Some of the tests he had to undergo repeatedly. Realising that he was unnecessarily confined in the hospital, he demanded his release on risk bond. He expressed and communicated the attending doctor for his release on risk bond at around 11:00 am and the doctor immediately put a note on the Bed Head Ticket advising his release on DORB (Discharge on Risk Bond). In spite thereof, after about 6 hours, he was released from the hospital at around 5 pm.

It is his further case that he, being an employee of Indian Overseas Bank, was covered under cashless Medi Claim policy and possessing health card issued by MDIndia Healthcare Services (TPA Pvt Ltd), and the particulars whereof, were supplied to the hospital authority still, they took no step for obtaining pre-authorization and finally, he had to pay a total sum of Rs.58,949/- by premature encashment of fixed deposit.

Lastly, it was alleged even though he took his discharge on DORB, the hospital authority still insisted to go for few other tests, and without that refused to release him.

3. Following the receipt of the aforesaid complaint, the Commission issued a notice against the Clinical Establishment seeking their response to the allegations made by the complainant and to supply his medical file together with Bed Head Tickets and the Bills.

4. The Clinical Establishment gave their reply disputing all the allegations made by the complainant.

5. According to the Clinical Establishment, it was their bona fide inability to accommodate the complainant in their hospital with the cashless facilities under the Medi Claim, since at the time of his admission the details of his health card was not supplied to them. He only furnished the health card particulars of his wife, still the hospital authority tried its level best to negotiate with the Insurance Company for pre-authorization. But the Insurance Company declined to entertain any claim without the health card details of the service recipient.

It is their further case that at the time of admission, the complainant complained of shortness of breath and chest auscultation and presence of vesicular breath sound with prolong expiration. Being noticed, he was initially advised by his attending doctor in the emergency for short nebulisation.

The allegation that the complainant suffered injuries due to accidental fall, while he was going to wash room, was categorically denied and according to the Clinical Establishment that no patient while on transit, is allowed to go to wash room without support. It is submitted that this is an afterthought and no complaint was ever lodged to anybody during his stay at the hospital.

Dr. Amarto Sankar Chowdhury, consultant Diabetologist who used to treat the complainant regularly in OPD was aware about his diabetic status and according to his advice, he took admission in the hospital as he was suspected to have been suffering from urinary tract infection due to presence of huge pus cell in urine. At the hospital, in the ward, Dr. Chowdhury regularly attended the complainant and took care of his diabetic part.

Since he was suffering from urinary tract infection with fever, he was admitted and seen by consultant physician and in such acute condition, urologist has no special role to play in the treatment of such infection. The patient was not on normal dose of insulin rather he was given a combination of oral drugs (Glucobay-Acarbose, and Janumet-sitagliptin + metformin hydrochloride; which he used to get previously) and insulin in intervals to control his diabetes. It is an established fact that blood sugar level varies during an infection and accordingly his insulin dosage was monitored.

The investigations were done during the complainant's stay in the hospital and it was necessary as per his clinical condition and also to ascertain the reason of his fever. Since diabetic patients are more prone to infection and eventual complications, necessary tests were done for close monitoring. Not a single test was done superfluously as alleged.

All the tests reports were discussed with the complainant's family members openly. Ethically, no hospital discloses the findings of the patient during the treatment, still his family members were always apprised about the tests, treatment and progresses. At no point of time his family members took any objection for doing such tests in any manner whatsoever.

On the day of planned discharge, certain investigations like the total blood count and CRP (both were at higher side previously) were necessary to ascertain his fitness for discharge on that day. Hence, his allegation is that those investigations were medically unnecessary is not tenable. On the contrary, it would have been a gross medical negligence if he would have been discharged without knowing test parameters, no matter how the patient was stable clinically.

Since he had refused some vital investigations on 17.07.17, doctors could not determine properly his safety margin at the time of proposed discharge. It was also explained to the complainant that there were possibilities of adverse outcome in case the complainant decided to get discharged from the hospital without the necessary investigations and without knowing his current health status. The complaint was adamant and he himself decided to get discharged against medical advice and the same was documented as per the policy of the hospital. He was accordingly released on risk bond. The patient and his family members were never willing to follow the medical norms and advice of the doctor, necessary for treatment. Rather they were interruptive in nature.

6. The parties were heard at length and their respective submissions have been duly considered. The medical file, more particularly the Bed Head Ticket of the patient has been perused and considered, together with the content of affidavit-in-reply filed on behalf of the Clinical Establishment.

7. It be noted that, at the time of hearing the complainant very fairly admitted that an amount of Rs.59,342/- has been reimbursed by Medi Claim against hospital bill of Rs.59,848/-.

8. The service recipient, a known patient of Type-II Diabetes Mellitus, Hypertension with Lower Tract Urinary Symptoms and the history of Dysuria for two days and fever, was admitted at Peerless Hospital.

We further find on examination of his medical file that during the stay of the complainant at *Peerless Hospital*, from 13th July 2017 to 17th July 2017, Dr. Amarto Sankar Chowdhury, a Diabetologist, visited him twice once on 14/07/2017 and 16/07/2017 in the hospital, and he was his regular consultant, and it was on his advice, the complainant took admission in the said hospital. Therefore the case of the complaint that although he is a diabetic patient, he was not attended

by any Diabetologist, cannot be accepted. We further find that necessary medical care of his urinary tract infection was taken during the stay in the hospital.

So far as putting him on nebulisation at the time of admission is concerned, we do not find any wrong on the part of the hospital authority or the attending doctor.

