

Office of the West Bengal Clinical Establishment Regulatory Commission

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Case Reference:WBCERC/MUR/231/2025-26

Mr. Samsul Hoque..... Complainant

vs

Narayan Memorial HospitalRespondent/ Respondents

ORDER SHEET

| Office Note | Order No. | Date | Order |
|-------------|-----------|------------|--|
| | 1. | 05/01/2026 | <p>The complaint would principally relate to medical negligence as well as hospital negligence.</p> <p>Recently in the case of Kausik Pal vs B.M.Birla (Judgment dated December 19, 2025) the Hon'ble Supreme Court has categorically observed, despite medical negligence the hospital cannot avoid their responsibility. Irrespective of the decision of the West Bengal Medical Council on medical negligence, the West Bengal Clinical Establishment Regularity Commission is entitled to deal with hospital negligence and penalise the hospital appropriately.</p> |

Keeping such verdict in the mind set, we intend to proceed further.

The patient was under care of Dr. Amitava Roy who, after examining the Ultrasound Report, advised ERCP and referred the patient to Dr Pattanayak, an "*Associate Consultant Gastroenterologist*".

Our esteemed medical member Dr. M.L. Saha has evaluated the USG report. According to Dr Saha, the decision of Dr. Roy on the basis of the ultrasound without MRCP, was not justified.

MRCP done after failed ERCP, had shown no CBT stones that indicates that the decision for ERCP was not justified.

At the hearing, both the doctors were present.

According to Dr. Roy the patient was seen by him at his chamber. He evaluated the Ultrasound Report. On the basis of the Ultrasound Report, he referred the patient for ERCP to Dr. Pattanayak.

Dr. Pattanayak is present online. He would admit, he has no specific eligible qualification as Gastroenterologist yet, he is treating Gastro patients on the basis of his 30 years of experience.

Dr. Chowdhury, representing the CE, would however submit, that the CE has engaged Dr Pattanayak as “Associate Consultant Gastroenterologist”.

The patient, after ERCP complication, had undergone MRCP which revealed, there was no CBT stone. Had there been MRCP done preceding ERCP, the complication could have been avoided.

The stay was prolonged resulting a bill of Rs. 1.8 lakhs and ultimately the CE shirked their responsibility and sent the patient to another establishment where the patient died.

We direct the CE to refund the entire bill amount as and by an interim measure.

We reserve our judgment giving another opportunity to the CE to justify their treatment protocol as well as

competence of the personnel treating the patient.

Let such written submissions be made within a period of fortnight from date.

The judgment is reserved.

Sd/-

The Hon'ble Chairperson

Sd/-

Prof. (Dr.) Sukumar Mukherjee – Member

Sd/-

Prof. (Dr.) Makhan Lal Saha – Member

Sd/-

Dr. Maitrayee Banerjee – Member

Sd/-

Sri. Sutirtha Bhattacharya, IAS (Retd)- Member

Sd/-

Smt Madhabi Das – Member

Authenticated

[Signature]
Secretary
West Bengal Clinical Establishment
Regulatory Commission