

Office of the West Bengal Clinical Establishment Regulatory Commission  
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**Case Reference: KOL/2018/000376**

**Bratati Banerjee..... Complainant**

**vs**

**Desun Hospital and Heart Institute ( A Unit of PN Memorial Neurocentre & Research Institute Limited)..... Respondent/ Respondents**

**ORDER SHEET**

Office Note	Order No.	Date	Order
	1.	04/07/2019	<p>This case would pertain to medical negligence both from the Doctors as well as the clinical establishment. The Doctors in the panel are unanimous of the view, there is communication gap between the patient party and the treating Doctors as also the clinical establishment. The clinical establishment would contend, due counselling was made at every stage. They are also asserting, high risk consent form was duly obtained from the patient as well as his wife before surgery. On a query made by us, Medical Director, Strategy and Growth, would inform us whatever best treatment could be given to the high risk patient, was duly given and there was no latches either on the part of the Doctors or on the part of the clinical establishment.</p> <p>We have considered the rival contentions. The Doctors present in the panel have scrutinised the medical records. We are not in a position to accept the assertion made by the clinical establishment. We are aware of our limitation to deal with the issue of medical negligence qua the Doctors, however, the conduct of the clinical establishment is not above board. Even if we give credence to what they would assert we would not be in a position to satisfy ourselves from the medical records, the patient party was apprised of the nature of treatment and</p>

the anticipated risk. On that score, we are confident, there was a communication gap to a substantial extent.

So far as the medical part is concerned, it would be for the Medical Council to consider, we permit the petitioner to approach the forum, if she so chooses.

So far as the clinical establishment is concerned, the Director present, would assure us, they would be cautious in future and would videograph the counselling process particularly, in high risk cases. They would also obtain necessary signature of the patient party evidencing counselling process.

We would suggest, they must display such assurance in conspicuous parts of the establishment so that the patient party could also be made aware of. The Director would also assure us, they would file an affidavit recording their assurance together with a screen shot of the display. Such affidavit may be filed within three weeks from date.

To ameliorate the grievance of the petitioner that we find justified to a large extent, we feel, interest of justice would be sub served, if we ask the clinical establishment to compensate the petitioner by paying a token compensation of Rs.50,000/-. The petitioner is present. She would communicate her Bank details in course of tomorrow. The Director would assure, the money would be transferred within one month.

The complaint is disposed of.

Sd/-

Hon'ble Chairperson

Sd/-

Dr. Sukumar Mukherjee, Member

Sd/-

Dr. Madhusudan Banerjee, Member

Sd/-

Smt. Madhabi Das, Member

*Authenticated*  
*[Signature]*

**ARSHAD HASAN WARSI**  
WBCS (Ex)  
Secretary  
National Council Establishment  
Mission