Office of the West Bengal Clinical Establishment Regulatory Commission

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Case Reference:WBCERC/HOW/220/2025-2026

Present: Justice Ashim Kumar Banerjee (Retired), Chairman

Dr.Sukumar Mukherjee,

Dr.Makhan Lal Saha

Dr.Maitrayee Banerjee,

Sri. Sutirtha Bhattacharya, IAS (Retd)

Smt Madhabi Das – Member

Mr.Manas Naskar…………...…Complainant

- Versus-

Manipal Hospital, Mukundapur……Respondent

Heard on: December 4, 2025, January 14, 2026 and February 05, 2026.

Judgment on : March 2, 2026.

BACKDROP

67 years old female patient Ms. Kanchan Naskar was admitted at Manipal Hospital, Mukundapur on October 14, 2025 with the history of pain abdomen. The patient was seen by Dr. Jagannath Das in early September 2025 and diagnosed as obstructive jaundice. USG, CT scan and MRCP done in September 2025, suggested a lesion in mid CBD extending to intrapancreatic part of CBD, **Neoplastic obstruction.** Gall bladder was distended and edematous, but no intrinsic lesion seen in gall bladder. The patient underwent ERCP stenting on September 06, 2025. She underwent a PET CT on September 22, 2025 that had an impression of lesion in mid CBD and distal CBD with loss of fat planes between head, body of pancreas – possibility of neoiplastic etiology. According to our esteemed medical members, possibility of inflammatory etiology can also not be ruled out in view of the recent history of ERCP.

The patient consulted Dr. Subhayu Banerjee, at Manipal hospital on September 21, 2025 with features of obstructive jaundice. ERCP and sphincterotomy and biliary stenting was done on September 16,

2025. CT scan, MRCP and PET CT scan were done. However, no biopsy was done as there was no definite diagnosis of malignancy in any of the said reports. The PET CT scan done, suggested possibility of neoplastic etiology, however, in view of ERCP possibility of inflammatory etiology could also not be ruled out. Patient had no other co-morbidities like diabetes, hypertension or thyroid.

Dr. Banerjee reviewed the patient on October 10, 2025 and planned for Whipple's surgery on October 15, 2025. The CE gave an estimate of ten days stay costing Rs. 4, 87,000/-. The patient was admitted on October 14, 2025 and surgery was done on October 15, 2025. The surgery was done on the day fixed. The OT note revealed, it was a case of biopsy proven adenocarcinoma. However, there was no preoperative biopsy showing adenocarcinoma. As per OT note, 10 hours of surgery had loss of 1500 ml bloods whereas only two units of intraop PRBC transfusion and total 6 litres IV fluid were infused. The patient was shifted to ICU on ventilation. ABG revealed severe acidosis. Drain output on the next day, was 500ml. However, on the very next day on October 17, 2025 the drain recorded ADK 1300ml hemoserous, JP-250 ml hemoserous.

The patient had cardiac arrest on October 17, 2025 at 4.10 am. CPR was unsuccessful. The patient was declared dead at 4.30 am.

The patient relatives was clueless how the patient could die on the third day of her admission. At the same time, they were surprised to receive a bill for Rs. 6.44 lakhs for three days stay whereas the estimate was Rs. 4.87 lakhs for ten days stay. The patient relatives raised issue on billing as well as medical issues. **There was no one present at the CE to respond to the grievance**. Repeated requests for release of the dead body were not adhered to in absence of clearance of the bill amount. Ultimately, the relatives had to pay the said sum of Rs. 6.44 lakhs to get the dead body, that too, almost 12 hours late of 4.45am on October 18, 2025.

COMPLAINT

Being aggrieved, the son of the patient has come up before us with the complaint of medical negligence as well as hospital negligence.

We received the complaint on November 20, 2025. We mailed the complaint to the CE asking for their response. We received the response along with medical records on December 01, 2025.

RESPONSE

CE, in their response, submitted that the complaint was based on factual **misconceptions, medical misinterpretation and incorrect assumptions** not supported by any medical record. The allegations were unsubstantiated and did not disclose any specific act of omission or deviation from the standard clinical practice attributable to the hospital. According to the response, the patient was reviewed by the surgeon and advised for Whipple's surgery. The patient relatives were counselled. They were made aware of the risk involved with the surgery. Due consent was taken for the surgery. After surgery the patient was shifted to ICU in intubated condition. Despite best efforts, the patient died on the third day of surgery consequence of refractory septic shock and mutli-organ failure.

