

THE WEST BENGAL CLINICAL ESTABLISHMENT
REGULATORY COMMISSION.

Present: Justice Ashim Kumar Roy, Chairperson.

Dr. Sukumar Mukherjee, Member.

Dr. Makhan Lal Saha, Member.

Dr. Gopal Krishna Dhali, Member.

Dr. Debasis Bhattacharya, Member.

Dr. Maitrayee Banerjee, Member.

COMPLAINT ID: NPG/2017/000050.

Mr. Saurav Basu.....Complainant.

-versus-

Institute of Neuroscience & others.....Respondents.

Date of judgment: 7th March, 2018.

J U D G M E N T.

The Commission received a complaint in writing from SouravBasu, the son of service recipient (Late Kallol Basu), against Institute of Neurosciences Kolkata (herein after referred as "INK") alleging, amongst others, as follows,

On and from 05.04.2017 the father of the complainant started suffering from frequent headache, nausea and dizziness and was treated by the doctors at different nursing homes, viz. Care and Cure, Nabapally, Narayana Hospital, Barasat, AMRI, Mukundapur. Finally since there was no recovery, he was at admitted at Narayana Hospital and then at AMRI, Mukundapur. At AMRI, Dr.Jayanta Roy, on 11.04.2017, examined the patient and found although his vitals and functioning of the organs are normal, since DSA test revealed AVM Brain, he advised to consult a specialist on the subject, and referred, Dr.SukalyanPurakayastha. On 12.04.2017, the complainant consulted Dr.Purakayastha at the Institute of Neurosciences, who, after studying the report, opined that by medicine, the condition of his father may be managed but it

required surgery for permanent solution. He also informed that although it is a major surgery, but due to advanced techniques, the risks are very low. The complainant was told estimated cost would be around, Rs. 2.5 lakhs inclusive of surgery, three days hospitalisation, (1 day stay at ITU and 2 days at General Ward after surgery). As advised by Dr.Purakayastha, his father was admitted at Institute of Neuroscience on 12.04.2017. Although, his father was advised to be admitted at HDU (High Dependency Unit), but due to non-availability of bed, he was admitted in ITU. On the next day, i.e. on 13.04.2017, his father was operated by Dr.Purakayastha and the complainant was informed that the operation was successful but he could not be brought back to full sense and remained drowsy. Accordingly, his father was kept at the ITU for the next couple of days. On 16.04.2017, Dr.Purakayastha informed the complainant that although the surgery was successful, but he has picked up some chest infection and four more doctors were engaged in his treatment. They kept on treating his father in ITU and on 22.04.2017, they confirmed about pneumonia. Since the complaint was very anxious, he repeatedly asked Dr.Purakayastha about the medical condition of his father and he was always told by Dr.Purakayastha that the operation was successful and the patient is improving and other doctors are satisfied with the progress and nothing to worry. On 27.04.2017, in the evening, his father was shifted from the ITU to General Ward. Thereafter, around 11.50 p.m., the condition of his father deteriorated and he was shifted once again to ITU and around 2.45 a.m. (on 28.04.2017), he expired. It is alleged that on 27.04.2017, the team of doctors who treated his father, advised for shifting his father to the General Ward from ITU in the morning, but he was shifted in the evening and within a few hours of his shifting his condition became critical and he was re-shifted to ITU. According to the complainant the wrong decisions of the doctors and negligence on their part his father expired.

2. Although in the original complaint, the allegation essentially was of wrong treatment and medical negligence, but subsequently during the course of hearing, another complaint was filed in writing by complainant Sourav Basu, complaining overbilling. According to him, due to the reason of the doctor, his father had to overstay for 12 more days and the bill was escalated to Rs. 7,10,036/- against the package cost of Rs. 2.5 lakhs and already, he has paid Rs. 5,50,367/-.

The allegations about negligence in treatment were once again repeated.

3. On receipt of the complaint, notice was issued, seeking response from the clinical establishment and the treating doctor. The bills were also directed to be produced. The treating doctor and the representative of the clinical establishment were asked to be present.

4. A written reply was filed and the treating doctor and as well as the representative of the clinical establishment were present.

5. This is a case where the father of the complainant was not a direct patient of Institute of Neuroscience and was admitted there on the advice of the treating doctor, Dr. Purakayastha.

