

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

**Present: Justice Ashim Kumar Roy, Chairperson.**

**Dr. Sukumar Mukherjee, Member.**

**Dr. Madhusudan Banerjee, Member.**

**COMPLAINT ID: KOL/2017/000271**

**Ms. Mousumi Poddar.....Complainant.**

**-versus-**

**Desun Hospital and Heart Institute Ltd. & others.....Respondents.**

**Date of judgment: 11<sup>th</sup> September, 2018.**

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

The complainant Mousumi Poddar is a newly wedded lady, whose marriage took place only seven months before from the date of incident. On 20.11.2017, while she was having her lunch with her mother-in-law and simultaneously talking, she had an attack of acute choking in respiratory track followed by acute stridor, cough, vomiting and weakness and on the onset of acute respiratory distress. She was immediately removed to Desun Hospital and was admitted at ICU under Dr. M. Kharbanda (Intensivist) and Dr. Rik Banerjee (Pulmonologist). She had no known comorbidities in the past. She was at ICU on November 20, 2017 and November 21, 2017 and after her condition improved, shifted to general ward and there she stayed from November 22, 2017 to November 24, 2017 and was discharged in stable condition.

During her stay she was extensively investigated for her recent cough and stridor and was examined by Psychiatrist and ENT in addition to her primary physicians, Intensivist and Pulmonologist under whom she was admitted in the hospital. She was not only treated by a number of doctors of different branches and wide range of investigations was done within a

span of 4 days. But she refused to go for Barium Swallow Oesophagus, when further advised in the hospital.

Of all the specialists only the psychiatrist Dr. Sujata Ghosh, who seen her on referral, diagnosed conversion disorder (F44.9) in a case of major depressive disorder. She was prescribed anti-depressant drug (Tryptomer) amitryptiline, 25mg tab. per day.

A bill for Rs.49115/- has been raised by the Clinical Establishment for her treatment in their hospital from 20.11.2017 to 24.11.2017.

2. In her complaint, complainant Ms. Mousumi Poddar pointed out her following grievances,

a) Doctor fees both at general ward and ICU are same.

b) Anomalies in the charge of air mattress on 20.11.2017 and 21.11.2017.

c) Same doctor charged his fees at different rate one for general ward and another for ICU.

d) Quite a large number of unnecessary pathological tests were done.

e) Regular procedure like glucometry, daily nutritional assessments could have been avoided.

f) Introduction of so many specialist doctors (General Medicine, Respiratory Medicine, Psychiatry, ENT) has induced over treatment in such a simple case of respiratory blockage which might have been treated with reverse breathing process in common practice. Only one specialized doctor would have sufficed.

g) Hospital demanded a lump of advance while taking admission despite producing cashless insurance paper. After so much negotiation they admitted against a deposit of Rs.5000/- lumpsum which we had to deposit within half an

hour of taking patient to hospital. This indicates a gross lapse in fair medical practice.

h) The complainant had no history of taking anti depression medicine post hospitalization period. Still she possessed a clear state of mind. Post hospitalization, complainant suffered from insomnia, dry mouth, menstruation problems, blurred vision due to usage of anti depressant medicine during hospitalization.

3. In response to the affidavit of complainant, affidavit in reply have been filed by Dr Soumendu Sen on behalf of the Clinical Establishment, Dr Mohit Kharbanda, Dr Sujata Bose and Dr Nandita Kapat,

a) Dr Soumendu Sen, Medical Superintendent of Desun Hospital, in his reply first contended that over the self same incident the complainant approached at the office of the Assistant Director, Consumer Affairs and Fair Business Practices against Desun Hospital and Star Health Insurance Company on 26.11.2017 alleging an unholy nexus between the Clinical Establishment and the said insurance company.

It is claimed that in the hospital, after her admission, she was put under conservative clinical management as per protocol and as advised by the attending doctors. Before admission the patient party was informed the charges of the treatment procedure, clinical investigation, doctor fees, ICU charges, bed charges etc. and the patient party after taking into account of all those they gave their consent and signed the consent form. All the tests and investigations were conducted as per the advice of the attending doctors which is based on their medical judgment. There was no excess charge or overbilling. The nutritional factor of the complainant was done as a form of treatment plan and as advised by the doctor. No upfront deposit was claimed because the service recipient was covered under mediclaim. Since the service recipient was unsuccessful to recover the medical expenses by mediclaim, she lodged this complaint.

**b) Dr Mohit Kharbanda, in his affidavit stated as follows,**

Mrs. Mousumi Poddar was admitted under him and Dr. Rik Banerjee's care in ICU of Desun Hospital on 20.11.2017 with the complaints of difficulty in breathing, pain in throat followed cough, vomiting accompanied with generalized weakness and inability to speak.

A thorough general and systemic examination and some basic initial investigations like complete blood count, urea, creatinine were done, also some investigations like X ray chest, ECG were done to rule out cardiac or respiratory cause of the breathlessness. As the differential diagnosis was aspiration/choking/esophageal spasm, bronchoscopy/ endoscopy might be required thus serology for hepatitis B, Hepatitis C, HIV was done with due consent from the husband.

As nothing critical was found but the patient was still complaining severe throat pain she was shifted to the ward under "on call" medicine consultant. As they suspected the symptoms to be psychosomatic, a psychiatric opinion was sought.

