

Office of the West Bengal Clinical Establishment Regulatory Commission
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Case Reference: ID-HGY/2018/000437

Present: Justice Ashim Kumar Banerjee (Retired), Chairman

Smt. Sanghamitra Ghosh, IAS, Vice -Chairman

Dr. Sukumar Mukherjee,

Dr. Makhanlal Saha,

Dr. Madhusudan Banerjee

Dr. Maitrayee Banerjee

Mr. Manoj Chowdhury.....Complainant

- Versus-

Mission of Mercy Hospital & Research

Centre.....Respondent

Heard on: February 14, 2019, March 19, 2019 and April 16, 2019

Judgment on: *June 25, 2019*

Per ASHIM KUMAR BANERJEE:-

FACTS

Ms. Sangita Chowdhury aged about 26 years were admitted at Mission of Mercy Hospital on May 31, 2018 under Dr. Prantik Chowdhury with the

diagnosis of gall stone. Patient also complained of vertigo and amenorrhoea for two months. All investigations were done on June 1, 2018. The reports were normal. Dr. Aditi Deb, ENT surgeon was referred to for vertigo. The patient was sent for preanesthetic checkup of Dr. A. Chakraborty. Laparoscopic cholecystectomy was planned on June 5, 2018. The surgery was uneventful. The patient was stable and was ultimately planned for discharge on June 8, 2018. However, the patient wanted to be discharged after suture removal that was planned on June 12, 2018. Dr. Aditi Deb, ENT surgeon examined the patient on June 12, 2018 who advised some medicines. The nurses note on June 12, 2018 at 11.30 a.m. revealed, stitches were removed at 11.30 a.m. by one Stiphen. The nurse's note also revealed, on the same day at about 2 p.m.. Patient was in shock. She also noted, patient told her that she fell down in the bathroom 10-15 minutes back. The patient was immediately removed to ICU. The progress note revealed, patient was in shock, lethargic, feeling discomfort and sweating. At about 3 p.m. she was shifted to ICU. Dr. Manju kashyap, Gynecologist was informed earlier. Dr. Kashyap examined her on June 6, 2018 and advised hormonal treatment for seven days and advised her to wait for withdrawal of bleeding.

In ICU, the patient was transfused two units of red blood cells. USG was done that would reveal a chink of fluid in pelvic region. Patient was reviewed by Dr.

Aditi Deb on June 14, 2018. She also noted the fact of sudden fall following a blackout episode. She also advised some medicines and ENG. The patient was transfused one more unit of PRBC on June 14, 2018. The patient was found stable on the next day i.e. on June 15, 2018. However, at about 3.50 a.m. on the same day she became drowsy, not arousable, respiratory pattern altered. She was intubated and put on ventilatory support at about 4.05 a.m.. She had a cardiac arrest at 6.40 a.m. on the said date and ultimately she was declared dead at 7.30 a.m. on June 15, 2018. The cause of death was written as "*sudden cardiac arrest in a postoperative case of laparoscopic cholecystectomy*". The death summary, however mentioned about the sudden fainting at the toilet.

COMPLAINT

After the death of the patient her husband Shri Majoj Chowdhury, the petitioner complained to the Commission, alleging medical negligence and wrong treatment. We heard the parties on February 14, 2019 when after being prima facie satisfied about the veracity of the complaint, we directed exchange of affidavits. The matter came before us on March 19, 2019 and ultimately on April 16, 2019 when we finally heard the parties at length after completion of affidavits.

RIVAL CONTENTIONS

The petitioner reiterated his complaint in his affidavit. The clinical establishment however tried to avoid the issue of fall in the toilet. The Clinical establishment in their affidavit totally denied the episode of fall in the toilet.

Paragraph 7 of the said affidavit is quoted below :

"With reference to paragraph 4 of the affidavit of the complainant, I say that allegation that the patient fell down in the bathroom and remained unattended for half an hour on 12.06.2018 is absolutely false and is afterthought. Had such event been true it could reasonably be expected to be mentioned in his original complaint but there was no whisper of falling down and remaining unattended. On 12.06.2018 at 12.10PM the patient was in the ward and treatment record does not indicate and any such incident. Had there been fall and lying down of the patient in the toilet unattended such serious event would not escape the notice of the nursing and other staff. There also nothing on record which may suggest such fall. The noting in the BHT on 12.06.2018 at 9.30PM which is about 10 hours after the alleged event, patient expressed she had a feeling of fainting while in the bathroom and nothing else and not to speak to speak of falling in bathroom and remaining unattended. Only such noting does not in any way suggest patient fell down in the

bathroom at 12.10PM and hospital is liable to not attending the patient in bathroom for half an hour."