With regard to billing, the CE submitted, the estimation was given by the financial counsellor on the basis of the assessment of the treating consultant. Bill got enhanced as per the criticality of the patient's condition and proposed treatment plan. The final bill was Rs. 6,44,153 /- and discount was given for Rs. 25,000/-.

HEARING

We heard this matter initially on December 4, 2025. At the hearing the CE wanted an accommodation as the concerned surgeon was pre occupied. We acceded to the request.

On examination of the billing, as an by way of interim measure we directed refund Rs. 1.7 lakhs that the CE agreed.

We also requested Dr. Sanjoy Mondal another surgeon attached to the said CE to be present at the haring to assist us in the matter.

The matter was again placed for hearing on January 14, 2026. Again the CE asked for accommodation on the ground of the concerned surgeon however, that was refused. The concerned surgeon appeared on virtual mode like others. We however, could not continue the hearing because of technical glitch.

The matter came up on the third occasion i.e; February 5, 2026. We heard the parties at length. We heard the concerned surgeon Dr. Subhayu Banerjee. We got valuable opinion from Dr. Sanjoy Mondal that we shall be discussing hereinafter. Our esteemed medical

members had interaction with parties including the concerned consultant.

The hearing was concluded and we reserved our judgment.

EXPERT OPINION

As observed herein before Dr. Mondal gave his opinion on the issue. In course of hearing, our esteemed medical member Dr. M.L. Saha evaluated the entire medical records. He also interacted with the parties concerned as well as doctors mentioned above.

Dr. Saha has given his opinion as under:-

"*Patient Kanchan Naskar was seen by Dr Jagnnath Das in early September and diagnosed as obstructive jaundice. USG , CT scan and MRCP done in September2025. All suggested a lesion in mid CBD extending to intrapancreatic part of CBD ? Neoplastic obstruction. Gall bladder was distended and edematous , but no intrinsic lesion seen in gall bladder.For relief of jaundice patient underwent ERCP stenting on 16.9. 25. Patient underwent a PET CT on 22.9.25 and impression was FDG avid lesion in mid CBD and distal CBDwith*

loss of fat planes between head, body of pancreas- possibility of neoplastic etiology may be considered. However possibility of inflammatory etiology cannot be definitely ruled out in vew of recent history of ERCP. Adivsed HP correlation.

Patient Kanchan Naskar consulted Dr Subhayu Banerjee at Manipal Hospital(MH)- on 21.9.25.with features of obstructive jaundice.ERCP + sphincterotmy and biliary stenting was done on 16.9.25.All the investigations were done CT,MRCP and PET CT scan. No Biopsy was done and there was no definite diagnosis of malignancy in any of the reports. The PET scan done suggested possibility of neoplastic etiology, But in view of recent ERCP possibility of inflammatory etiology cannot be ruled out.

Patient had no comorbidities like diabetes, hypertension or thyroid disorders. Patient was reviewed by Dr Banerjee on 10.10.25 and planned for Whipple's operation on 15.10.25 after admission on 14.10.25. All estimates were finalized and an estimate of 487000 was made as the expenses for the Whipple operation

Patient was admitted on 14.10.25 and was taken up for surgery on 15.10,25.

The operation note written by Dr S Banerjee mentioned that it was a case of biopsy proven adenocarcinoma. However there was no preoperative biopsy showing adenocarcinoma.

As per OT note Duration of surgery was 10 hours with documented blood loss of 1500ml. 2 units intraop PRBC transfusion and total 6 litres IV fluid was infused. Patient shifted to ICU on ventilation and inotrope support.on15.10.25 ABG revealed severe acidosis and Inj NaHCO3 was administered.

Drain output on 16.10.25. was 500ml. ABG acidosis. BP maintained on double dose of inotropes. Pulse rate was 150/min. Continued on supportive treatment. Hemodialysis line established. Maintained on vasopressor support. In view of cytokine storm refd to nephrology.

On 17.10.25- diagnosed as septic shock, recurrent hypoglycemia. Metabolic acidosis, continued on vasopressor support. On 17.10.25. at 12.43pm severe hypotension BP 60/40mmHg even with double

dose of vasopressor. Drain recorded as ADK 1300ml hemoserous, JP – 250 ml hemoserous.