6. In the response, the clinical establishment contended as follows.

The patient Kallol Basu was diagnosed with subarachnoid bleed with brain aneurysm in posterior circulation (left superior cerebellar artery aneurysm) with left cerebellar arteriovenous malformation on 09/04/2017 in AMRI Hospital Mukundapur. In INK, it was explained to relatives that subarachnoid bleed due to aneurysm with coexistent arteriovenous malformation requires urgent attention and the risks involved with the endovascular procedure were properly explained to them. The risks involved were stroke in posterior circulation, bleed and risk to life and after proper consenting the relatives agreed for surgery. The risk of vasospasm, hydrocephalus and ITU related infection risk were also explained to them.

It was explained to them that only surgery will cost approximately 2.75 lakhs and it will require few days of ITU and ward stay depending on the condition of the patient after surgery and extra cost as per actual will be required for the stay. However, in case of any complications related to surgery or medications and any further procedures required. As a result of complications that developed in post-operative period, extended stay in ITU with ventilation was required with antibiotics. This resulted in increase in the pre-estimated expenses that reached amount of 6 lakhs 83 thousands 8 hundred and 19. The hospital as a gesture of good will decided to forego the outstanding amount of 1,33,452/-. So final paid by them was 5,50,367/-.

The shifting of patient in general bed from ITU on 27/04/2017.

Following endovascular surgery the patient developed limb weakness due to cerebellar and brain stem infarcts and decreased sensorium and patient was intubated. He subsequently developed arterial fibrillation and pneumonia with pleural effusion and was treated accordingly with advice from cardiologists, pulmonologists, neurologist and infection care specialist. All the events were properly explained to the relatives by Dr. Purkayastha who even gave his mobile number to the relatives if they needed any information. So, following a stormy post-operative period which was complicated by above mentioned problems he required prolonged ITU stay and tracheostomy was done and appropriate antibiotics used and stabilized. On 26th April, he was fully conscious, obeying commands, moving his limbs and was mobilized out of bed and was sitting in wheel chair. He had sinus rhythm at 86/minute; a febrile for over 4 days, maintaining good saturation off

ventilator (on T piece) and WBC count decreased from 27,300 on 17/04/2017 to 12,300 on 24/04/2017 and his procalcitonin level was <0.25 which is normal. The following day (27/04/2017), the patient was even better and was able to tell his name on temporary blockage of tracheostomy and was able to swallow fluids on testing. Then it was decided in the morning round, to shift the patient to the general ward with private sister and vital monitor to avoid any further risk of ITY related infection and he was physically shifted to general ward at 5pm. The patient's relatives visited him in general ward, found him stable and after visiting, his son met Dr. Purkayastha who properly explained about his condition and he was satisfied.

Management of patient in ITU on 28/04/2017.

At around 12 midnight on 27/04/2017, when patient suddenly develop bradycardia and hypotension in the ward, the patient was immediately transferred to ITU on instruction of Dr. Purkayastha and in ITU 1, he was immediately attended, assessed and looked after by senior and experienced ITU doctor under the instruction of ITU in charge and he was in communication with Dr. Purkayastha. All the necessary investigations were sent and the patient was started on isoprenaline and dopamine infusion to which he responded and his BP and heart rate showed gradual increase and he was responding to verbal commands. Dr. Purkayastha asked the ITU doctor to call the relatives and explain the condition of the patient to them and treat according to the instruction of ITY in charge. However, at about 2am the patient suddenly developed asystole and CPR and resuscitation started but he could not be revived. On informing, Dr. Purkayastha asked ITU doctor to explain the events to the relatives. The relatives call Dr. Purkayastha at 2.53am, who explained everything to the relatives over phone as they were out of hospital at that time.

7. In their reply, the clinical establishment has conveyed to this Commission that they have already agreed and decided to forgo the outstanding amount of Rs. 1,33,452/-.

8. During the hearing, the clinical establishment was called upon to explain the details of items of expenditure in respect of package and the additional expenses due to overstay in the said Hospital. They have filed their explanation in writing and the same is as follows,

1. The total cost of the Embolization, including implants and consumables in Rs.2,20,112/-. If the cost of bed in ITU, for three days @ Rs.5,000/- i.e. Rs.15000/- is added, the cost comes up to Rs.2,35,112/-, which is well below the estimated cost given to the patient relatives i.e. Rs.2,39,823/-

It is therefore clear that the amount necessary charged for the actual procedure of Embolization (including implants and cathlab consumables) as

the three days stay in the ITU is below the estimated cost given to the patient relatives (Rs.2,39,823/-)

2. The amount of Rs.2,35,257/- which appears in the final bill covering surgery, refers to the cost of Embolization (Rs.2,20,112/-) plus the discounted cost of the intra arterial treatment of Vasospasm (Rs.10,000/-) plus the cost of Tracheostomy (Rs.5,145/-).