EXPERT OPINION

Amongst the Members present, the Medical Expert, Dr. Madhusudan Banerjee and Dr. Makhan Lal Saha submitted their written opinion on the issue:-

Dr. Madhusudan Banerjee :

*Mrs. Sangita Choudhury, aged 24 years mother of two children sterilized after her second children, was admitted at the Mission Hospital with acute abdominal pain with history of amenorrhea, and vertigo which was more likely **fainting fits/Syncope** on 31st May, 2018.*

She underwent Cholecystectomy by Laproscopy on 5th June, 2018.

In the morning of 12th June, 2018, she fell down in the wash room/ (toilet) following an attack of Syncope/ unconsciousness. She recovered from that attack and returned to her hospital bed on her own after 15 minutes or so. Soon after the Ward Nurse found her in a state of shock and she was shifted to I.C.U. Her condition improved on resuscitative therapy and blood transfusion. Her condition deteriorated soon again. U.S.G. of abdomen was done then

which showed presence of fluid in Pelvic Cavity. Her Hemoglobin then was around 5gm. percent, all suggestive of shock from internal haemorrhage in abdomen. The Clinical picture is classical of disturbed ectopic pregnancy. The diagnosis was missed and she died haemorrhagic shock from ectopic pregnancy.

The establishment is responsible and accountable as the patient went to the said clinic with her ailment and was not a private patient of any doctor that attended her.

The patient lay unconscious in toilet for 15 minutes and so was missing from bed. But Nobody noticed that neither cared about it. The administration did not ask for Postmortem even though it was a case of unnatural death and issued death certificate giving a non-specific cause like Cardio Respiratory failure.

For deficiency in diagnosis and treatment by the doctors in charge the case may be referred to West Bengal Medical Council.

Dr. Makhan Lal Saha :

"Ms Sangita Chowdhury aged 26 years were admitted at Mission of Mercy Hospital (MMH) on 31.5.2018. under Dr P. Chowdhury with the diagnosis of gall stone disease. Patient also complained of vertigo and amenorrea for 2 months. All the investigations were done on 1.6.2018. The reports were all normal. In view of vertigo the patient was referred to Dr

Aditi Deb, ENT surgeon. Patient was referred to Dr A. Chakraborty for preanesthetic checkup. Laparoscopic cholecystectomy was planned on 5.6.2018 and preop advice was given on 4.6.2018. On 4.6.2018 reminder sent for PAC by Dr R. Chakraborty. Laparoscopic cholecystectomy was done on 5.6.18. and patient was received in the ward at 3pm on 5.6.2018. Before the operation patient was not seen by ENT surgeon Dr Aditi Deb and patient was also not evaluated for amenorrhea.

On 6.6.18 (1st postopday) patient was stable and was referred to gynecologist Dr Manju Kashyap for evaluation for amenorrhea of 2 months. Patient underwent ligation 1 year back. Urinary pregnancy test was negative. Dr Kashyap advised hormonal treatment for 7 days and advised for waiting for withdrawal bleeding. Patient was monitored by the general surgery team from 5.6.18 to 8.6.18 and was advised for discharge on 8.6.18. As the patient relatives did not want discharge before suture removal the discharge was held up.

Patient was seen by RMO general surgery from 9.6.18 to 11.6.18. Reminder sent to ENT surgeon Dr Aditi Deb for ENT evaluation on 11.6.18. Patient was seen by Dr Aditi Deb on 12.6.18. and advised some medicines.

The progress note on 11.6.18. By Dr P. Chowdhury revealed the plan of suture removal on 12.6.18 and discharge on the same day. There is no progress note on 12.6.18. morning

regarding the suture removal and discharge. **The nurses note** on 12.6.18. at 11.30am revealed stitches were removed at 11.30am by Stiphen. The nurses note on 12.6.18. at 2pm. Revealed patient was in shock and she called Dr Rahul to see the patient. **She also noted that patient told her that she fell down in bathroom 10-15 minutes back.**(BHT page 93)

The progress note on 12.6.18 at 2pm revealed Patient was in shock, lethargic, feeling discomfort, sweating. On examination pulse very feeble, Blood pressure 90/50mmHg and Blood sugar 191mg%. 2.5 litres of normal saline was advised to be infused in jet. At 3pm on 12.6.18 patient was shifted o ICU. The progress note revealed patient was still in shock and a good number of investigations were advised .Patient also complained of chest heaviness and pain abdomen. Dr Manju Kashyap gynecologist was informed. **One progress note on 12.6.18 at 6.30pm revealed the issue of ICU shifting was because of a fainting attack in toilet today.**(BHT Page No185)

Progress note on 12.6.18. at 9.30 revealed some improvement of the patient. Ultrasonography revealed a chink of fluid in pelvic region. Patient seen by Dr Manju Kashyap on 13.6.18. noted the symptoms and signs and the USG findings of chink of fluid in the pelvis. She advised repeat pregnancy test, Hb%, R.T.C. and a repeat ultrasonography of abdomen. On 13.6.18 the progress note at 12pm revealed the Hb has dropped down to 7.1gm%. Discussed with Dr P.

