

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

Present: Justice Ashim Kumar Roy, Chairperson.

Dr. Sukumar Mukherjee, Member.

Dr. Makhan Lal Saha, Member.

COMPLAINT ID:HGY/2018/000301.

Mr. Jogendra Kumar Gupta.....Complainant.

-versus-

CMRI.....Respondents.

Date of judgment: 20th Nov, 2018.

J U D G M E N T .

The mother of the complainant, Smt. Kausalya Debi, an elderly lady, aged about 72 years, on 18.01.2018 was admitted at CMRI Hospital in ICU under the care of Dr Anirban Chatterjee. The patient, having COPD, IHD and Diabetes Melitus, was shifted to CMRI from another hospital with the complaint of vomiting, diarrhea and abdominal distension. It appears from the medical record after her admission, her primary treatment was started and several investigations were done. Subsequently, as desired by the patient party, she was referred to Dr S. Pattanayak. Besides, Dr Anirban Chatterjee and Dr S. Pattanayak, during her stay in the hospital, the patient was seen on referral by Dr Sanjay Dey Bakshi, Dr Sujoy Mukherjee, Dr M.K. Chowdhury, Dr Ajoy Mondal and Dr Ranjan Das. Finally, on 26.01.2018, she was discharged after recovery and in stable condition. It appears from a medical note of primary consultant Dr Anirban Chatterjee (dated 21.01.2018) that even after extensive discussion and counseling with the patient party, the patient party insisted for her shifting to general ward because of their financial stringencies. However, having regards to the medical condition of the patient on the advice of Dr Chatterjee, she was shifted to HDU and she remained there for the rest period.

2. Now, going through the bed head tickets and considering the nature of the treatment provided, we find the patient was treated according to the standard medical protocol and there was no deficiency in patient care service.
3. However, we find that the patient was seen and examined by three consultants, namely, Dr. Sujoy Mukherjee, Dr. Ranjan Das and Dr. Ajoy Mondal on cross referral professionally, at the cost of the complainant. On this account, the complainant has to pay Rs.2625/-. So far as such cost referrals are concerned, that depends purely on the opinion of the primary consultant and in case of this particular patient, it cannot be said, same was unnecessary. In this regard, we must say it is always desirable before cross referral, the patient party, who has to ultimately bear cost of such referral, should be apprised of and counseled about the necessity of the same by the primary consultant.
4. In this case, patient was treated with high ended antibiotic, Inj. Meropenem 1mg. In our country, this medicine is manufactured by different pharmaceutical companies and the same are available in the market at a price range, which varies from Rs.400/- to Rs.3200/- . On perusal of the records, we find on and from 20.01.2018, the medicine taxim and zanocim were stopped and in lieu thereof, meropenem 1mg (IV) was started. The injection meropenem was continued from 20.01.2018 till 25.01.2018 for six days, out of that, for two days while Inj. Merocrit (1gm) was used, for the rest four days, Inj. Zaxter (1gm). Now, from the bills, while each ample of Inj. Merocrit (1gm) cost Rs.1500/-, the price of Inj. Zaxter (1gm) is Rs.2500/-. Undoubtedly, the price difference between the same medicine but manufactured by different pharmaceutical companies are quite substantial. If Inj. Merocrit (1gm) was used for those four days, Rs.4000/- can easily be saved for the patient party. At the time of hearing, when this question was raised, we were told since, Inj. Merocrit was not available in the in house pharmacy of the Clinical Establishment, Inj. Zaxter was used. Without disputing, the contention of the Clinical Establishment, we are of the opinion that it is always desirable, except in case of emergency, before use of planned medicines and where such medicines are available by different brand names and price differences are substantial like the case in hand, the patient party should be apprised of such facts i.e. about the difference in prices of the same medicines manufactured by different pharmaceutical companies and their choice. In the event the low cost medicine, if not available in the in-house pharmacy of the Clinical Establishment, the patient party also be given an option to arrange for such medicine available at low price from the market, if they so desire.
5. It goes without saying, compliance of our above observation made in Para 4 & 5 hereinabove by the Clinical Establishment, must be reflected from the records.

