

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

Present: Justice Ashim Kumar Roy, Chairperson.

Dr. Sukumar Mukherjee, Member.

Dr. Makhan Lal Saha, Member.

Dr. Madhusudan Banerjee, Member.

COMPLAINT ID: KOL/2017/000094.

Mr. Nitish Ranjan Das.....Complainant.

-versus-

Medica Superspecialty Hospital & others.....Respondents.

Date of judgment: 9th July, 2018.

J U D G M E N T .

This is a case where the complainant Nitish Ranjan Das himself is the service recipient. On perusal of his medical file, the Commission found as follows,

On April 28, 2017 the service recipient, who is a known diabetic hypertensive and suffering from bronchial asthma, at around 5.20pm in a comatose, non-responsive condition with deep shallow respiration was brought at the emergency of Medica Super specialty Hospital (hereinafter referred to as "the Clinical Establishment"). At the emergency, CO2 retention with sepsis and CVA (Cerebrovascular Accident) were diagnosed. The patient had tachycardia (pulse rate 156/min) and hypertension (BP 200/120 mm.Hg). The service recipient was admitted in CCU under Dr. Palash Manna and was advised, Precath profile with CCP, AVG, ECG, ECHO screening, CXR, CT brain and Trop T test.

At CCU, IV saline was started and consent for ventilation was sought for. Around 5.25pm, patient was intubated and put on ventilation and after review at 8.20pm and on diagnosis of ADHF/ NSTEACS/MOD LV dysfunction/ Aspiration pneumonia/Hypertension and/diabetes mellitus, the patient was shifted to CCU under Dr. Sunip Banerjee and Dr. Nandini Biswas Inj Lasix, Antiplatelets, Inj. Clexan, Antibiotics and IV fluid, Ryles tube and Foley catheter were advised.

Again at 9.30 pm the patient was reviewed at CCU and according to the clinical notesAdmitted in a gasping state → Initial ABG showed respiratory acidosis ---> intubated & mechanically ventilated → repeat ABG showed correction of parameters to acceptable range → shifted to CCU for further management and treatment → similar history in past (hospitalized). The patient was on VCV mode of ventilation, alert, co-operative and oriented.

As noted down in progress report, the plan of treatment was on the same line and weaning of ventilator was proposed on the next morning.

On 29.04.2017 at 11am after successful weaning trial, the patient was extubated and found good. The vital parameters were near normal.

On 29.04.2017 at around 11.20am, the patient was visited by Dr Sunip Banerjee and amongst other, RBS was recorded 258mg%. The patient was advised Coronary Angiogram and Renal Angiogram with high risk consent.

On 29.04.2017 at 1pm, there is a clinical note by Dr Kalyan Das..... *"the patient does not want to undergo Coronary Angiography at present. He wants to do it in Railway Hospital."*

On 29.04.2017 at 2pm, the patient was reviewed and found to be improving.

It appears after the note at 2pm on 29.04.2017, there is a further note at 1.20pm on the same day. According to the said note, discussed with Dr Sunip Banerjee and Serum Clopidrogel assay was advised 'Stat'.

On 29.04.2017 at 4.10pm, the patient was seen by Dr N Biswas and it was noted stable from respiratory perspective. Advised continue all with regular review of K+.

On 30.04.2017 at 10.20am, the patient was found stable by Dr Kalyan Das and advised to shift the patient to ward. On the same day, subsequently, the patient was discharged against medical advice.

2. It be noted upon receipt of complaint, the notice was issued against the clinical establishment calling for the medical records of the patient and their response.

3. In response to the notice, the entire medical file of the patient was received by the Commission from the Clinical Establishment. On behalf of the Clinical Establishment two affidavits (dated 28th November, 2017 and 6th December, 2017) were filed by Dr. Amitava Das Gupta, Deputy Medical Director, Medica Superspeciality Hospital.

4. This is a case where hearing was fixed on 6 occasions. However, the complainant/service recipient was absent on 4 occasions and except on one occasion, the clinical establishment was

duly attended by their authorized representatives. On two occasions i.e. on December 1, 2017 and on December 8, 2017, the complainant was represented by his learned counsel. Thereafter, January 5, 2018 was fixed for hearing with notice to the complainant, but neither he was present nor any step was taken. Accordingly, the hearing was fixed on January 19, 2018 with notice to the complainant. In the meanwhile, the office of the Commission received an e-mail dated 18.01.2018, from the complainant, intimating the Commission about the withdrawal of his lawyer. However, on January 19, 2018, neither the complainant appear nor any step was taken by him. No prayer for adjournment was also made. On that day, the Clinical Establishment was represented by its authorized representative, when the Commission compelled to close the hearing. At the risk of repetition, it be noted as many as six dates were fixed for hearing, however only on two occasions, the complainant was represented by his lawyer and on remaining days he was absent without any step.

5. It be noted in his e-mail communications on November 23, 2017 and January 18, 2018, which were subsequent to his online complaint, the complainant alleged only overbilling. It was his case that for 1½ day stay at the hospital, the bill of Rs.97,000/- is too high and exorbitant. It be added on both the occasions, the complainant was represented by his lawyer, identical case was made out.

