

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

Present: Justice Ashim Kumar Roy, Chairperson.

Dr. Sukumar Mukherjee, Member.

Dr. Madhusudan Banerjee, Member.

COMPLAINT ID: PUB/2017/000257—PUB/2018/000356.

Mr. Selim Dafadar.....Complainant.

-versus-

Monmohini and Vivekananda Nursing Home & others.....Respondents.

Date of judgment: 31st July, 2018.

J U D G M E N T.

The complainant is the service recipient himself. He lodged this complaint against two nursing homes, namely, Manmohini Healthcare, Beharampore Murshidabad and Vivekananda Nursing Home, Burdwan. The allegations made in the aforesaid complaint are as follows,

The complainant is a resident of Burdwan. He is a school teacher and at present has been residing at his place of employment at Samsherganj, Murshidabad. The complainant suffering from appendicitis with acute pain took admission at Manmohini Healthcare at Beharampore, where he underwent Appendicectomy. Since even after expiry of two weeks from the date of operation, there was no recovery and his condition was deteriorating, the nursing home authority discharged him and advised to take admission in any higher centre. Thereafter, the complainant took admission at Vivekananda Nursing Home, Burdwan and remained there for 10 days. However, since there was no sign of recovery, he was discharged with the advice for further treatment at any higher medical centre in Kolkata. Thereafter, he took admission at Peerless Hospital and was cured. The above said two nursing homes had charged him exorbitantly and he had to suffer a lot due to their wrong and negligent treatment.

2. Upon receipt of the complaint, the notices were issued to both the nursing homes, namely, Manmohini Healthcare, Beharampore, Murshidabad and Vivekananda Nursing Home, Burdwan. The said nursing homes denying the allegations filed their respective affidavits which are on record.

3. Manmohini Healthcare in its reply stated as follows,

a) A 47 years old male Mr. Selim Dafadar presented in Emergency of Manmohini healthcare on 26.05.2017 at 2.30PM with C/O severe diffuse abdominal pain for last 4-5 days with burning sensation during micturition. On examination it was found that he had gaseous abdominal distention with diffuse tenderness. He was admitted with the suspicion of either acute pancreatitis or Sub-acute intestinal obstruction under Physician Dr. A. Banerjee. St-X-Ray Abdomen shows multiple air fluid levels in peripheral part of abdominal cavity. USG Abdomen done on 24/5 i.e. 2 days before admission from outside showed mild hepatomegaly and grade II fatty change and slightly bulky pancreas only. Serum amylase and lipase done after admission was normal. Therefore the patient was put on conservative medical management.

At this time he was referred to Dr. N Rahaman (Surgeon), who advised CECT abdomen. Patient looked toxic to the Doctors who advised a repeat USG in case the earlier radiologist had missed something. The repeat USG done on 27/05/2017 showed periappendicular lump formation as a sequel of acute appendicitis and also suspicion of preformation with abscess formation. Thereafter Patient underwent CECT examination which showed features suggestive of acute appendicitis with possible lump formation.

Upon this diagnosis patient was again referred to Dr. N. Rahaman for surgical advice & review. Dr. Rahaman performed exploratory laparotomy on 29/05/2017 through right paramedian incision. Appendicular abscess was drained and tube drains were kept inside for further drainage of any new collection. After operation Patient was shifted to HDU for better haemodynamic monitoring Post-op, patient gradually developed features of septicaemia with abdominal distension, low urine output, B/L pleural effusion, shortness of breath. At this point of time antibiotics were escalated, femoral central venous access was established as his limbs

were swollen and peripheral venous access were impossible at certain point. Patient received multiple antibiotics & parenteral nutrition through the central line. He also underwent regular physiotherapy.

Patient was gradually improving as he became ambulatory and could tolerate oral feed, but his blood reports continued to show high leucocyte count and raised CRP indicating persistent sepsis.

His wife and relative were advised to continue the treatment till the recovery from sepsis. The surgical wound was infected with minor wound gaping for which regular dressing was being done. Unfortunately they decided to take discharge against medical advice on 06.06.2017 in order to continue the treatment in a suitable medical setup in their locality. Therefore his central line was left in situ in order to continue administering medicine. His surgical drain was also kept in situ as significant amount of collection was still coming out through drain.

