

Office of the West Bengal Clinical Establishment Regulatory Commission

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**Case Reference: HOW/ 2017/000009**

**Mr. Anupam Sarkar..... Complainant**

**VS**

**Fortis Hospital ..... Respondent/ Respondents**

**ORDER SHEET**

Office Note	Order No.	Date	Order
	1.	22/08/2019	<p>This is an application for review filed by the complainant against the judgement and order dated January 3, 2019 by which the Commission disposed of the complaint without imposing any additional compensation on the clinical establishment. Pertinent to note, the Commission, in course of hearing, recorded, the concession made by clinical establishment waiving a substantial part of the bill to the extent of Rs.20,50,854/-. The judgement was delivered on the basis of the majority view, as Dr. G. K. Dhali, one of the panel members, gave his minority view.</p> <p>If we go through the judgement, we would find, the experts present in the panel were unanimous of the view of the deficiency in giving service to the patient. There had been indication of lack of proper treatment. However, the Commission was cautious enough to restrict themselves from making any comment on the treatment as it would be within the complete domain of the West Bengal Medical Council.</p> <p>On the service irregularity, various aspects were highlighted in the</p>





judgement that would also record the majority and minority view of the experts present in the panel. The view applicant would, however, contend, there are certain issues which should have been highlighted in the judgement.

It is also pointed out, the date of death was wrongly recorded as April 23, 2017 at page 6 of the judgement that should be April 22, 2017. Let the date of death be corrected accordingly.

The Learned Counsel appearing for the review applicant would raise three issues.

- i) The postmortem report was not discussed in the review, although autopsy surgeon was examined during hearing.
- ii) The treating doctor prescribed high spectrum antibiotics. According to him, those medicines could be easily available at a much lesser price, however, the Hospital Authority chose to supply at high priced antibiotics. However, at the time of refund it was valued at a lower price.
- iii) The Hospital also levied maintenance charge of Rs.150/- per day when the patient was in ICU as well as in bed.

We have examined the judgment. On the first issue, the applicant has a misconceived view. If we look at Dr. M. L. Saha's opinion, which is a part of the judgment we would find, he discussed in detail the postmortem report particularly, at page 6. The relevant extract is quoted below:

*"The postmortem report revealed blood in peritoneal cavity and death was ascribed to this bleeding which was ante mortem in nature."*





*In view of hypotension and sudden drop of hemoglobin in 2<sup>nd</sup> postoperative day postoperative bleeding was a strong possibility. Although seen by a team of doctors at no point of time bleeding was suspected and surgical intervention was considered. There was failure of judgment on the part of the treating doctors and surgical intervention could have saved the patient."*

The applicant is possibly under misconception, the opinion is not a part of the judgment. He has totally misunderstood. The experts hearing the complaint, along with the Chairman would express their view in the form of opinion and thereafter at the time of delivery of the judgment by the Chairperson those opinion were not only considered but also made part of the judgment.

Dr. Faisal on behalf of the clinical establishment would also inform us, those infirmities pointed out by the Commission time to time were taken note of by the clinical establishment and were duly redressed at their end.

This leaves us with the issue of high price antibiotics. It is true, it was not discussed in detail in the final judgment. By the order dated February 16, 2018 and May 25, 2018 these infirmities were duly taken note of by the Commission. However, the Commission did not consider them relevant to highlight in view of concession made by the clinical establishment by foregoing a substantial part of the bill to the extent of Rs.20,70,854/-. These infirmities were duly highlighted during trial as we find from the order sheets. The judgment is a final outcome of the complaint. However, the earlier orders recording such





infirmities are not washed away by the final judgment. No further clarification is necessary.

Sd/-

Hon'ble Chairperson

Sd/-

Dr. Madhusudan Banerjee, Member

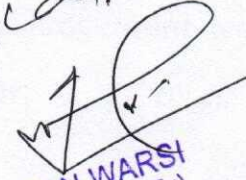
Sd/-

Dr. Debasis Bhattacharya, Member

Sd/-

Dr. Abhijit Chowdhury, Member

*Authenticated*

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