

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

Present: Justice Ashim Kumar Roy, Chairperson.

Dr. Sukumar Mukherjee, Member.

Dr. Madhusudan Banerjee, Member.

Dr. Makhan Lal Saha, Member.

Dr. Gopal Krishna Dhali, Member.

Dr. Maitrayee Banerjee, Member.

COMPLAINT ID: KOL/2017/000078.

Mr. Gurdeep Singh.....Complainant.

-versus-

SVS Marwari Hospital & others.....Respondents.

Date of judgment: December 15, 2017

J U D G M E N T.

It is the case of the complainant that on March 22nd, 2017, his mother Sital Kaur was admitted at SVS Marwari Hospital, Kolkata for operation of fracture neck femur left. Subsequently, operation was done on 3rd April, 2017. It was alleged on April 2nd, 2017 the hospital authority made a requisition for one unit of blood (RBC) and on the same day, the blood was collected and handed over to them. However, the blood was transfused on April 9th, 2017, although RBC has to be used within 6/8 hours. It was further alleged that she was operated on April 3rd, 2017 but first dressing was done on April 14th, 2017

although medical record shows the dressing was only advised on April 10th, 2017 and that was one of the major reason for developing septicemia. On 15th April, 2017, the complainant was confirmed by Dr. Jati, Residential Surgeon that the medical condition was under control but suppressed that she had already developed septicemia. Although ryle's tube was inserted to remove fluid deposits from her stomach, and she was suffering from septicemia still Dr. G.M. Rohatgi did not inform the complainant that the patient's condition was critical and no senior doctor was consulted. Even on April 15th, 2017 when the condition of the mother of the complainant became more critical, even then he was not informed about the same and the patient was not transferred to ITU for better management and due to this negligence in treatment, finally she expired.

2. The written complaint at once was forwarded to the Clinical Establishment viz. SVS Marwari Hospital by the Commission, seeking its reply against the allegations made against the hospital and the treating doctors.

3. In response to that, the Clinical Establishment through its administrator Mr. S.K. Sharma submitted it's reply, which is as follows:

"The service recipient an old lady, aged about 74 years, was admitted in the hospital on March 22nd, 2017, under the Orthopedic Surgeon Dr. Adit Dey M.S in a case of **fracture of neck femur left**, which she suffered on March 17th, 2017, due to an accidental fall. At the time of admission, the general condition of patient was very poor and from very beginning, during the pre-operative period, she was regularly reviewed by physicians Dr. G.M. Rohatgi, M.D. Medicine, Dr. Krishna Kedia, M.D. Anesthesia and Dr. B.K. Nevatia, M.S. Orthopedic. The patient party was fully explained about the probable risk of the operation. The patient had co-morbid conditions, a) Diabetes for 20 years;

b) Hypertension; c) Concentric Left Ventricular Hypertrophy+Paradoxical Septal Motion+Pulmonary Artery Hypertension+Restrictive Cardiomyopathy on echo cardiography+Mitral Regurgitation+Tricuspid Regurgitation; d) E.C.G. showed 1st AV Block+LAD+Premature Atrial Contraction+Global Ischaemia+LAHB+Atrial Fibrillation; e) Leucocytosis.

It is further claimed that pre-operation assessment was done by Dr. K.Kedia, M.D. (Anesthetist) on 24/03/2017 and 03.04.2017 who opined

- a) Very High Risk consent
- b) Post-Operative ITU stay
- c) Presence of Dr. Rohatgi (Physician) in O.T.

During the pre operative period, the patient was regularly followed up by Dr. G.M. Rohatgi M.D. Medicine from 22/03/2017 and he had prescribed Human Act rapid insulin, Tab - Lanoxin (Digoxin), GTN Sorbitrate etc. Patient was seen on 27/03/2017 but Dr. V.K. Nevatia, M.S. Senior Orthopedic Surgeon who also opined that it is a high risk case for surgery.

The probable risks involved in surgery was conveyed to the patient party and they fully appreciating the risk involved, gave their consent for operation.

Patient was pre operatively managed and worked up and posted for surgery on 03/04/2017. Once operation was deferred, due to her poor general condition and finally on April 3rd 2017, the patient was operated by Bipolar Hemi Arthroplasty and before operation, one bottle of blood was arranged. Dr. G.M. Rohatgi M.D. Medicine, was physically present at the O.T. during the entire operation procedure. After surgery for post

operative management, the patient was shifted to I.T.U. considering her poor general and multiple co-morbidity with consent of the party. Within 2/3 days, after operation, the patient developed oliguria and immediately she was referred to Dr. S. Dasgupta D.M., Nephrologist. The patient all through received antibiotics and other supporting medicines and regularly attended by Dr. G.M. Rohatgi and Dr. Adit Dey and her case was followed up. On 07/04/2017, she was shifted to cabin and on the next day i.e., on 08/04/2017, her post operative Hb% was 8.1 against 12.1 at pre operative stage, at once one unit of blood was transfused. Suddenly the patient's condition started deteriorating from 13/04/2017 with nausea, abdominal distension, leucocytosis and her level of consciousness was gradually falling. The patient was managed conservatively with IV Fluid, high antibiotic and other supporting medication but on 16/04/2017, at 04:45 am she suffered a cardiac arrest and expired.