The explanation forthcoming from the side of the hospital about the administration of various medicines and tests done also appears to be justified.

Coming to the question of his accidental fall in the wash room and sustaining minor injuries, since such claim is not supported by any contemporaneous record, either by way of complaint or by the service recipient or by any one on his behalf and the same being categorically denied by the Clinical Establishment, we find that such charge has not been substantiated.

About the dispute over the Medi Claim, we find that it was due to sheer misunderstanding and miscommunication between the parties. This could have been easily avoided if the patient and the Clinical Establishment were adequately sensitive. However, the facts remains that against the hospital bill of Rs.59,848/- the complaint has got reimbursement of Rs.59,342/- from Medi Claim.

9. Now coming to the other allegation of the complainant that although he expressed his desire not to stay in the hospital and wanted to be released on DORB (Discharge on Risk Bond) and his attending doctor endorsed the same still he was released after five hours. We find that the medical condition of the patient as noted in the Bed Head Ticket, was not such that if he was discharged, immediately when doctor allowed DORB that would have posed any threat to his life.

Furthermore, when the attending doctor allowed DORB, the plea of the hospital authority that discharging a patient without medical advice is against the hospital norms and policy, is not at all acceptable.

We find that there was no justification for the hospital authority to decline his release for long five hours, even though the doctor endorsed DORB. Appearing for the Clinical Establishment, at the time of hearing, Dr. Mitra submitted that according to the medical advice, the complainant was to receive injection Zosyn thrice daily by IV Infusion through normal saline, at 6 AM, 2 PM and 10 PM respectively and on that day, his release was delayed because the time

for second Zosyn infusion was at 2 PM. The patient's DORB was allowed by his attending doctor at 11 am. Zosyn was scheduled to be administered at 2 pm. The patient was released at 5 pm. Therefore, he was not released three hours before administration of Zosyn and then finally released three hours after its administration. Zosyn is mere an antibiotic and not a life-saving drug. More particularly, when the patient executed DORB, and endorsed by his attending doctor, the hospital authority has no business to decline his release on the plea that an antibiotic dose is scheduled to be administered, three hours after and then even after administration of such drug, delayed the release for another three hours. We are also unable to accept the contention of Dr. Mitra. Since, we are of the opinion, after execution of DORB by the patient himself and endorsed by his attending doctor, the Clinical Establishment had no option except releasing him from the hospital. Except prescribing the drugs, diets in the discharge certificate, they had no obligation to ensure administration of a particular drug, even when such drug is to be administered in coming three hours. Having regards to above, although it may not be an unethical trade practice but certainly this amounts to deficiency in service. May be that due to such detention, the service recipient has not incurred any further expenses but due to the delay, he has to suffer hardship, mental agony, discomfort, stress and inconvenience.

10. Beside above, we find from the bill (Pg. No.67 & 68 of the affidavit-in-reply of the Clinical Establishment) that the complainant was charged Rs.750/- for two strips of tablet Janumet 50mg/1000mg, each strip of 14 tablets @ Rs.375/- per strip, against vouchers dated July 13th, 2017, and July 16th, 2017. Now coming to the medication chart (at pg No.52 of the said affidavit), we find although tablet Janumet was prescribed twice daily but then abrogated. There was no indication far less any authentication that such medicine was ever administered. Even assuming that the medicine Janumet was received by the patient, as prescribed twice daily, then also more than 8 tablets can hardly be used for the service recipient during his stay for four days in the hospital from July 13th, 2017 afternoon (case history noted at 04:15 pm) to July 17, 2017 till 04:22 pm when he was discharged. The page no.61-65 contains the list of quantity wise medicines and disposable used for the service recipient and at pg no.63 two strips of tablets Janumet (50mg/1000mg Tab 14's) were shown to have been used and bill raised.

11. The Commission with active participation of its members with medical expertise has very carefully examined the medical file of the service recipient and

do not find any fault or deficiency in providing medical service to the complainant. The complainant although have alleged that there was deficiency in medical service on various count was completely unable to substantiate the same.

12. In the result, the Clinical Establishment is however, found guilty on two counts, **Firstly**, there is over billing against the tablet *Janumet*, which although were never administered but price of the same has been recovered from the service recipient and **Secondly**, even after execution of DORB by the patient himself and endorsed by his attending doctor, he was detained in the hospital for long six hours, which undoubtedly has caused immense suffering, hardship, mental agony, pain and discomfort to him.

13. The above facts, certainly brings this case within the ambit of unethical trade practices due to over billing and deficiency in service by causing suffering, hardship, mental agony, pain and discomfort to the service recipient, the complainant in this case, and for which he is definitely qualified for compensation.

14. However, in the case at hand, the complainant has already recovered from Medi Claim the expenses he incurred for his treatment including the price he paid for *Janumet*. Therefore, it would be commensurate and apt, on the face of above, if a sum of Rs.10,000/- (Rupees Ten Thousand) is awarded as compensation. The compensation amount shall be paid to the complainant by the Clinical Establishment by an account payee banker's cheque drawn in favour of the complainant within 10 days from the communication of this order.

Sd/-

Justice Ashim Kumar Roy
Chairperson

Sd/-

Dr. Sukumar Mukherjee, Member.

Sd/-

Dr. Madhusudan Banerjee, Member.



Authenticated.

A handwritten signature in black ink, appearing to be "W.B.C.E.R.C.", written over a horizontal line.

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