

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

Present: Justice Ashim Kumar Roy, Chairperson.

Dr. Sukumar Mukherjee, Member.

Dr. Abhijit Chowdhury, Member.

Dr. Madhusudan Banerjee, Member.

COMPLAINT ID: HOW/2017/000248.

Smt. Sarbani Samui.....Complainant.

-versus-

Shree Jain Hospital & Research Centre & others.....Respondents.

Date of judgment: 11th May, 2018.

J U D G M E N T.

On 13.11.2017, a letter of complaint was received from Smt. Sarbani Samui against Shree Jain Hospital & Research Centre, G.T. Road, Howrah and the treating doctor, Dr. Jayanta Bose.

2. According to the case of the complainant, on 28.08.2017, her husband Prasanta Kumar Samui, aged about 61 years, was admitted at Shree Jain Hospital & Research Centre with high fever and diarrhea under Dr. Jayanta Bose. Earlier, on 27.05.2013 her husband was admitted in the said hospital for dialysis. This hospital used to receive a grant every year from Chief Minister's Relief Fund and for the treatment of her husband and for the financial year 2017-18 the hospital received Rs.35000/-. In the said hospital from 07.08.2017 to 12.08.2017, her

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husband was treated as an indoor patient and out of the grant of Rs.35000/- a sum of Rs.19040/- was spent and a balance amount of Rs.15907/- was lying with the hospital authority unspent.

It is further alleged that the husband of the complainant was also suffering from umbilical hernia but after he recovered from high fever and diarrhea on 10.08.2017, Dr. Bose instructed the concerned RMO, Dr. Sougata Biswas to discharge the patient, in spite of the patient having high fever and collection of water in the abdomen and chest and without making any treatment of hernia. Although on 11.08.2017, Dr. Sougata Biswas removed fluids from abdomen and chest of the patient but on 12.08.2017 he was discharged with high fever. It is added that at the time of discharge Dr. Sougata Biswas informed the complainant and the patient party that he was simply following the instruction of the senior consultant Dr. Jayanta Bose. It is also her case that although in the discharge summary the date of discharge was noted as on 10.08.2017 but in the final bill it was mentioned as 12.08.2017.

After discharge, on 28.08.2017, her husband was again admitted under Dr. Sougata Biswas with a complaint of high fever and on 30.08.2017, he expired.

In her aforesaid complainant, the complainant summarized her chief allegations and those are as follows,

- a) No attempt was made by Dr. Jayanta Basu for operation of umbilical hernia of her husband by any experienced surgeon during her stay from 07.08.2017 to 10.08.2017.
- b) No USG or any other procedure and tests were done for diagnosis of her high fever.
- c) No test was done to diagnose whether her husband was suffering from dengue or not.
- d) Her husband was discharged from the hospital before he recovered fully although a substantial amount was still lying with the hospital authority, which was allocated for his treatment from Chief Minister's Relief Fund.

According to the complainant, Dr. Jayanta Bose or Dr. Sougata Biswas or the hospital authority were responsible for untimely death of her husband.

3. Upon receipt of the aforesaid complaint, notice was issued against the Clinical Establishment seeking their response to the allegation made by the complainant and directed to produce the medical file and the bill details.

The Clinical Establishment duly responded to the notice and in writing submitted their reply.

4. It is the case of the Clinical Establishment that the patient Prasanta Kumar Samui was a known patient of long standing diabetic hypertensive, CKD V (Chronic Kidney Disease) and ESRD

(End-Stage Renal Disease) and maintained on haemodialysis at Howrah District Hospital and Shree Jain Hospital and Research Centre for last few years. The disease was complicated by various other comorbidities like malnutrition, inflammation complex with ascites anemia, cardio vascular disease recurrent heart failure and also predisposition to frequent infection.

On 07.08.2017 patient was again admitted at Shree Jain Hospital & Research Centre, with similar infective complications, involving GI Tract with repeated loose motion, pain abdomen and ascites. He was started on I.V. antibiotics and had abdominal paracentesis (ascetic fluid tapping) and was dialyzed subsequently as per schedule. His loose motion associated with pain in abdomen was controlled and as per family's convenience on 12.08.2017 he was discharged after one more shift of haemodialysis.

