

Office of the West Bengal Clinical Establishment Regulatory Commission

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Case Reference: INT/KOL/2024/133

Present: Justice Ashim Kumar Banerjee (Retired), Chairman

Dr. Sukumar Mukherjee,

Dr. Maitrayee Banerjee,

Smt. Madhabi Das.

G D Hospital & Diabetes Institute .....Complainant

- Versus-

Md. Yousuf .....Respondent

Heard on: October 28, 2024.

Judgment on: January 22, 2025.

This complaint was filed by the CE against the patient relatives as they had refused to take discharge of the patient even after prolong treatment since July 29, 2024.



One Zarina Khatoon 54 year old lady with the history of a known case of ankylosing spondylosis and hypothyroidism approached the emergency on July 24, 2024 at 6:30 pm with severe shortness of breath and sudden onset from the afternoon of the day of admission preceded by excessive sweating and uneasiness for the last two days prior to admission.

Initially she was admitted in another nursing home wherefrom she was diagnosed acute lower respiratory tract infection with other co-morbidities.

During course of investigation it revealed, she had a fracture of shaft of left femur which was stress fracture in the background of ankylosing spondylosis.

She was treated by Dr. Anindya Dutta and Dr. Arnab Karmakar both Orthopaedician.

According to the hospital, the Medical Board was set up on August 14, 2024 in the presence of patient relative and detailed discussion took place. The relatives were properly counselled about the treatment protocol. They were told, the patient would need rehabilitation that would be beyond the scope of service of the hospital hence, the patient should be shifted to some other Advance Orthopaedic Medical Institute for follow up treatment however, the patient relatives refused to take her back that resulted in the complaint made to us on September 30, 2024.



The patient's brother Md. Yousuf appeared before us to defend the complaint. He filed a response where, according to him, during treatment there had been medical negligence. As a result, the upper portion of the leg got twisted and badly broken which could be visualised from the photograph annexed to the response. It was caused due to mis-handling of the patient by untrained nurse without the presence of any doctor. Mr. Yousuf prayed for appropriate compensation from the hospital for Rs. 30 lakhs as would appear from his letter dated September 4, 2024 written to the facility manager of the hospital.

We heard the matter at length on October 28, 2024.

Dr. Mukul Bhattacharyya, HOD, Department of Orthopaedic, IPGMER was consulted by us as expert. Dr. Bhattacharyya evaluated the entire medical records sent by the hospital to us.

According to Dr. Bhattacharyya, the fracture of long bones may happen due to Osteoporosis and conservative management of the fracture may not unite weak bone. Close reduction and internal fixation in right femur is the choice of treatment however, that would have high risk of failure. He would also opine, the patient would need intensive post operative care in higher setup. The extract of his opinion is quoted below:-

- 1) *Zarina Khatoon, 54 years Female, patient admitted on 25.07.24 at 6.30 P.M. under Dr. Sampat Jain with complains of sudden onset of shortness*



breath with provisional diagnosis of LRTI, Hypothyroidism, Ankylosing Spondylosis, Diselectrolytemia with stiffness of hip, knee and spine. She was admitted in Bed no- 537 at G.D. Hospital & Diabetes Institute, Kolkata-13.

- 2) Patient was treated by Dr. Sampat Jain from 25.07.24 and gradually improving although Urosepsis and Paralytic Ileus developed in Hospital which was treated accordingly.
- 3) On 05.08.24 X-ray shows comminuted fracture shaft of middle third of right femur with angulation without any history of trauma or signs of external injury. Board meeting with party arranged on next date i.e. 06.08.24 and conservative treatment started for fracture shaft of femur.
- 4) Party information regarding status of the patient with prognosis done on 19.03.24.
- 5) Party of the patient has not given consent for surgery of fracture right femur. So, operation has been delayed. Later on, decided to discharge the patient with conservative management on 20.03.24.
- 6) Pressure sore grade-I developed on 14.08.24 and treatment of pressure sore started.
- 7) Pre anesthetic checkup done and high risk for general anesthesia & spiral anesthesia written and referred to higher Centre for operation if needed on 22.08.24.



## OPINION

- 1) *Patient Zarina Khatoon, 54 years, Female, was admitted at G.D. Hospital with LRTI and with many co-morbidities. Later on comminuted fracture of right femur ( non-traumatic) developed in the same patient during her staying in the same institute.*
- 2) *Fracture of long bones may happen in weak bone which may be already osteoporotic.*
- 3) *Conservative management of this fracture may not unite the weak bone.*
- 4) *Operation--- Close Reduction and Internal Fixation/Open Reduction and Internal Fixation in right femur is the choice of treatment with high risk of failure.*
- 5) *Operation to be done in proper set up with intensive post-operative Care facilities with proper informed consent".*

We have considered the issue.

The patient was admitted on July 20, 2024. More than 6 months have passed we also understand, the patient family have not paid the treatment cost. It is not possible for the hospital to take care of the patient by keeping her for eternity that too, without any payment being received therefor.



The allegation of the patient relatives that the fracture was caused due to manhandling of the patient, is not supported by medical evidence as would be clear from Dr. Bhattacharyya's opinion quoted supra.

Be that as it may, even if we grant any compensation for such malhandling of the patient we need to be sure about the incident as alleged by Mr. Yousuf.

There is one more issue that we cannot overlook. Long six months stay at the hospital would definitely incur huge cost that admittedly, the hospital has not received.

Hence we do not feel it appropriate to accede to the prayer of Mr. Yousuf for compensation for Rs. 30 lakhs or any part thereof.

We request IPGMER through Dr. Bhattacharyya being the Head of the Department of Orthopaedic to continue follow up treatment of the patient at IPGMER.

We direct the hospital applicant to shift the patient to IPGMER Department of Orthopaedic in consultation with IPGMER.

So far the unpaid bill is concerned, we grant liberty to the complainant to take appropriate steps in accordance with law.

The complaint is disposed of accordingly.



Sd/-

(ASHIM KUMAR BANERJEE)

We agree,

Sd/-

Dr. Sukumar Mukherjee,

Sd/-

Dr. Maitrayee Banerjee

Sd/-

Smt. Madhabi Das.

*Handwritten signature of Ashim Kumar Banerjee*

*Handwritten signature of Secretary*  
Secretary  
West Bengal Clinical Establishment  
Regulatory Commission