Chowdhury over phone and advised to transfuse 2 units of Packed red blood cells (PRBC). Repeat USG done on 13.6.18. - Moderate amount of collection with internal debris noted in pelvis 52cc approx.. Two units of PRBC transfused on 13.6.18 at 2.45pm. Progress note at 3.30pm on 13.6.18 revealed some improvement of vital parameters. Patient was reviewed by Dr Manju on 14.6.18 and advised to repeat Hb% and R.T.C. **Patient was reviewed by Dr Aditi Deb on 14.6.18 (time not mentioned) and she also noted the fact of sudden fall following a blackout episode.** (BHT page 192) She also advised some medicines and ENG.

Patient was again reviewed on 14.6.18. (Time not mentioned) and noted improvement of condition and fresh advice was given. Intravenous fluid was omitted and patient started on liquid diet. One more unit of PRBC transfused on 14.6.18 at 9pm.. The progress note on 14.6.18. at 11pm and at 1.15am on 15.6.18. revealed that the patient was stable. On 15.6.18 at 3.50am the progress note revealed patient became drowsy, not arousable, respiratory pattern altered, heart rate 48/min and blood pressure 90/50mmHg. Sudden onset bradycardia . Inj atropine given and patient was intubated and put on ventilatory support at 4.05am on 15.6.18. The progress note on 15.6.18 at 5.30am showed some improvement of vital parameters. On 15.6.18 at 6.40am the patient had cardiac arrest and CPR was started, Inj adrenaline was given, but the patient couldnot be revived and death was declared at 7.30am on 15.6.18. Cause of death" **sudden cardiac arrest in**

a postoperative case of laparoscopic cholecystectomy". Death summary written on 15.6.18 also mention about sudden fainting at toilet and subsequent deterioration of the patient.

Patient's husband Mr. Manoj Chowdhury lodged a complain before the WBCREC alleging that the patient fell down in bathroom on 12.6.2018. around 12.10 am.? and remain unattended for half an hour.He also alleges negligence of treatment.

The affidavit submitted by Dr Ranu Singh on behalf of Clinical establishment refuted the claim of any negligence in treatment of the patient during her stay at Mission and Mercy Hospital.Para 4 of the affidavit revealed the course of treatment of the patient in the hospital. However the issue of fainting and fall in bathroom on 12.6.18 is not being mentioned. Also the history of amenorrhea, gynecologist consultation and USG findings were also skipped while describing her course of treatment at the hospital. In para 7 of the affidavit Dr Ranu singh tried to explain that there was no episode of fall of the patient in bathroom and she claimed that there is no such record in the bed head ticket regarding this fall. However while going through the bed head ticket it was revealed that the incidence of fall at the bathroom was duly recorded in the nurses note and doctors note. So the claim by the CE that there was no history of fall does not stand and is a false submission by the CE by affidavit.

Comments

This young lady aged 26 years was admitted at Mercy Hospital on 31.5.2018. with diagnosis of gall stone disease. In addition to this patient had amenorrhea of 2 months and also complain of headache and vertigo. Patient was properly evaluated for gall stone disease and preoperative investigations were done from 31.5.18 to 4.6.18. patient was referred to ENT surgeon on 1.6.18 But she was seen by ENT surgeon on 12.6.18. . The amenorrhea for 2 months was not evaluated before operation and patient was referred to gynecologist Dr Manju Kashyap on 6.6.2018(1st postoperative day). The evaluation of amenorrhoea should have been done before operation with pregnancy test and USG of pelvis.

Laparoscopic cholecystectomy was done on 5.6.2018. Patient recovered well from 5.6.18 to 8.6.18 following operation . Patient was planned for discharge on 8.6.18. But the patient wanted discharge only after suture removal. So the discharge of the patient was held up. Patient was recovering well till 12.6.2018 afternoon. The sutures were removed at 11.30 am on 12.6.2018. At around 12noon on 12.6.2018 patient has gone to bathroom and alleged to have a fall and fainting attack at bathroom. On 12.6.2018 at 2 pm patient was found in shock in the ward and appropriate management were started. Patient was shifted to ICU. Patient was seen by Dr Manju Kashyap and advised for USG

abdomen and repeat pregnancy test. USG abdomen revealed fluid in pelvis. The repeat urine pregnancy test was however not done till the demise of the patient on 15.6.2018. Patient has significant reduction of hemoglobin and was given 3 units of blood , Although there was transient improvement, patient deteriorated on 15.6.2018. at late night and expired on 15.6.2018 at 7.30am. The death certificate mention the cause of death as " sudden cardiac arrest in a postoperative case of laparoscopic cholecystectomy". The exact cause of death was not ascertained till the death of the patient.

