

Office of the West Bengal Clinical Establishment Regulatory Commission

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Case Reference: ID-HOW/2017/000238/000245

Present: Justice Ashim Kumar Banerjee (Retired), Chairman
Dr. Sukumar Mukherjee,
Dr. Gopal Krishna Dhali,
Dr. Makhan Lal Saha,
Dr. Madhusudan Banerjee.
Dr. Debasis Bhattacharya,
Dr. Maitrayee Banerjee
Smt. Madhabi Das.

**Mr. Rajib Banerjee.....Complainant
- Versus-**

**Narayana Superspeciality Hospital
.....Respondent**

**Heard on: February 2, 2018, March 9, 2018 April 27,
2018, July 10, 2018, August 7, 2018, September 18, 2018,
June 25, 2019 and September 17, 2019.**

Finally Heard on: October 31, 2019.

Judgment on: January 9, 2020.

FACTS

The patient Ritoja Banerjee, daughter of complainant Rajib Banerjee, consulted Dr. Abhra Mukhopadhyay with pain abdomen and she was prescribed medicine and was advised to do USG abdomen that was done on October 13, 2017. The USG report would reveal gall bladder stone. As per advice of Dr.



Mukhopadhyay, the patient was admitted in Narayana Hrudalayay by the complainant, the father of the patient. The patient was admitted under Dr. Partha Pratim Sen on October 14, 2017. Pre-anesthetic check-up was done on October 27, 2017 and patient was taken up for laparoscopic cholecystectomy on the same day at about 1.30. p.m. The patient was hemodynamically stable and surgical procedure was uneventful as per the anesthetic record. Dr. Partha Pratim Sen did the surgery being assisted by Dr. S. Sukla. Dr. M. Khan gave the anesthesia as would appear from the O.T record. Dr. Sen visited the patient on the same day evening as it was recorded in the BHT. The next recording was done by Dr. Sen on the next day that is on October 28, 2017 at 10.45 a.m., however, from October 27, 2017 evening to October 28, 2017 morning there is no note in the BHT by any one of the duty doctors. The nursing chart, however, showed vitals recorded by the nursing staff on duty. From October 29, 2017 night at 12.30 a.m. the patient's condition deteriorated because of post operative complication. At 3 a.m. on the same day the patient had tachycardia (pulse 126/min), abdominal distension, blood pressure 110/70 mmHg. The patient mentioned about shortness of breath, abdominal pain, abdomen diffusely tender and pulse rate increased to 150/min. Dr. Sen advised for USG of the whole abdomen and urgent referral to anesthetist on call. Anesthetist came at 5 a.m. urgent USG and X-ray abdomen was advised, repeat request was made by Dr. Sen for USG and X-ray, however, the patient unfortunately had a cardiac arrest at 10. a.m. on October 29, 2017 and the patient was declared dead at 10.30



a.m. on the same day. Pertinent to note, neither the USG nor the X-ray was done at the appropriate time.

The complaint is before us with his complaint of medical negligence.

The matter came up for hearing after completion of pleadings. The concerned treating doctors were examined on oath, so was the nursing staff. The matter was finally heard by us on October 31, 2019 when hearing was concluded and judgment was reserved.

PLEADINGS

The complainant took the entire medical records to Dr. Ajay Kumar Gupta, retired Prof. of Forensic Medicine, IPGME &R, Kolkata for his opinion. Dr. Gupta found several irregularities in the medical treatment and was of the view, there had been wrong treatment for which the death of the patient occurred. The relevant extract of his opinion is quoted below:-

"OPINION:

After careful consideration of the findings in all the Medical records of Narayana Super Speciality Hospital, Howrah-711103 from 9:52 am on 27/10/2017 (Date of admission) to 10.30 am 29/10/17, I am finally of opinion that Dr. Partha Pratim Sen, Surgeon-in-charge, Narayana Super Speciality Hospital, Howrah -711103 in respect of Mrs. Ritoja Bajerjee, 11 yrs 10 months, while performing Laparoscopic Cholecystectomy Operation on Mrs. Ritoja Banerjee, 11 yrs 10 months, caused Surgical Malady on her, did not exercise reasonable degree of due care and skill and definitely causing Damage to her



health and prolongation of her suffering and Surgical malady in Ritoja Banerjee; the causation of Surgical Malady in Kum. Ritoja Banerjee, 11 yrs 10 months, definitely speaks of itself, not only commission of definite rash and negligent act on the part of the Surgeon-in-charge, but also amounts to definite dereliction of duty.