We find from the records that complainant was admitted in the hospital on 27.04.2017 and was discharged against medical advice on 30.04.2017.

6. In the above backdrop, the Commission essentially confined it to the question, whether there was any overbilling or not.

In the deliberation, the medical members of the Commission took a very active role in examining the issue. However, considering the medical files of the service recipient, we do not find any case of deficiency in patient care service on the part of the Clinical Establishment.

7. Having regards to the fact that the complainant's case is one of only overbilling, the materials relating to billing has been very carefully scrutinized and the Commission comes to the following conclusions.

a) The service recipient was in CCU for 2 days and he was charged a total sum of Rs. 24,000/- (Rs. 12,000/- per day). In addition to that he was also charged Rs. 3,900/- on account of consultation fees of the critical care team (Rs. 1,300/- per day). In our opinion when the service recipient is charged for CCU and which is no less than Rs. 12,000/- per day, it is totally unjustified to charge him once again, Rs. 3,900/- for consultation of critical care team. Since consultation of critical care is an integral part of the patient care service who is under going treatment at CCU.



b) During his 2 days treatment in CCU, the service recipient was charged Rs. 628/- on account of Ryles tube insertion and Foleys Catheterization, a sum of Rs. 4360/- for intubation and initiation of ventilation and ventilator adjustment and then Rs. 930/- for extubation. All these procedures are done by the Critical Care Team as part of the treatment and therefore, there is no justification to charge the patient separately over and above the CCU bed charge i.e. Rs. 12,000/- per day.

c) The patient was put on ventilation on 28.04.2017 at 5 pm and extubated on 29.04.2017 in the morning and a total sum of Rs.2200/- was charged for two days. It be noted the Clinical Establishment in its affidavit disclosed that the bill was a computer generated document and they were ready to refund the charge of 2nd day a sum of Rs.1100/- but the amount could not be refunded since the patient left the hospital against medical advice are insisted for his early release. Thus the Clinical Establishment has admitted that one day charge of Rs.1100/- is refundable.

d) During the treatment the blood sugar level of the service recipient was checked for 7 times and a total sum of Rs.1568/- was charged (Rs.224/- for each test). According to the Clinical Establishment Rs.224/- includes the charge for the procedure, price of Glucometer and Glucostrip and the Lancet was charged separately. The service recipient was charged Rs. 25/-, separately for 5 pieces of Lancets. When a patient is charged for blood sugar test levying a charge for the price of Lancet amounts to irrational trade practice. The charge for blood test for sugar by Glucometer @ of Rs. 220/- test cannot be said to be at all reasonable far less cheap, taking into account the market price of Glucometer and the strips. However, the case of the Clinical Establishment that at the time of discharge, they have returned pen and cartridges to the service recipient (paragraph 11 of the affidavit of the Clinical Establishment dated December 6, 2017) and such facts has not been disputed from the side of the complainant.

e) Charging for advanced alogarithm reading is a unique new charge levied in CCU set up. The Clinical Establishment tried to explain that they have some costly equipment at CCU which provides some vital parameters which is interpreted by the CCU team. Clinical Establishment has submitted that CCU bed charge covers the equipment charge at CCU, if that be so levying a charge of Rs.570/- separately, is totally unjustified.

f) The treating Doctor advised for Serum Clopidrogel assay, accordingly same was done and patient was charged Rs.6916/- on that account. The treating doctor, Dr. Sunip Banerjee before the Commission stated that the said test was part of their Research Project Study. We failed to understand how a patient be charged for Research Project Study and no iota of materials has been produced by the Clinical Establishment to show such assay was done with

informed consent. In our opinion this practice is not at all ethical, when it was done without obtaining consent from the service recipient and then levying a charge for the same. This practice to be stopped at once.

g) While the patient stayed in the CCU, the patient was separately charged Rs.250/- each for two days, as the sterilization charge on account of Dr. Sunip Banerjee. When a patient in CCU levying sterilization charge separately is not at all called for.

h) Last but not least, in this case the relation of the patient party intended to get the patient discharged against medical advice and relevant form was executed by them at around 9.50 a.m. but it took long 3 hours for his actual release. This is not desirable.

8. The explanation forthcoming from the Clinical Establishment, in their affidavit, on the above issues is not satisfactory and acceptable.

9. We are therefore of the opinion a case of overbilling coupled with irrational trade practice has been made out against the Clinical Establishment and this is a fit case, where a compensation to be awarded in exercise of the power conferred under section 38(iii) of the West Bengal Establishments (Registration, Regulation and Transparency), Act, 2017.

10. Now having regards to the amount of overbilling coupled with litigation cost and considering the pretty old age of the complainant, who is now aged about 77 years, the justice will be sub served, if a sum of Rs.25,000/- is awarded as compensation.

The Clinical Establishment, Medica Superspeciality Hospital is directed to pay the compensation amount to the complainant by an account payee Banker's cheque within 15 days from the this date.

This case accordingly stands disposed of.

Sd/-

Justice Ashim Kumar Roy
Chairperson.

Sd/-

Dr. Sukumar Mukherjee, Member.

Sd/-

Dr. Makhan Lal Saha, Member.

Sd/-

Dr. Madhusudan Banerjee, Member.

Authenticated
