

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

Present: Justice Ashim Kumar Roy, Chairperson.

Dr. Sukumar Mukherjee, Member.

Dr. Madhusudan Banerjee, Member.

COMPLAINT ID: WMID/2018/000314.

Mr. Sukumar Samanta.....Complainant.

-versus-

Mother Nursing Home & others.....Respondents.

Date of judgment: 26th June, 2018.

J U D G M E N T.

The case of the complainant, as it transpires from his letter of complaint filed before the Commission, stated as under:-

On 18.02.2017, at about 4pm, his wife, Smt. Sumitra Samanta with severe abdominal pain, got admitted at Mother Nursing Home (hereinafter referred to as "the Clinical Establishment") under Dr. Krishnendu Maity. When as advised by Dr. Maity, various tests were done and it was found that his wife was having stone in gallbladder. After receipt of such report, Dr. Maity advised immediate surgical operation for removal of gall stone. On the very next day, i.e. on 19.02.2017, she was operated upon by Dr. Maity and complainant was told that operation was successful and his wife was discharged on 22.02.2017. Nearly after 12-15 days, again pain started and she was

taken once again to the said Clinical Establishment. When Dr. Maity examined her, he disclosed that a stone has been left over and same to be removed immediately by further surgical intervention. The Clinical Establishment authority then referred her wife to another Nursing Home, where she was operated on 20.03.2017 and was discharged on 21.03.2017. On the very next day, again pain started and the complainant immediately took his wife to Mother Nursing Home. However, the Nursing Home authority, without treating her referred her to another private Nursing Home. At that Nursing Home, the attending doctor opined that entire treatment and operation was wrong and due to that the patient acquired infection. He was further told that further operation is necessary and that may cost about Rs.3 lakh and it cannot be assured even thereafter, she will fully recover. Thereafter, his wife was seen by the doctors at Medical College Hospital and then at R.G. Kar Medical College & Hospital. Finally she was taken to S.S.K.M Hospital and was treated there and on May 23, 2017, she expired. It is categorically alleged that Dr. Krishnendu Maity, the treating doctor is responsible for the death of his wife by wrong and negligent treatment.

2. Immediately upon receipt of the complaint, notice was issued against the Clinical Establishment as also against the treating doctor, Dr. Krishnendu Maity.
3. During the course of hearing, the complainant was examined on oath and his deposition was recorded. In his deposition, the complainant submitted that his entire grievance is against Dr. Krishnendu Maity and due to his wrong treatment, his wife died.
4. The Members with medical expertise have examined the case records very carefully and opined that at best this is a case of medical negligence by the medical professional. Since, adjudication as to the question of medical negligence by a medical professional is beyond the purview of this Commission as provided in first proviso to sub-Section (iii) of Section 38 of the West Bengal Clinical Establishment (Registration,

Regulation & Transparency) Act, 2017, the hearing stands closed and the case stands disposed of.

5. We make it clear that we have not gone into the merits of the case and this order will not prevent the complainant to approach the concerned State Medical Council in accordance with law, if so advised.

Sd/-

Justice Ashim Kumar Roy
Chairperson.

Sd/-

Dr. Sukumar Mukherjee, Member.

Sd/-

Dr. Madhusudan Banerjee, Member.

Authenticate &

[Signature]
29/9/2018

Secretary
West Bengal Clinical Establishment
Regulatory Commission