3. The additional cost incurred (Rs.4,23,562/-) is all due to the long stay of the patient in the ITY, for a period of 13 days (Rs.65,000/-) & 1 day in ward (Rs.800/-) and the necessity to receive treatment with expensive antibiotics for ventilator acquired pneumonia and are as follows: Inj. Meropenem (Rs.40,995/-) Inj. Targocid (Rs.7,640/-), Inj. Xylistin (Rs.74,700/-), Inj. Magnex Forte (Rs.16,506/-), Daily Consultant Charges (Rs.23,600/-), Rehabilitation Physiotherapy (Rs.15,000/-), other medicines (Rs.47,425/-), Ward consumables (Rs.32,446/-), Ventilator Charges for 8 days (Rs.8,000/-), other supporting expenses [Syringe pump, air mattress, DBT flowtron, CBG, shaving, special attendant, MRD charge] (Rs.22,100/-), repeat diagnostic tests (Rs.69,350/-)

4. It is noted that the hospital decided on the day of discharge, to give a discount of Rs.63,200/- plus the outstanding amount of Rs.70,252/- to the final bill in a move of sympathy to the patient's relatives.

9. We have carefully gone through the materials on record. So far as billing issues are concerned, already it has been noted that "INK" has waived the outstanding amount of Rs. 1,33,452/-. Now, on the face of their explanation with item wise break-up of bill, we find that the extra cost, over and above the package amount, was due to overstay of the patient at ITU. We further find, admittedly, at the time of admission at "INK" the complainant was apprised of the extra cost that may be incurred in case of overstay. In this regard, it is not out of place to mention that it is the complainant who insisted the doctor and "INK" not to rush for bringing his father out of ITU, unless he is fully recovered. This fact is revealed from the first paragraph of the first complaint dated 02.05.2017, under the remarks 'shifting out of ITU' and is quoted below in verbatim,

"My father had tube in neck (tracheostomy) when INK and Dr.Purkayastha and panel of doctors decided to shift him out from ITU to general bed. My father was under their treatment for last two weeks. I asked Dr.Purkayastha and INK management not to rush him out from ITU and do it when only my father is fully fit."

We do not find any case of overbilling has been made out on the materials on record.

10. The next question left for our consideration is whether there was any negligence in treatment and deficiency in service on the part of "INK". In the complaint, there is a composite allegation of negligence in treatment and deficiency in service. The complainant has not pinpointed the nature of deficiency of service on the part of "INK". In our endeavours, we do not locate the same. So far as the negligence on the part of the medical practitioners is concerned, it centred around the decision of the doctors of shifting the patient from ITU to general ward, which resulted in the development of bradycardia, asystole and hypotension and re-shifting of the patient to the ITU and resulting in his death. Be that as it may, having regards to the clear prohibition contained clause (iii) of sub-section (1) of section 38 of the West Bengal Clinical Establishments (Registration, Regulation and Transparency) Act, 2017, it is beyond our purview of adjudication.

11. Having regard to the above, the complaint merits no consideration on our part and stands dismissed.

However, it will be open to the complainant to approach the concerned State Medical Council against the treating doctors for alleged negligence in treatment, if so advised.

Sd/-

Justice Ashim Kumar Roy
Chairperson

Sd/-

Dr. Sukumar Mukherjee, Member.

Sd/-

Dr. Makhan Lal Saha, Member.

Sd/-

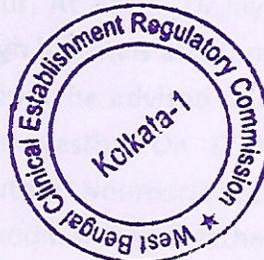
Dr. Gopal Krishna Dhali, Member.

Sd/-

Dr. Debasis Bhattacharya, Member.

Sd/-

Dr. Maitrayee Banerjee, Member.



Authenticated

[Signature]
7/3/2018

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