Patient had cardiac arrest on 17.10.25 at 4.10 pm CPR started Patient declared dead at 4.30 pm on 17.10.25. Cause of death mentioned as....

Two postoperative consecutive days patient remained critical with very high blood tinged drain output, with hypotension which even was not managed by vasopressor and fluid support. In view of high drain output and low blood pressure here was a possibility of postoperative hemorrhage which was not addressed properly. Death was due to some postoperative complications.

As per version of complainant they were assured by Dr Banerjee regarding positive outcome of the surgery planned by Dr Shubhayu Banerjee. Even after the operation Dr Banerjee repeatedly assured them that the patient was progressing well and will recover in few days. The critical condition of the patient was not properly conveyed to the relatives by the treating team. No record of details of counseling done is available with us.

On 16th evening patient relatives were informed about the critical condition of the patient and took consent for dialysis. The condition continued to deteriorate and ultimately patent had a cardiac arrest on 17.10.25 at 4.10 pm and patient was declared dead on 17.10.25 at 4.30pm

Surprisingly the biopsy report received after the death of the patient did not reveal any tumour in the distal bile duct. The final diagnosis from HPE was a case of carcinoma arising from the neck of the bladder and there were no focus of cancer in pancreas, duodenum or the bile duct. All the lymph nodes removed were free of tumour. ***The histological diagnosis of carcinoma of gall bladder donot justify this Whipple's operation in this patient. The death of this patient due to postoperative complication of Whipple operation could have been avoided if the surgeon could diagnose this pathology after exploration. An intraoperative frozen biopsy would have been appropriate in such situation.***

On 16.10.25, an interim bill of Rs 469586 was raised for payment. The relatives expressed their grievance for such huge interim bill.

After death of the patient a final bill of Rs 644153/ was raised and the net payable was Rs 445153/ as already Rs 199000 was paid as advance. . When the dispute with the bill came up, they were offered a discount of Rs 25000 for final payment. Patient relatives could make out that they were falsely charged for the procedure of open cholecystectomy and also charged for use of beta blockers. The dead body was not released in time. No senior hospital administrator were available to address the grievance of the patient relatives. Late at night they were offered a discount of Rs 50000 for settlement of bill. Police was called late in the night with the allegation of creation of disturbance by the relatives. The patient relatives wanted to talk to higher officials for their grievances, but no such officials were available late at night.

The Medical super of the MH talked to the relatives at 3am on 18.10.25. With intervention of local police the relatives paid the final due bill of Rs 420153 and the dead body was handed over to them afterwards at 4.45am on 18.10.25 almost 12 hours of death of the patient.

The reply written by Manipal Hospital says that the complaint is based on misconception, medical misinterpretation and incorrect assumptions and not supported by any medical record.

These words used are not appropriate on the part of the CE.

The reply was not made point by point against the complaint letter.

The copy of the counseling is not available with the reply.

Whipple's operation was done on 15.10.25. The duration of surgery was 10 hours with documented blood loss of 1500ml. Operation continued for unduly long hours and had excessive blood loss. In a standard hepatobiliary unit Whipple operation does not take 10 hours and blood loss is also minimal and some units even does not give transfusion during operation. The postoperative mortality following Whipple operation is quite low now in a good hepatobiliary unit.

Surprisingly Operation record noted by Dr Shubhayu Banerjee mentioned two separate operation:-

1. Whipple's pancreaticoduodenectomy

2 Cholecystectomy – Open(LGEN)

Whipple's operation is a composite operation which involves enbloc removal of gall bladder, bile duct, head of pancreas and C loop of duodenum. Mentioning open cholecystectomy as a separate operation and charging a separate fees for this amounts to cheating by the operating surgeon and the CE.

In the reply the CE has not mentioned about the final biopsy report. The biopsy report was supplied to us later on after our request.. The biopsy revealed that patient had cancer involving the neck of the gall bladder. There was no cancer involving the bile duct, pancreas and there was no spread of cancer to any of the lymph nodes. This is true sometimes it is difficult to differentiate inflammatory pathology and neoplastic pathology by palpation.The biopsy report proves that this patient did not merit this major surgery of Whipple operation for gallbladder neck cancer. The appropriate operation would have been a radical cholecystectomy rather than Whipple's operation. Patient died due to massive blood loss and postoperative

complications of Whipple's operation. The death could have been avoided if Whipple's operation was avoided in this patient. .