**c) Dr Nandita Kapat, in her affidavit stated as follows,**

Mrs. Mousumi Poddar was admitted under Dr. Mohit Kharbanda and Dr Rik Banerjee's care in ICU of Desun Hospital on 20.11.2017 with the complaints of difficulty in breathing, pain in throat followed cough, vomiting accompanied with generalized weakness and inability to speak.

The patient was referred to Dr. Sujata Ghosh on 21.11.2017 when she was in ICU. As the treating Physician had queried a Conversion reaction. The patient was shifted under her care on 22.11.2017. Patient's vitals were stable and she continued previous treatment advised by Dr. Mohit Kharbanda and Dr. Sujata Ghosh. Since she was suffering from generalized weakness she added oral multivitamin and calcium tablet to the patient. As per advice of ICU consultants, the patient was also referred to ENT surgeon, who advised Barium Swallow X-

ray. But the patient and her relative gave negative consent for the procedure. According to her medical judgment, the patient was fit for discharge. So her discharge was planned and she was discharged on 24.11.2017 from the hospital.

**d)** Dr Sujata Ghosh, in her affidavit stated as follows,

Mrs. Mousumi Poddar was referred to Dr Sujata Ghosh on 21.11.2017 when she was in ICU. The treating Physician had queried a Conversion reaction. She examined the patient on 21.11.2017 at 1.15pm. She complained of shortness of breath and difficulty in swallowing. On her mental state examination, she found that she was extremely anxious, had a low mood and was tearful. She broke into tears repeatedly during the consultation. She had sleep disturbance for which she had been prescribed medication.

It is found in the background history, that she had been married for seven months. On closer questioning, she spoke of prevailing stress factors under request of confidentiality which she respected as privileged communication. Her clinical impression was of Major Depressive disorder. She did not request any investigation as the diagnosis of Depression is based on clinical impression. Apart from counseling and reassurance, she prescribed her a low dose Amitriptyline 25mg., which she considered safest in her circumstances. She reviewed her again on 24.11.2017 in general ward, when her mood had improved and she did not complain of any common side effects of Amitriptyline eg. dryness of mouth, or blurring of vision etc. She advised her an OPD follow up in a week's time which she did not attend. It may be noted that side effects of Amitriptyline are dose dependent (initial dose recommendation as per New Oxford textbook of Psychiatry 30mg to 75mg). A low dose of 25mg does not cause insomnia and in fact is given at bedtime as it improves sleep patterns (Oxford Textbook of Psychiatry). Menstrual disorders with Amitriptyline are unlikely as studies have not confirmed this phenomenon.

4. The complainant submitted that she never had any psychiatric problem and used any psychiatric drug in past. She points out that she suffered menstrual irregularity during the subsequent months for having that psychotropic drug. She stressed that within a short period of her marriage, when she was allegedly diagnosed of have been suffering from major depression that would have spoiled her conjugal life within a few months of her marriage, unless both of her husband and mother-in-law were quite reasonable.

5. The medical members of the Commission took active part in the deliberation and gave their valuable opinions.

6. On review of the history and chronology of events, this seems to be a case of food in airway tube while she was eating and talking simultaneously with her mother-in-law during lunch time prior to admission. This has led to laryngeal spasm due to false passage of food into airway tube. She has no past history of psychiatric illness as per interaction. In no way she fits well with conversion disorder associated with major depression without background history of any psychiatric illness in such a short period of time. All laboratory reports done in hospital were found within normal limits. Then she was referred to psychiatrist for evaluation and Dr. Sujata Ghosh diagnosed her as a case of major depression. After discharge the patient remained well without any need for psychotropic drugs and she was found otherwise healthy. The labeling of depression in hospital and discharge certificate was a matter of concern to the patient. She became panicky because of mental trauma caused by such diagnosis. It appears that medical team was overactive to find out the cause of stridor ignoring the clinical history. More so in view of diagnosis of major depression for the first time in hospital, her insurance company rejected her hospital expenses of Rs.50,000/-.

7. Now, coming to the billing part we find,

1. The doctor's fees are variable while attending the same patient in ICU and general ward.

2. The charges for air mattress appear to be higher in general bed on 21.11.2017 than ICU on 20.11.2017.

8. The patient has a mental harassment because of labeling her a patient of major mental depression for which drugs were prescribed. The patient remained well after discharge even without use of any psychotropic drugs.

9. In the above backdrop we are of the opinion that if a sum of Rs.15,000/- is awarded as compensation, that would sub-serve the ends of justice.

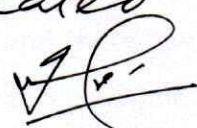
Such amount of compensation shall be paid within 15 days from the date of passing of this order.

10. Last but not the least, the doctors should be very cautious about overenthusiastic referral to various specialists and tests without appropriate clinical judgment and decision. Finally the consultant psychiatrist should be careful about the labeling of major depression ignoring the very short clinical history and absence of antecedent illness.

Sd/-  
Dr. Sukumar Mukherjee, Member.

Sd/-  
Dr. Madhusudan Banerjee, Member.

Sd/-  
Justice Ashim Kumar Roy  
Chairperson.

Authenticated  
  
11/9/2018

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