Patient was thereafter seen & advised by other doctors as per his submission of copies later on. By patient's own admission his health deteriorated 14 days after surgery i.e., 6 days after leaving this hospital. Patient's party had not followed up with the concerned doctors even for once after leaving against medical advice. Furthermore while the patient left the hospital he did not have any sign of DVT as the central line was properly managed and adequately heparinised.

In our best of knowledge the patient was recovering from septicaemia with no other complication except surgical wound infection and minor wound gaping. His vitals were stable & he had no sign of DVT. The clinical note from Vivekananda N.H diagnostic centre, Burdwan showed that the patient went for the wound sepsis and never mentioned any swelling of leg, neither the clinical note does mention any suggestion of a swelled leg / DVT.

It is submitted by the hospital that if the patient develops a complication 6 days after leaving the hospital in his own wish and decision, the Clinical Establishment should not be held responsible particularly when the patient was not under its care.

Whereas, Vivekananda Nursing Home in its reply stated as follows,

b) The Complainant came to their nursing home in Out Patient Department on 7th June 2017 at about 8.30 am having wound sepsis following an operation done few days back in a different nursing home at Beherampur. When the consultant surgeon Dr. Sandip Kumar Ghosh examined the patient and advised necessary medicines, injections and dressings and admission in any higher centre.

The patient party requested Dr. Ghosh to keep the patient at their nursing home for some days so that they could arrange his treatment in any higher centre. Then Dr. Ghosh clearly explained to them that the patient had serious wound infection and high antibiotic has to be administered and such treatment would be enough expensive. In spite of that the patient party requested Dr. Ghosh to admit the patient in their nursing home.

Accordingly the patient admitted in their nursing home at 9 am on 7th June 2017 under Dr. Ghosh and subsequently followed by proper treatment and regular dressing following standard protocol. But since after admission in their nursing home, his recovery was unsatisfactory, he was examined by two other doctors, namely, Dr. Biswajit Biswas on 10th June 2017, anesthetist and Sk. Firoj Ahmed, General Physician on 13th June 2017.

After considering color Doppler study, dated 13th June 2017, which was done outside, and after examining the patient in the evening on 13th June 2017 Dr. Ahmed asked the patient party to shift the patient to any higher centre.

Following the advice of Dr. Ahmed on 14th June 2017 patient party had agreed to shift the patient and accordingly they took the patient from their Nursing Home on the same day at 12.20 pm.

At the time of release out of total bill amount of Rs.37,458/-, which included cost of medicines and investigation charges, the patient party paid Rs. 24,000/- and the balance amount is still outstanding.

At the Nursing Home and doctors treated the patient to the best of their skill and ability as per the standard medical norms and protocol and there was no negligence as alleged.

4. On the date of hearing, the complainant appears in person and both the nursing homes were represented by their respective Learned Counsels. The treating doctors and the Senior officials of the nursing homes were also present.

5. On the date of hearing March 21, 2018, both the parties were heard at length. As the Commission felt, to reach to a just decision in the case, the statement of complainant to be recorded on oath, his statement was recorded accordingly. After recording, the Complainant was asked to wait till his statement taken on shorthand be transcribed in the deposition sheets and for his signature. However, the complainant without signing his statement left the office of the Commission without any intimation to the office.

6. In his statement made on oath, what the complainant stated, is reproduced in verbatim, herein under,

"On 26th May, 2017 with severe abdominal pain for last 4-5 days with burning sensation while passing urine, I was admitted at Monmohini Healthcare under doctor, Dr. A. Banerjee, a Physician, who referred me to Dr. A. Rahaman for operation. Thereafter, the operation was done on 29th May, 2017 for appendicitis. After operation, I got no relief and my condition deteriorated. Then I took discharge on 6th June, 2017. Thereafter again on 7 June, 2017 I got admitted at Vivekananda Nursing Home under Dr. S.K. Ghosh and remained there till 14th June, 2017. Since I did not get any relief, I had to take admission at Peerless Hospital on 14th June, 2017. At Peerless Hospital once again I underwent a surgical operation, at the same site and finally I recovered and discharged from Peerless Hospital on 3rd July, 2017. My allegation is one of utter negligence in treatment by the doctors both at Monmohini Healthcare and Vivekananda Nursing Home. If the doctors had been careful in treating me and operated the correctly I would not have to suffer with unnecessary physical pain and agony for long. The doctors who treated me and operated at Peerless Hospital finally gave me the relief from pain and saved my life.