In the reply the CE has not clarified the reason for delay in releasing the dead body after 12 hours.

There has been gross failure in management of this patient. The treating team failed to diagnose the disease based on preoperative investigations and based on intraoperative findings. The exact diagnosis came on receipt of the final histopathology report.

The death could have been avoided by resorting to a less morbid operation of radical cholecystectomy instead of Whipple operation. The whole money spent for the operation should be refunded forthwith and suitable compensation should be paid to the relatives for untimely death of this patient .Penalty should be imposed for trying to cheat the complainant by writing open cholecystectomy as a separate operation and delaying the release of the dead body almost 12 hours after death of the patient. "

OUR VIEW

From the detailed analysis of the medical history of the deceased patient done by Dr. Saha it is amply clear, this unfortunate death could have been avoided by taking a right decision at the right point of time.

Dr. Saha has already explained why Whipple Surgery was not the appropriate method in this case. However, this is our prima facie opinion. We do not wish to escalate this issue any further as the issue is outside our domain.

Even if we do not go into the decision of the surgeon we cannot avoid our responsibility that is cast upon us by the statute being the West Bengal Clinical Establishment (Registration, Regulation and Transparency) Act, 2017 as interpreted by the Apex Court in the case of Kaushik Paul vide judgment and order dated December 19, 2025.

The patient approached the Clinical Establishment. The patient was medically examined by the Doctor attached to the Clinical Establishment. On his advice, the patient took admission and surgery

was done. Hence, the Clinical Establishment cannot avoid their responsibility.

Even if we give full credence to the competence of the surgeon and his decision we fail to appreciate the post-operative scenario that has surfaced in course of hearing.

The patient took admission on October 14, 2025 at 7.52 p.m. The surgery was done on October 15, 2025. After surgery the patient was transferred to ITU. On October 17, 2025 at 4.10 p.m. the patient had cardiac arrest. CPR was given that was unsuccessful. The patient was declared dead as per the medical record at 4.30 p.m. on October 17, 2025.

The patient family raised issue questioning the treatment protocol as well as the bill. There was no senior official/executive available to address the grievance. Ultimately the family had to pay the entire billed amount to get the dead body that was handed over **almost 12 hours after the death** at about 4.10 a.m. on October 18, 2025.

There is one more salient feature that we cannot overlook.

While examining the bill we find that the concerned surgeon, in his note, divided the surgery into two parts:

i) Whipple Surgery

ii) Cholecystectomy

At the hearing Dr. Sanjay Mondal, the eminent surgeon attached to the CE, did not support such note on such score. Even the concerned doctor himself admitted that the procedure was one composite surgery and could not be described as two surgery, while billing or otherwise.

At the hearing, Dr. Bappaditya Mukhopadhyay, the Medical Superintendent of the CE, tried to explain the situation. According to him, the billing issue was raised at night. He was not there at the hospital. There was unpleasant situation. The call made by the complainant was routed to him by the administration when he advised the complainant that they might take back the dead body after making payment of whatever they could pay and the billing issue would be resolved later on.

One of the relatives of the patient who is also a doctor, present at the hearing, categorically denied such assertion. According to him, they tried in vein to address the issue on billing however, the billing desk expressed their inability in absence of any senior Executive present at the CE.

It is hard to believe, despite permission being given to pay "***whatever they could pay***" the dead body was not handed over unless and until the full amount was cleared by the family.

We are not at all impressed by the explanation given by Dr. Mukhopadhyay.

We direct refund of the entire bill amount, the amount already refunded in terms of our earlier order dated December 4, 2025 to the complainant.

We grant liberty to the complainant to question the issue of the treatment protocol including the question as to whether the Whipple Surgery was a right decision, before the appropriate forum as against the concerned surgeon. In case they succeed they would be at liberty

to apply afresh for appropriate compensation from the CE for the unfortunate death of the patient before us.

The complaint is disposed of accordingly.

Sd/-

(ASHIM KUMAR BANERJEE)

We agree,

Sd/-

Dr.Sukumar Mukherjee,

Sd/-

Dr.Makhan Lal Saha

Sd/-

Dr.Maitrayee Banerjee,

Sd/-

Sri. Sutirtha Bhattacharya, IAS (Retd)

Sd/-

Smt Madhabi Das – Member

Authenticated

Secretary
West Bengal Clinical Establishment Regulatory Commission