

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

Present: Justice Ashim Kumar Roy, Chairperson.

Dr. Madhusudan Banerjee, Member

Dr. Makhan Lal Saha, Member.

Dr. Gopal Krishna Dhali, Member.

Prof.(Dr.) Debashis Bhattacharya, Member.

Dr. Maitrayee Banerjee, Member.

Smt. Madhabi Das, Member.

COMPLAINT ID: BAR/2017/000039.

Mr. Ajay DhibarComplainant.

-versus-

I.Q. City Narayana Multispecialty Hospital & others.....Respondents.

Date of judgment: 22nd December, 2017.

J U D G M E N T .

It is the case of the complainant, since his mother-in-law Niva Sarkar, an old lady aged about 60 years was suffering from diabetes, kidney related ailments, cardiac diseases etc. On February 22, 2017, she was admitted in ICU at IQ City Narayana Multispecialty Hospital (A unit of IQ City Foundation, Durgapur) for her treatment. Two days after her admission, the hospital authority prescribed a medicine, "Human Albumin" and he was asked to arrange for the same as that medicine was not available in hospital pharmacy. He purchased the medicine from a local medicine distributor, Deepali Enterprise Benachiti Durgapur for Rs.6000/- against MRP of Rs.4134/-. He had to pay Rs.1866/- as extra and over that he lodged a complaint to the Sub-Divisional Magistrate Durgapur and the Assistant

Drug Controller for taking necessary action but that yielded no result. It is his further case that on February 26, 2017 her mother-in-law was shifted to general ward from ICU and then on March 2, 2017 he was informed by doctors that she has recovered and her condition was stable and shall be discharged on the next day i.e. on March 3, 2017. However, on March 3, 2017 he received a phone call from the hospital authority and was told that his mother-in-law had fallen in the toilet and got her leg fractured. Due the fracture of bone, his mother-in-law has to remain in the hospital for two months and was discharged on May 22, 2017. It is his further case that the hospital authority was responsible for the fall of his mother-in-law and sustaining fracture and claimed about 6 lakh was spent for the further treatment of his mother-in-law and claimed compensation.

2. On the other hand, the representative of the Clinical Establishment first contended that for charging the price of any medicine over the MRP by a medicine shop, the Clinical Establishment cannot be held responsible. Then attention of the Commission was drawn to a writing noted in the Bed Head Ticket, at around 02:20 pm on March 4, 2017. The said writing was in Bengali and it was claimed by the hospital authority that the same was written by the service recipient herself, exonerating the hospital staffs from any responsibility for such accidental fall. Going through the said writing, we find that it was noted when the service recipient was proceeding towards the bathroom, the sister ask her not to go alone but she declined. Thereafter, when she was trying to get water, she fell down and sisters were not in any fault. The Commission immediately drew the attention of the complainant to such writing and his comment was sought for. The complainant, however, remained hesitant and was unable to explain. In that backdrop, we allowed him to file affidavit traversing the issue and to get the handwriting verified from his mother-in-law. He was also given an opportunity to produce the specimen of Bengali handwriting of her mother-in-law so that the handwriting in question may be verified with the same to judge its authenticity by any handwriting expert. However, no specimen of Bengali handwriting of the mother-in-law of the complainant (service recipient) was produced before the Commission. A PAN card of the service recipient was produced, which bears the signature of the service recipient in English and thus, was of no help. It be noted that the complainant filed an affidavit in which it is claimed that writing was forged and the service recipient was not in a state to write. Surprisingly, we find that although the affidavit was signed both by

the Notary and by the advocate who supposed to identify the deponent but without any signature of the complainant not in any part of the said affidavit. The portion prescribed for the signature of the deponent was found blank, although the advocate has signed declaring the deponent is identified by him. In view of patent lapses, as above, this affidavit has no force in the eye of law and wholly unworthy of credence.

3. On the concluding day of the hearing, the nursing superintendent, sister (ward-in-charge) and allocated nurse were present before the Commission and furnished their respective registration number, with the West Bengal Nursing Council. Both the sister (ward-in-charge) and the allocated sister were examined and they stated before the Commission, on that day i.e., March 4, 2017 the patient was planned to be discharged and she was made ready for release and sitting on the bed. It was around 2 to 02:30 the service recipient was found moving towards the bathroom, they prevented her and asked her to take their assistance but she refused and claimed that she is fit and stable and be allowed to go to the bathroom on her own. Sometime after, she came back and while was trying to get water from the bedside wardrobe, she fell down and sustained leg fracture. Their statement could not be controverted by the complainant.

4. Both of them asserted that the note in Bengali on the Bed Head Ticket, (time of noting at 2:20 pm on March 4, 2017) was written by the service recipient, Niva Sarkar herself in their presence. When they were controverted by the Commission with the question, whether it was their regular practice, in similar situations, to get such written declaration on the Bed Head Ticket by the service recipient, they stated in their reply that the complainant was very aggressive since admission and always holding out threats that if there is anything wrong, the hospital staffs had to face serious consequences and that was the precise reason for getting such declaration noted down in the Bed Head Ticket by the service recipient in her own handwriting. The Nursing Superintendent also vouchsafed, what had been stated by those two sisters and added that such declaration was also authenticated by Dr. S.P. Ghosh. The complainant, however, could not be able to controvert the statements of those nursing staffs.

5. It was pointed out from the side of the Clinical Establishment that after the patient Niva Sarkar, the mother-in-law of the complainant sustained fracture, she was immediately

attended by the doctors and was treated at the hospital until the complainant took her discharge on May 22, 2017. It is further submitted that long before May 22, 2017, the patient became stable and there was no need to keep her in the hospital and although the same was conveyed to the complainant but he refused to get her released. Finally, on May 22, 2017, she was released. It was then pointed out that the service recipient was admitted in the hospital on February 22, 2017 and from that day, till March 4, 2017, she was treated at the hospital for her disease. Thereafter, she was treated, in the second phase, for her fracture on leg from March 4, 2017 until May 22, 2017 when the complainant took her discharge. It was added that the hospital authority only raised a bill for Rs.1,20,944/-, for the expenses incurred towards her treatment from February 22nd to March 17th, 2017 (discharged on May 22, 2017) and the said amount was cleared by Mediclaim. No bill was raised for her stay in the hospital and treatment after March 18, 2017 till May 22, 2017, when the complainant got her discharged. In this regard our attention has been drawn to the copy of the bills in presence of the complainant but the complainant has not disputed the above claim.

6. In the above backdrop, we find the complainant is unable to substantiate the charges brought against the Clinical Establishment. Accordingly, this case fails and stands dismissed.

Sd/-
Dr. Madhusudan Banerjee, Member.

Sd/-
Dr. Makhan Lal Saha, Member.

Sd/-
Dr. Gopal Krishna Dhali, Member.

Sd/-
Prof.(Dr.) Debashis Bhattacharya, Member

Sd/-
Dr. Maitrayee Banerjee, Member.

Sd/-
Smt. Madhabi Das, Member.

Sd/-
Justice Ashim Kumar Roy
Chairperson



AH

Authenticated

[Signature]

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