By not mentioning in detail the Surgical Malady in the progress note by Dr. Partha Pratim Sen, Surgeon-in-charge also speaks of a glaring example of suppressing the truth regarding the actual cause for the deteriorated clinical status of Kum. Ritoja Banerjee, 11 yrs 10 months during the period from 9:52 am on 27/10/2017 (Date of admission) to 10.30 am 29/10/2017, after Kum. Ritoja Banerjee, 11yrs 10 months, was admitted under him and Laparoscopic Cholecystectomy Operation on Kum. Ritoja Banerjee, 11 yrs 10 months, was performed by Dr. Partha Pratim Sen on 27/10/17 around 2 pm.

By way of not informing the local Police Station for holding Medico-legal Post Mortem Examination of Kum. Ritoja Banerjee, i.e. a case of Sudden Death following Surgical Operation : Post Operative Laparoscopic Cholecystectomy amounts to Commission of Breach of the Law of the Land that Medico Legal Post Mortem Examination must be done in all cases of Sudden Death following Surgical Operation."

Being fortified by the opinion of Dr. Gupta the complainant filed his complaint. In his affidavit filed on February 12, 2018, he narrated the incident in detail. Paragraph 8 to 27 of his affidavits narrates the unfortunate sequence of event

that ultimately resulted in death of a young girl of 14 years. The paragraphs are quoted below:-

8. " That on the schedule date of operation i.e. 27.10.2017 we reported ourselves at Narayana Super-specialty Hospital, Howrah-3, WB at around 08.00 am strictly maintaining the food timing as advised by Dr. Partha Pratim Sen, Surgeon-in-Charge vide his prescription dated 17.10.2017. From Admission Section we were been directed to semi private ward cabin (Bed No 320) at around 10.45am. Medical Reports of Miss Ritoja Banerjee dated 14.10.2017 were reviewed by Dr. Vikash Jha (Regn. No. 36778 RMC), Jr. Anesthetists with no interaction with parents. We also have no interaction with Sr. Anesthetist Dr. M. Khan during any point of time though the patient is a minor. Ritoja was taken inside the Operation Theater premises at around 11.30 am.

9. That Dr. Partha Pratim Sen, Surgeon-in-Charge arrived at the Hospital at around 2.00PM on 27.10.2017 and went inside Operation Theatre. At around 3.00 PM two nurses came out from the Operation Theatre and informed that operation is over. They were carrying one organ on a tray, which they informed us, as that of our daughter Miss Ritoja Banerjee's gallbladder. They also cut open the same and we observed yellow colored granular object inside it.

10. That we were more anxious to know the health status of our daughter Ritoja from these two nurses. We enquired them about the same but we noticed that



their body language is shaky and denied any clear answer and averted our question by saying that doctor will brief us everything in some time. Thereafter Dr. Partha Pratim Sen, Surgeon-in-Charge came out from the Operation theater and informed us that the "Operation is successful and Ritoja is alright, presently she has been kept in recovery room. Soon she will be shifted to ward."

11. That around 03.00pm Ritoja was taken out from the OT in a visibly distressed condition and she was shouting and complaining utter pain in her abdomen. She was consoled by us, by saying that for the first day there will be pain but this continued for the rest of time without any remission.

12. That no Doctor neither Dr. partha Pratim Sen Surgeon-in-Charge, Dr. M. Khan Anesthetic In charge, Dr. S. Sukla 2nd Surgeon nor any assistant doctor under them or the Nursing-in-Charge attended my Daughter Miss Ritoja Banerjee from 03.00pm dated 27.10.2017 onwards after she was shifted to the bed no 320 in the Semi Private ward cabin after her Laparoscopic Cholecystectomy Operation was over and when she was suffering from acute pain in abdomen even after several call from our end to all concern.

