

**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: HOW/2018/000344.

Mr. Jawed Alam.....Complainant.

-versus-

Columbia Asia Hospital.....Respondents.

Date of judgment: 2nd January, 2019.

J U D G M E N T.

This is a case where allegation is of overbilling against Columbia Hospital, Salt Lake, Kolkata. The complainant alleged as follows,

His wife Farha Naaz Manzoor (MRN No- KOLK0000221449) was admitted on 14.02.2018 under Dr. Shamik Ghosh. She was having an unusual bleeding and labour pain. She was kept in emergency for about 4 hours and after that she was shifted to the Labour room and was there in the labour room for the whole night on 14.02.2018-15.12.2018. The hospital has charged for the private room 14.02.2018, as well as the labour room for the same day and time when the patient was in the labour room. Furthermore, for the baby there were following discrepancies in the billing,

1. The bed side USG is done 3 times whereas in the Draft bill a total of 5 USGs were added.
2. The rates for all kind of tests like X-ray/Serum/CBC/Blood Gas Analysis/C-reactive protein/ packed red blood cell etc has been charged a lot high in comparison to other hospitals like Apollo and AMRI.
3. There are number of tests which have been billed more than once in a particular day.
4. There has been miscommunication on 2-3 occasions in regard to the NICU levels on which the baby was kept.

Due to that overbilling the complainant has to pay excess over the actual cost.

2. In response to the above complaint, Columbia filed its reply and the point wise responses are as follows,

It has been stated that Baby of Farha Nazz Manzoor, Hospital MRN Kolkata was delivered at Columbia Asia Hospital, Salt Lake City, Kolkata on 15/02/2018 under care of Dr. Shamik Ghosh, Consultant Paediatrics, for preterm (27 weeks 5 days) very low birth weight (1145 gms) new born with respiratory distress, Baby was managed conservatively in NICU and discharged from NICU with diagnosis of Preterm (27 weeks 5 dyas) very low birth weight (1145 gms) new born, Respiratory distress, Neonatal sepsis, intercerebral haemorrhage, Anaemia of prematurity, Neonatal Hypocalcaemia, Retinopathy of prematurity.

1. In the draft bill no of USGs were charged 5 but as per the final bill 3 bed side USG were carried out and charged accordingly. Draft bill is not to be considered as a final bill.
2. The Laboratory & Radiology investigations charges carried out as per our hospital rate and charged to the patient.
3. The investigations being carried out as per the consultant's advice and clinical condition of the patient.
4. Baby has been kept in the NICU different levels as per the requirement and advice by the consultant doctors and which has been communicated accordingly.

An amount of Rs.20,000/- was also allowed as discount on the final bill.

3. During the course of hearing, Dr. Shamik Ghosh under whom the patient was admitted, and Dr. Anindya Chattopadhyay Paediatric Surgeon, Dr. Moupia Chakraborty, In-Charge NICU and Mr. Arindam Banerjee, Senior General Manager, Columbia Asia Hospital were examined before the Commission and their statements were recorded on oath.

4. a) According to statement of Dr. Shamik Ghosh on oath, Dr. Moupia Chakraborty, Dr. Sunetra Roy Hazra, Dr. Sudeshna Banerjee and Dr. Kamalika Das were never referred by him for the baby. He further stated all said doctors, Dr. Moupia Chakraborty, Dr. Sunetra Roy Hazra, Dr. Sudeshna Banerjee and Dr. Kamalika Das were in pay roll of the hospital. He then added that unless he referred any patient to any doctor, no doctor can see such patient, admitted under him.

b) Dr. Moupia Chatterjee, in her statement on oath admitted that she is in charge of NICU of Columbia Asia Hospital and their team is comprised of 4 registrars and all 4 registrars are in the pay roll of the hospital. The treatment of the baby in NICU was primarily conducted with the advice of the primary consultant. She further admitted what has been charged by her on account of consultation fees and that was included in her monthly salary.

c) Mr. Arindam Banerjee stated in his statement on oath that Dr. Smita Jadav and Dr. Amrita Saha both are associated with their hospital as registrar but they were charged separately as the policy of the hospital. On February 14, 2018, the patient was charged for cabin room as it was booked on her account. In addition to that the patient was charged for labour room on the same day as she was sent from emergency to labour room for proper monitoring as that was a case of bleeding in pregnancy.

