

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.

Dr. Maitrayee Banerjee, Member.

COMPLAINT ID: KOL/2018/000322.

Mr. Arindam Das.....Complainant.

-versus-

Ruby General Hospital & others.....Respondents.

Date of judgment: 31<sup>st</sup> July, 2018.

**J U D G M E N T.**

The case of the complainant as it transpires from the letter of complaint submitted online is one of wrong diagnosis and negligent treatment. Subsequently, the complainant also filed a memorandum of argument. His case as transpires from the letter of complaint together with memorandum of argument is summarized below,

The complainant on 15.11.2017 suffered undisplaced tuft fracture of the distal phalanx of the middle and index fingers of the left hand along with subungual hematoma. An X-Ray was done on 17.11.2017, which confirmed fracture. On 18.11.2017, Dr. Sourav Banerjee examined the complainant and advised use of mallet finger splint but since such splint was not available at Ruby Hospital, the same was purchased from market. The complainant suggested the doctor use of finger tap but same was ignored. Dr. Kunal Sengupta wrongly applied mallet finger splint

on the ventral side of the finger as DIP hyper-extension splint causing mal-union. The doctor wrongly advised removal of the mallet finger splint after 3 months that caused stiffness and osteoporosis of the affected finger. Due to that wrong treatment the complainant had to incur lose of work and undue medical expenses and risk of radiation due to repeated X-Ray and therefore, entitled to adequate compensation.

We are very carefully gone through the content of letter of complaint as also the memorandum of argument. We find on the face of the same, if at all any case is met out that amounts to medical negligence on the part of the medical professionals. Here in this case against Dr Saurav Banerjee and Dr Kunal Sengupta.

Since first proviso to clause (iii) of sub-section (1) of Section 38 of West Bengal Clinical Establishments (Registration, Regulation and Transparency) Act, 2017 restricts the jurisdiction of adjudication on such case by the Commission and left it to the concerned Medical Council. We are unable to proceed with the case and same stands closed.

Sd/-

Dr. Sukumar Mukherjee, Member.

Sd/-

Dr. Makhan Lal Saha, Member.

Sd/-

Dr. Madhusudan Banerjee, Member.

Sd/-

Dr. Maitrayee Banerjee, Member.

Sd/-  
Justice Ashim Kumar Roy  
Chairperson.

*Authenticated*

*W. B. C. E. R. C.*

*31/7/2018*

**ARSHAD HASAN** VI  
WBCS (EX)  
Secretary  
W. B. C. E. R. C.