4. The parties are heard at length. Their respective cases, as made out in the letter of complaint and the reply and during the course of hearing, are considered. We have also very carefully considered the medical file of the patient.

5. Now considering the materials available from the Bed Head Ticket of the patient and other medical records, we find that the elderly lady Sital Kaur who sustained a fracture neck femur following a fall, was admitted at SVS Marwari Relief Society Hospital on March 22, 2017. She had number of co-morbidities, viz diabetes mellitus for 20 years, Ischemic heart disease, cardiomyopathy, dyselctrolytemia. She was seen by cardiologist Dr. G.M. Rohatgi. Patient was optimized and was taken

up for surgery on April 3rd, 2017. She underwent Bipolar hemiarthroplasty on April 3rd, 2017. Postoperatively she was treated at ITU and was recovering. From April 12th, 2017, patient started having deterioration of general condition and ultimately died on April 16th, 2017 due to multi organ failure. The patient was treated by as many as 7 qualified doctors and according to standard medical protocol. It is not correct that first dressing was given to her only on April 14th, 2017 although that was advised on April 10th, 2017. We find from the patient's history and clinical finding recorded on April 10th, 2017, there is a clinical note that "*dressing as explained*". It is, therefore, clear on that day for the first time, dressing was advised but dressing was done in the manner as explained. Beside above, we also find from the patient's history and clinical finding sheet that first dressing was done on April 5th, 2017. There is nothing on record (Medical File) that there was any blood related transfusion reaction.

However, while examining the Bed Head Ticket, we find that one Dr. Pranab Kumar Jati, one of the doctors, who recorded the clinical notes including the medicines advised. The notes in the Bed Head Ticket, were in the handwriting of Dr. Pranab Kumar Jati was authenticated by the Medical Supdt. Dr. Bhopal Dave. Since, during the hearing, Dr. Jati was not available before the Commission as he was undergoing treatment and Bangur Institute of Neurology and one of the prime doctor involved in the treatment of the patient, we asked the Clinical Establishment to produce his medical registration certificate. But they failed to produce the same and we were informed by Dr. Dave, Honorary Medical Superintendent and Mr. S.K. Sharma, Administrator of S.V.S. Marwari Hospital that the said Pranab Kr. Jati was mere a OT

assistant and not registered with Indian Medical Council or any State Medical Council, authorizing him to practice allopathic medicine.

Undoubtedly, permitting any person not registered with the medical council to participate in allopathic treatments of a patient and recording clinical notes including advice of medicine and several tests by any Clinical Establishment is not only amounts to deficiency in service but also comes within the purview of unethical trade practice in terms of the sub section (iii) of section 38 of The West Bengal Clinical Establishments (Registration, Regulation and Transparency) Act, 2017 and make the clinical establishment, S.V.S. Marwari Hospital liable for compensation. It is something unheard of that a person (Mr Pranab Kumar Jati) not medically qualified and not registered with medical council is merrily participating in treatments of a patient in a hospital, and represented him to the patient party as the RMO not without the knowledge of the nursing home.

It was pleaded on the part of the Clinical Establishment, their hospital is a charitable organization, runs without yielding any profits for the cause of the poor and needy people. The hospital is providing treatments at a very marginal cost. The hospital is also qualified for exemption under Section 80G (5)(iv) of the Income Tax Act, 1961. Even any Clinical Establishment runs on charitable basis without any profit and on marginal cost and medical services are provided to the sick, is in no way authorized to employ a non-medical person to participate in the treatment of any patient and recording clinical notes, prescribing medicines and giving advices pertaining to the treatments.

Although we have already observed, even while doing charity or providing medical services at marginal cost, no Clinical Establishment is neither authorized nor at liberty to employ a non-medical person in the treatment of any patient, still we are of the opinion in a case where an erring clinical establishment, is a charitable institution, the amount of compensation must not be too excessive.

Bearing in mind our above observation, we are of the opinion that a sum of Rs. 70,000/-, if awarded, as compensation that would sub-serve the ends of justice.

We therefore direct the Clinical Establishment to pay a sum of Rs. 70,000/- as compensation to the complainant, Mr. Gurdeep Singh. The payment be made by an account payee banker's cheque within ten days from the date of communication of this order.

Sd/-

Justice Ashim Kumar Roy
Chairperson

Sd/-

Dr. Sukumar Mukherjee, Member.

Sd/-

Dr. Madhusudan Banerjee, Member.

Sd/-

Dr. Makhan Lal Saha, Member

Sd/-

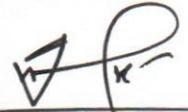
Dr. Gopal Krishna Dhali, Member

Sd/-

Dr. Maitrayee Banerjee, Member



Authenticated


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