

Office of the West Bengal Clinical Establishment Regulatory Commission
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Case Reference: ID-SDJ/2018/000433

Present: Justice Ashim Kumar Banerjee (Retired), Chairman

Dr. Sukumar Mukherjee,

Dr. Makhanlal Saha,

Dr. Madhusudan Banerjee,

Mr. Pradip Paul.....Complainant

- Versus-

Medica Superspeciality HospitalRespondent

Heard on: July 03, 2019.

Judgment on: July 03, 2019.

The patient Ms. Sukla Paul visited the clinical establishment at the outdoor. She was a kidney patient having impaired renal function. The Nephrologist who attended the patient, advised for dialysis. She was taken to the dialysis centre for making a channel in the right sided neck vein. Dr. Anupam Majumdar the RMO, first tried right side of the neck, however by mistake he punctured the right carotid artery with needle. When he realised his mistake he immediately withdrew the needle and tried to accomplish

haemostasis by pressure and application of ice. Dr. Majumder would contend before us, such procedure could stop bleeding. Then he attempted central venous channel on the left side of the neck and was successful to do so. The patient was then given dialysis. At that juncture, doctor noticed haematoma in the right side of the neck and recommended admission. The patient was admitted and shifted to bed. The patient had respiratory distress from tracheal pressure and was shifted to ICU where intubation was done and the patient was put on ventilation. On the referral of the attending doctor both Cardiothorasic Surgeon and Vascular Surgeon examined the patient, however, expressed their inability to do anything active to repair the vessel which was not accessible due to large haematoma and local edema.

We have examined the medical records. We have heard Dr. Anupam Majumder and are apprised of the procedure done by the doctors to save the patient. The patient was in ICU for about fourteen days. The Hospital Authority tried their best to save the patient by providing large number of units of blood for transfusion, platelet transfusion, plasma transfusion and injection of blood coagulation factors. Pertinent to note, the patient was admitted on July 13, 2018 and she breathed her last on July 24, 2018.

The petitioner, husband of the patient was critical about the medical negligence. According to him, Dr. Majumder never informed them before hand

about the puncture caused at the right side neck. It was only after the haematoma being surfaced, he admitted his mistake. The petitioner would admit, the Hospital Authority tried to save the patient, even the costliest injection was put to the patient for which they did not pay. Pertinent to note, the patient went for dialysis with a package of Rs.30, 000/-. The patient party deposited a sum of Rs.40, 000/- whereas hospital bill rose up to Rs.6.46 lacs. The Hospital Management would, however, contend, they never demanded any further sum from the patient party.

The above facts would reveal, the direct cause of death would principally due to haemorrhage that the treating doctor could not effectively control. As a result, the patient died from massive wide spread bleeding. The doctors present in the panel are unanimous of the view, this was an exceptional situation that could happen in a case of the like nature and we cannot conclusively suggest any medical negligence, fixing the responsibility on Dr. Majumder. At the same time, we cannot be oblivious of the fact, the petitioner lost his dearest and nearest one. In our view, this is a proper case to award a token compensation.

The provisions of the **West Bengal Clinical Establishment Regulatory Act, 2017**, if applied through the letters of law, would not permit us to award any compensation less than Rs.10 lacs. However, considering the peculiar nature

of this case, we feel, the interest of justice would be sub served if we grant a token compensation of Rs.2lacs.

We take such decision considering the fact; the hospital tried their best to save the patient after the unfortunate incident spending lacs of rupees without asking for reimbursement.

We direct the clinical establishment to make a suitable fixed deposit of Rs.2 lacs in the name of the son of the patient viz. **Subhrajit Paul** in any nationalized bank at **Balurghat, Dakshin Dinajpur** and send a photocopy of the same to this Commission reporting compliance. The entire process must be done within a period of one month from date.

We also permit the petitioner to approach the West Bengal Medical Council as against the treating doctor, if he so likes.

The complaint is disposed off accordingly.

Sd/-

(ASHIM KUMAR BANERJEE)

We agree,

Sd/-

Dr. Sukumar Mukherjee,

Sd/-

Dr. Makhanlal Saha,

Sd/-

Dr. Madhusudan Banerjee,

Authenticated


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