As the condition of the patient deteriorated after her alleged fall in the bathroom, the cause of death may have some relation to this fall in bathroom. As the cause of the death was not ascertained properly and in view of history of fall and deterioration of condition following the fall this case should have gone for postmortem examination to ascertain the cause of the death. The clinical establishment tried to suppress this fact and submitted before the commission that there was no such history of fall. But the progress note by nurses and doctors revealed the truth regarding the fall of the patient in bathroom and deterioration of her clinical condition following the fall.

The most likely cause of death was rupture ectopic pregnancy. Proper evaluation was necessary for diagnosis of

ectopic pregnancy and death could have been averted if proper steps were taken for diagnosis.

It appears there is gross deficiency in service on the part of the clinical establishment and this is a fit case for awarding compensation to the complainant."

MY VIEW

The provisions of **The West Bengal Clinical Establishment (Registration, Regulation and Transparency) Act, 2017**, do not empower us to go in to the issue of medical negligence on the part of the medical practitioner. However, the deficiency of treatment by the clinical establishment would definitely fall within our domain. In the instant case, the patient was admitted for laparoscopic cholecystectomy. However, she had complain of vertigo as well as amenorrhoea. From the medical records, it appears, for vertigo she was referred to Dr. Aditi Deb, ENT surgeon. Dr. Deb, however, did not find time to checkup the patient prior to her surgery. Patient was admitted on May 31, 2018 whereas Dr. Deb examined the patient on June 12, 2018. With regard to amenorrhoea, the patient was referred to Dr. Manju Kashyap, Gynecologist, who was also consulted after the surgery i.e. on June 6, 2018.

The patient approached the clinical establishment for her treatment. It is the duty of the clinical establishment to engage experts for her treatment. When laparoscopic surgery was planned for June 5, 2018, the correlated issues should have also been looked into prior to such surgery. We fail to appreciate, a mere consultation of an ENT surgeon could take thirteen days to happen. We are not sure, whether the incident of fall in the toilet could have been avoided, had there been earlier treatment done on the issue. The laparoscopic surgery was uneventful. The patient was stable. She was planned for discharge. Hence on that score, we do not find any deficiency, at least prima facie. However, the clinical establishment should have, in our view, been vigilant to have the patient examined by an ENT surgeon at the earliest that was not done.

There is one more serious aspect that we cannot overlook. The nurse's note reveal, there had been a fall in the toilet as reported by the patient herself. The incident happened at about 11.15 a.m. There should have been immediate medical intervention that was not done. The Doctor was called at 2 p.m. when the patient was in shock. This part of the incident was not at all admitted by Dr. Ranu Singh on behalf of the clinical establishment. In our view, the clinical establishment should have referred the issue for a post mortem examination to find out the cause of death. The death certificate

issued by the treating Doctors were not sufficient to indicate the cause of death. Our medical expert is of the view, the exact cause of death was not ascertained till the death of the patient. In our view, the clinical establishment cannot avoid their responsibility.

CONCLUSION

I have gone through Dr. Banerjee's opinion. According to Dr. Banerjee, it was a case of ectopic pregnancy. Dr. Banerjee opined, diagnosis was missed and the patient died of hemorrhagic shock from ectopic pregnancy.

Dr. Saha highlighted the issues as above. He was also of the opinion, "*most likely cause of death was rupture ectopic pregnancy*". In my view, it was a classic case that could be solved through autopsy report. Unfortunately, autopsy was not done. The clinical establishment cannot avoid their responsibility in this regard. They should have opted for autopsy and advised the patient party accordingly. It was not done. It is true, the Commission cannot come to a definite conclusion, the medical negligence was the direct cause of death. We are *ad idem*, it is a case of gross deficiency in service. We are *ad idem*, the death was likely caused by rupture ectopic pregnancy that the establishment and the Doctors overlooked. We feel, the complainant is entitled to appropriate compensation in accordance with the provision for the

said Act of The West Bengal Clinical Establishment (Registration, Regulation and Transparency) Act, 2017.

RESULT

We award a sum of Rs. 8 lakhs as compensation. The hospital authority must pay the said sum to the complainant positively within a month from date and file compliance thereof with the Commission within a week thereafter.

Sd/-

(ASHIM KUMAR BANERJEE)

We agree,

Sd/-

Smt. Sanghamitra Ghosh, IAS, Vice –Chairman

Sd/-

Dr. Sukumar Mukherjee,

Sd/-

Dr. Makhanlal Saha,

Sd/-

Dr. Madhusudan Banerjee,

Sd/-

Dr. Maitrayee Banerjee

Authenticated

ARSHAD HASAN WARSI
Secretary
West Bengal Clinical Establishment
&
Regulatory Commission
Joint Secretary
Health & F.W. Department