

Office of the West Bengal Clinical Establishment Regulatory Commission

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Case Reference: ID- INT/HOW/2024/105

Present: Justice Ashim Kumar Banerjee (Retired), Chairman

Dr. Makhan Lal Saha

Dr. Maitrayee Banerjee,

Smt. Madhabi Das.

**Mr. Debasish MondalComplainant
- Versus-**

Reddy Diagnostic Zone, HowrahRespondent

Heard on: May 24, 2024 ,

Judgment on: October 03, 2024.

Pinki Mondal, a pregnant lady was under regular check-up of her Obstetrician. On the advice of the Obstetrician Pinki Mondal got her ultrasound test at 10 weeks, 19 weeks and 33 weeks pregnancy. All the

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named by three different doctors having qualification MBBS Cal, CBET Cal. Consultant sonologist there Dr. Surojit Pramanik, Dr. Binay Roy and the third one did not have the name of the Doctor who did the anomaly scan at 20 weeks 1 day. All the three reports suggested existence of single like intra uterine pregnancy. The lady had Cesarean C Section on March, 2024 when she gave birth to a twins. The first baby was a boy whereas the second twin was still born. As per the Obstetrician report the second twin was having congenital anomaly ill defined. Debasis Mondal, the complainant above named approached us with a complaint of the 3 USG report suggested single intra uterine pregnancy where as his wife gave birth to twin . One of them was still born. The existence of the second twin of the lady had it been reported in this reports the concerned Obstetrician would have taken steps and try to save the second baby who remained unnoticed all throughout during gestational period. We forwarded the complaint to the diagnostic center vide mail dated May 6, 2024. Despite request we did not get any reply from the concerned diagnostic center. Our office gave notice of hearing through mail dated May 13, 2024. Despite

such notice being given the CE neither submitted their response nor appeared at the hearing. We tried to contact the diagnostic center over phone at the time of hearing but failed. Hence we proceeded to hear the matter in their absence.

The complainant reiterated what he had stated in his complaint on our request Dr. Barindranath Mallik, HOD, Radiology, National Medical College, Kolkata was present at the hearing. Dr. Mallik also had interaction with the complainant. He has also perused the medical records and submitted his written opinion that is extracted below:-

“Three USG scans were done. At 10 weeks 4 days, 19 week 3 days and 33 week 4 days. All the USG were done by CBET qualified sonologist who should not use the term consultant as they do not hold recognized degree or diploma qualification.

Anomaly scan which is a specialized investigation should not have been done by CBET trained sonologist as this is beyond their purview and training curriculum.

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In all the USG scans the second baby was missed which especially at 10 week 04 days and 19 week 03 days amounts to negligency. At 33 week 04 days as the live fetus is big and all previous reports show single live fetus, the twin may be overlooked. Although the sonologist should still look for ancillary findings if any.

The discovery of a second dead twin at delivery, ill defined with congenital anomaly was due to negligent previous USG reports.

However, the ultimate outcome of demise of second foetus which is ill defined and with congenital anomaly indicates earlier demise in the process of resorption of conceptus. This may be due to process of natural selection and early diagnosis may not have altered the natural course of events.”

At the closure of the hearing we reserved our judgment by giving one more opportunity to the Diagnostic Center to offer their written contention. The relevant extract of the order dated May 24, 2024 is quoted below:-

“We wish to give one more opportunity to the diagnostic centre to offer their written comment so that we can decide the complaint.”

In pursuance of the liberty granted by us vide order dated May 24, 2024 the Diagnostic Center offered their response. The relevant extract is quoted below:

"With due respect, I want to give my gratitude for giving one more opportunity for our comments against complaint lodged by Debashis Mondal.

The complaint is not true.

The patient party with few persons many times demanded for money and black mail me for more than last two months. When I asked them to show the documents or any photo of twin. They shown the discharge certificate and photo of product demanding as twin. I took the both and send to respective doctors who done USG. All of our doctors have told that patient party did not represent the fact. I also found in Discharge Certificate, in OT Note section, where there is not mention of twin. I noticed and informed them and also found in photo there is no twin baby photo and duly informed them. Receiving of our reply, they became angry and told me that they would prepare a paper again, and again black mail started even over phone call also. Now after receiving the mail from your end, I found that

they again newly prepared a paper without heading and submitted before you instead of original discharge certificate. I also noticed that doctor's sign is different in two papers though doctor is same. I also enclosed herewith Discharge Certificate, The Product photo and Live Baby's birth certificate previously collected from patient party. I again express my gratitude to you and hoping for resolution."

From the response quoted supra it appears that the Diagnostic Center is doubting the discharge certificate as also the OT note submitted before us.

OUR VIEW

We have considered the factual scenario discussed above as well as the belated response from the CE. The factual matrix as well as the conduct of the CE would not inspire our confidence to buy their contentions.

We received this complaint on May 3, 2024. We forwarded the complaint to the CE on May 6, 2024 inter-alia requesting them to send their response.

Despite persuasion, we could not get their response. We sent the hearing notice on May 13, 2024 inter-alia informing them that the matter would be

heard on May 24, 2024. Yet, no response had come before the matter was heard before us.

We heard this matter on May 24, 2024 in absence of the respondent. We were constrained to hear the matter *ex parte* and kept the matter reserved for judgment giving last opportunity to the CE to revert back to us. At last, the reply came to us on June 6, 2024 without any explanation why they did not respond to our repeated calls and requests to give response.

Coming back to the merits, according to the CE, the complaint is a result of sheer blackmailing. The patient party demanded money and blackmailed them. They also had shown the discharge certificate and the "*photo of product demanding as twin*" that document according to them was fake. Photo did not show any twin baby. CE denied any fault on their part. The party became aggrieved and threatened them with dire consequence.

No proof in support of the response was given. Our expert doubted the competence of the persons who did the USG. OT note clearly recorded the presence of still born foetus that was also apparent on the discharge summary.

We are satisfied with the complaint.

We impose a penalty of Rs. 2,00,000/- and direct the CE to pay the same to the complainant on sharing of his bank details.

Sd/-

(ASHIM KUMAR BANERJEE)

We agree,

Sd/-

Dr. Makhan Lal Saha – Member

Sd/-

Dr. Maitrayee Banerjee- – Member

Sd/-

Smt. Madhabi Das - - Member

Authenticated
[Signature]

Secretary
West Bengal Clinical Establishment
Regulatory Commission

8