Following discharge on 12.08.2017 in a stable condition, the patient underwent regular haemodialysis at the said hospital, without any complaints till he was readmitted on 28.08.2017. During this period no specific complaints was reported to the dialysis unit by the patient party or by the patient. On 28.08.2017 he was admitted again with fever, leucocytosis suggesting systematic bacterial infection. Blood RE on 29.08.2017 revealed further rise in leucocyte count necessitating higher augmentation to higher antibiotics. However on August 30, 2017, the patient had a sudden cardiac arrest and could not be resuscitated.

Although complainant claimed refund of Rs.15940/- and insisted the hospital authority to transfer the said amount to their own personal account (joint account, UCO Bank, Udaynarayanpur Branch-S/B Account No.0890011014592), since the said amount was part of the amount which was received from the Chief Minister's General Relief Fund on account of treatment of her husband and remain unutilized, the said amount of Rs. 15,940/- was deposited to Chief Minister's General Relief Fund through HDFC Bank on 2/12/17 (cheque no. 000141).

The patient was actually discharged on 12.08.2017 as per the convenience of the patient party and same was noted in the cash bill.

The patient had large ascites, malnutrition and had a small Umbilical hernia due to ascitis and was disappeared after abdominal parasythesis. There was no evidence of obstruction / strangulation requiring surgical consultation as per treating doctor.

When patient was admitted on 28/8/17 with history of fever with reports on 24/8/17 Hb % 10.59, WBC 18200 (N 78), Platelet- within normal limit, MP Antigen negative and widal - ve as per BHT written by Dr.Sougata Biswas. Again tested after admission (Blood R/E) platelet was within normal limit. So dengue test not advised unnecessarily.

It is claimed that there was no negligence in treatment nor any compromise with the treatment the patient required. The allegation of raising huge bill has been denied.

5. Heard the complainant as well as the representative of the Clinical Establishment and the treating doctors. Perused the letter of complaint and the reply of the Clinical Establishment together with the annexures. Considered their respective submissions.

6. We find the case of the complainant is essentially against the treating doctor, Dr. Jayanta Bose for negligence in treatment and improper diagnosis and the allegation against the Clinical Establishment is not at all specific except that the unutilized amount, the Clinical Establishment received for the treatment of the patient from Chief Minister's General Relief Fund was not paid back to her.

So far as allegation of negligence in treatment against Dr. Jayanta Basu is concerned the same is beyond our purview of adjudication according to the first proviso to sub-Section (iii) of Section 38 of the West Bengal Clinical Establishment (Registration, Regulation & Transparency) Act, 2017.

No materials far less any specific material has been brought to the notice of the Commission either in the letter of complaint or during the hearing relating to any deficiency in patient care service on the part of the Clinical Establishment.

During the hearing of this matter, from the side of the Clinical Establishment our attention has been drawn to a letter addressed to the Medical Superintendent, Shree Jain Hospital & Research Centre, G.T. Road, Howrah and it was pointed out by that letter dated October 10, 2017, the complainant claimed for the treatment of her husband, a sum of Rs.35000/- was credited to the account of the Clinical Establishment and after meeting the expenditure for the treatment, a sum of Rs.15960/- was still lying with the hospital authority and the said amount be transferred to their joint account maintained with UCO Bank, Udaynarayanpur Branch (S/B Account No.0890011014592). The representative of the Clinical Establishment drew our attention to other annexures filed with the petition of complaint and it is submitted that the said amount of Rs.15940/- has already been remitted back to the Chief Minister's Relief Fund after deducting the utilized amount of Rs.19060/-. We find that the approach of the Clinical Establishment is quite correct and there is nothing wrong and in any event the complainant is not entitled to have unutilized money to be credited in their joint account.

This complaint has no merit and stands dismissed.

We however make it clear that we have not gone into the merits of the case, on the question, as to whether there was any negligence in treatment by the treating doctor since the

same is beyond our jurisdiction. Therefore, this order will not prevent the petitioner to approach the concerned State Medical Council for necessary relief if any, if so advised.

Sd/-

Justice Ashim Kumar Roy
Chairperson

Sd/-

Dr. Sukumar Mukherjee, Member.

Sd/-

Dr. Abhijit Chowdhury, Member.

Sd/-

Dr. Madhusudan Banerjee, Member.

Authenticated
Secretary
West Bengal Clinical Establishment
Regulatory Commission