6. The only other question left for our consideration, relates to irrational and unethical trade practice on the part of the Clinical Establishment. The crucial question arises for consideration, as to whether, the Clinical Establishment was justified in charging the patient party on account of junior doctor fees and nurses, in addition to, declared charge for ICU and HDU and recovered and realized the payment on that account.

In the case at hand, the service recipient, the mother of the complainant was admitted in ICU at CMRI hospital on 18th of January, 2018 and was treated there till 20.01.2018. The patient party was charged Rs.8000/- per day and a total amount of Rs.24,000/- for her treatment in ICU. On 21.01.2018, she was shifted to HDU and from there, discharged on 26.01.2018. For her stay in HDU for six days, a bill was raised for a total sum of Rs.30,000/- (Rs.5000/- for each day). Apart from that, the patient party was charged a total sum of Rs.6750/- on account of junior doctor fees for 9 days (Rs.750/- per day) and a further sum of Rs.6750/- on account of nursing charges for 9 days (Rs.750/- per day).

7. Intensive Care Units/ High Dependency Units, cater to patient with severe life threatening illness and injuries, which requires constant close monitoring and support from specialist equipment and medication in order to ensure normal bodily functions. In this medical endeavour what is more essential, that such units as a whole should be manned by highly trained doctors and nurses, round the clock, who are capable in taking necessary medical care for critically ill patient. ICU/HDU is distinguished from General Wards not only because the same is equipped with advanced medical resources and equipments but also manned by the trained doctors and nurses round the clock. According to the Standard for Service Provider Schedule II of The West Bengal Clinical Establishment (Registration, Regulation and Transparency) Rules, 2017, ... In case of nursing homes providing special care unit facilities, there should be at least two resident medical officers exclusively for Critical care having post graduate diploma or degree or adequate working experience at a recognized hospital in the concerned discipline and there should be adequate number of nursing staff exclusively for critical care having certificate, diploma or degree or adequate working experience at a recognized hospital in the concerned discipline. In addition to that there should be one trained nurse available round the clock for every 3 beds in such special care units including one qualified critical care Technician available round the clock in such special care units.

8. In the above backdrop, it needs no further debate that every special care unit either that be an ICCU or CCU or HDU must be a composite unit not only of advanced medical equipments but also of trained doctors and nurses round the clock for offering to the patient more intensive observation,

treatment and nursing care than is possible in general ward. Therefore, when any clinical establishment declares the rate for ICU and HDU that necessarily connotes that rate includes the fees of junior doctors and nurses exclusively attached to such units and the service charges of the specialized medical equipments for providing uninterrupted intensive medical care to the sick. Now having regards to the fact that the clinical establishment had declared charges for ICU and HDU, they cannot now impose additional charges for the junior doctors and nurses who are part and parcel of that unit. When in addition to the declared charges for ICU and HDU, the fees for junior consultant and nurses are levied that of course amount to deviation from declared charges and invites consequences action.

9. Having regards to above, we are of the view that charging the patient parties a total sum of Rs.13,500/- on account of junior doctors fees and nurses, in addition to the declared charges for ICU and HDU and a sum of Rs.875/- on account of consultation fees of Dr Anirban Chatterjee for 26.01.2018, although that day he was not available and did not visit the patient was totally unjustified, unethical and irrational and accordingly, the clinical establishment is liable for necessary legal consequences in terms of the West Bengal Clinical Establishment (Registration, Regulation and Transparency) Act, 2017.

10. Therefore, we direct the Clinical Establishment to pay Rs.25000/- a composite amount covering the excess amount of Rs.14,375/- levied by the Clinical Establishment as fully discussed hereinabove together with litigation cost.

Sd/-

Dr. Sukumar Mukherjee, Member.

Sd/-

Dr. Makhan Lal Saha, Member.

Sd/-

Justice Ashim Kumar Roy
Chairperson.

Authenticated



ARSHAD HASAN WARSI
WBCS (Ex)

Secretary
W. B. C. E. R. C.