5. Heard the parties at length. Considered their respective submissions, statement made in the affidavits and on oath.

6. It has already been noted that this case relates to overbilling. So far as the first allegation is concerned those in draft bill charges for 5 USGs were levied but actually 3 USGs were done. However, we find admittedly the hospital charged for 3 USGs in the final bill. Therefore, there is nothing wrong. The allegations that the rate of different investigations i.e. X-ray, blood etc. are much higher than that of the rate in which such investigations are done at different hospitals. We do not find any merit in this contention, since there is no deviation from the rate declared and the complainant knew the rate beforehand. The allegation is that same tests were done for several times in a day. In absence of any allegation that those tests were not actually done or done without the advice of doctor, we also find no merit in such contention. It is for the doctor to repeat such tests in a day if so requires depending upon the medical condition of the patient. Only other allegation was that there was lot of miscommunication during the stay of the baby in NICU. Having regards to the facts, no substantial evidence is brought before us, we also do not give any importance to that.

7. It be noted even what has been alleged by the complainant, the Commission has examined the case of overbilling from different angles and find as follows,

- a) The complainant was charged Rs.550/- each for pre-anesthetic and post-anesthetic check up of the service recipient in addition to Rs.7280/- on account of anesthetic charges (Doctor fees). We are of the opinion that this is wholly unjustified, more particularly when a total sum of Rs.7280/- was charged on account of anesthetic (Doctor) fees. We also find from the record that the alleged pre-anesthetic check up was done at the OT table. It goes without saying that before giving anesthesia, the anesthetic has to examine different parameters of the patient and when a composite anesthetic charge is levied, no question of further charging a patient for anesthetic check up on the OT bed. This is a kind of worst unethical trade practice.
- b) We further find that they charged an amount of Rs.4480/- on account of 4 registrars attached to NICU and Rs.29568/- on account of Dr. Moupia Chakraborty, In-Charge of NICU. In this regard, it is pertinent to note, Dr. Shamik Ghosh, Pediatrician under whom the baby was admitted at NICU, in his statement stated before the Commission, he only referred Dr. Anindya Chattopadhyay, Paeditriatic Surgeon, Dr. Rupak Biswas, Ophthalmologist and Dr. Rajesh Goyel, Neonatologist for the treatment of the baby and besides those three doctors, no other doctor was referred by him for this particular patient. Dr. Ghosh also categorically stated unless he i.e. the Consultant under whom a patient is admitted, referred any other consultant, no other consultant can see the patient and advise. Therefore, neither Dr. Moupia Chakraborty, In-Charge NICU nor the 4 other registrars attached to NICU without being referred as consultant by Dr. Shamik Ghosh purportedly charged on their account a total sum of Rs.34048/- was realized from the complainant. This is one more instance of unethical trade practice which is highly condemnable. It be noted that admittedly Dr. Moupia Chakraborty was In-Charge, NICU and 4 other doctors, namely, Dr. Sunetra Roy Hazra, Dr. Sudeshna Banerjee, Dr. Kamalika Das and Dr. Asifa Parvez are attached with NICU in the capacity of registrar and under the pay roll of the hospital and getting regular salary from the Clinical Establishment. The NICU, Neonatal Intensive Care Unit is meant for

monitoring the medical condition of a baby throughout 24 hours by the doctors, namely, the registrars attached to such units, when the condition of such baby is critical and without the service of doctors in NICU round the clock, the whole object of keeping a patient in NICU, will be useless and uncalled for. The presence of doctor to attend the patient at NICU round the clock is integral and perennial function of NICU. We are, therefore, of the opinion that when a patient party is charged Rs.7500/- (level- 3), Rs.4750/- (level-2) and Rs.3800/- (level-1) per day for NICU that must be inclusive of the registrars' fees, who are attached to the NICU and if anything is separately charged, in addition to NICU charge, for those registrars that would amount to unethical trade practice.

- c) We, therefore, find the patient party was charged in excess a sum of Rs.35148/- and the same ought to be refunded to the patient party in addition to that a litigation cost of Rs.10000/-. This amount, i.e. a total amount of Rs.45100/- be refunded to the complainant by an account payee bankers' cheque within 15 days from the date of communication of this judgment.

We also feel that this is a fit case where a further penalty of Rs.15000/- be imposed on the Clinical Establishment and that amount shall be paid, that too, within 15 days from the date of communication of this order in the account of West Bengal Clinical Establishment Regulatory Commission Fund.

8. Before parting with, we make it clear henceforth the above practices of the Clinical Establishment, which we have found highly condemnable, must be discontinued and discarded. The action taken report on the face of our above direction must be submitted before the Commission within a reasonable period.

Sd/-

Justice Ashim Kumar Roy
Chairperson.

Sd/-

Dr. Sukumar Mukherjee, Member.

Sd/-

Dr. Makhan Lal Saha, Member.

Sd/-

Dr. Madhusudan Banerjee, Member.

Authenticated

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