To the Commission,

My entire grievances are against my treating doctors at Monmohini Healthcare and Vivekananda Nursing Home. Over the self safe allegations, I have already filed a complaint to the District Consumer Forum at Murshidabad (CC/128/2017) and same is still pending for decision. I have filed evidence on affidavit and the next date is fixed on 4th of April, 2018."

7. Subsequently, after about two weeks on April 5, 2018, he filed another complaint in writing and deposited the same at the office of the Commission by hand and accordingly a separate case was registered. In the said complaint, he merely reiterated his case made out in his earlier complaint filed on 16.10.2017. Only the new allegation made in the second complaint that although after receipt of treatment at Peerless Hospital, he was considerably cured but till date has not been fully recovered and still undergoing treatment at Peerless Hospital. He also alleged that due to the negligent, wrong and improper treatments meted out to him at those two nursing homes, Manmohini Healthcare and Vivekananda Nursing Home, he had to suffer a lot and is therefore, entitled to adequate compensation.

However, his complaint is absolutely silent as to the nature of the negligence in treatment as also the nature of deficiency of service. We find except making a bald allegation of negligence, wrong and improper treatment against the nursing homes, he had not described the nature of negligence and wrong treatment.

8. We have heard the parties. Considered their respective cases as transpire, from the letter of the complaint and the written reply of both the Clinical Establishments, statement on oath of the complainant and their oral submissions.

9. This is a case wherein both the complaints (filed on 16.10.2017 and 05.04.2018), it was specifically alleged that not only both the nursing homes, exorbitantly charged him, in the name of treatment but his treatment was wrong and negligent. However, going through the medical files of the Complainant and the bills annexed with their respective replies by the nursing homes, we find for his treatment at Manmohini Healthcare from May 26, 2017 to June 6, 2017 (for 11 days) including Appendicectomy, doctors' fees, cost of medicines, diagnostic

tests and procedures, he was charged Rs.1.43lac and at Vivekananda Nursing Home, for his treatment from June 7, 2017 to June 14, 2017 (for 7 days), a bill was raised for Rs.37,458/- including doctors' fees, cost of medicines and diagnostic tests and out of that he paid only Rs.24,000/-.

We have carefully scrutinized the bill details and have not found any case of overbilling. Moreover, an amount of Rs.13,458/- is still outstanding with Vivekananda Nursing Home.

10. So far as the allegation of the complainant that his treatments at both the said nursing homes, was wrong and negligent that part has been extensively and meticulously examined by the Members of the Commission having medical background and it is their consensus views that there was nothing wrong and the treatment mated out to him is in consonance with the medical protocol. In view of above findings, we are unable to hold that the charge against the nursing homes has been sustained. We do not find any deficiency in service on the part of both the nursing homes.

In the result, both the complaints, Complaint Id: PUB/2017/000257 filed on 06.12.2017 and PUB/2018/000356 filed on 05.04.2018 stand dismissed and disposed of.

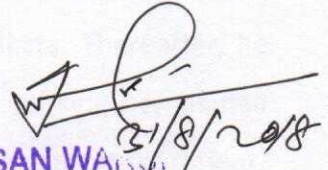
Sd/-

Dr. Sukumar Mukherjee, Member.

Sd/-

Dr. Madhusudan Banerjee, Member.

Sd/-
Justice Ashim Kumar Roy
Chairperson.

Authenticated

ARSHAD HASAN WANI
WBCS (Ex)
Secretary
W. B. C. E. R. C.