13. That the abdominal pain of Miss Ritoja Banerjee continued throughout the night between 27.10.2017 and 28.10.2017, the entire night Ritoja was sleepless and complained about pain but nobody listened to her as well as her mother's request to examine the health condition of Ritoja Banerjee. Moreover in a



Super Speciality hospital like Narayana at night no housekeeping staff was available to give her bed pan to do urination, even after repeated call and finally Ritoja soiled her bed helplessly after an inordinate wait.

14. That after undergoing the Laparoscopic Cholecystectomy Operation on 27.10.2017 my daughter Miss Ritoja Banerjee were first examined by any Doctor only at 10.45 am on the next day i.e. on 28.10.2017 when Dr. Partha Pratim Sen Surgeon-in-Charge came to visit Ritoja Banerjee at her Bed no 320 in the Semi Private Ward cabin of Narayana Super-speciality Hospital, Howrah-3, WB.

15. That during the said visit of Dr. Partha Pratim Sen Surgeon-in-Charge at 10.45am on 28.10.2017 my daughter Miss Ritoja Banerjee informed Dr. Partha Pratim Sen Surgeon-in-Charge about the acute pain in her stomach she is experiencing since her operation is over i.e. from 3.00pm on 27.10.2017 onwards. I and my wife also informed Dr. Partha Pratim Sen Surgeon-in-Charge that we are noticing swelling of our daughter's face and stomach. But curiously enough both the points were ignored by Dr. Partha Pratim Sen Surgeon-in-Charge and he told us everything will be okay without examining anything. However, we were very surprised to note that the schedule discharge date of Ritoja Banerjee. i.e. on 29.10.2017 was deferred to 30.10.2017 (Monday), but there was no relevant investigation like X-ray, USG, LFT were advised by Dr. Partha Pratim Sen Surgeon-in-Charge at this stage to diagnose



as to why Ritoja Banerjee was suffering from acute persistent abdominal pain with nausea and vomiting since her operation is over on the previous day i.e. on 27.10.2017 at around 2.00pm. Before leaving, Dr. Partha Pratim Sen Surgeon-in-Charge advised Dr. Niladri, on duty RMO to remove drain pipe and channel. Those were removed subsequently. Though soft diet was prescribed by doctor in his progress note however liquid food (dal) was given to her in lunch.

16. That in the evening of 28.10.2017 at around 05.00pm Dr. Partha Pratim Sen Surgeon-in-Charge visited my daughter, we informed him regarding the pain and swelling again and again. Surprisingly he ignored not only our observation but also complaint from the patient herself. However, to reduce the swelling of stomach Dr. Partha Pratim Sen Surgeon-in-Charge advised me to bring some Potato Chips and Coka like fizzy drink so that she can pass flatus. As this conversation was going on Ritoja vomited heavily (this was the second time vomiting since morning of 28.10.2017). On seeing this vomiting Dr. Partha Pratim Sen Surgeon-in-Charge changed his plan of fizzy drink and advised Dr. Niladri, on duty RMO to start IV fluid again. Surprisingly, at this stage also no relevant investigation like X-ray, USG, LFT were advised by doctor to diagnose as to why Ritoja Banerjee was suffering from acute persistent abdominal pain with nausea and vomiting. Also knowing it very well that the next day i.e. on 29.10.2017 being a Sunday and the USG section of Narayana Super-speciality Hospital, Howrah-3, WB will remain close on this day.



17. We Presumed that emergency condition may arise at night we requested Dr. Partha Pratim Sen for his mobile number but he refused to give any and told RMO will contact him incase required. As Dr. Partha Pratim Sen was not paying any importance to our complaint, I visited Dr. Abhra Mukhopdhyay later in the evening of 28.10.2017 at his residence's chamber and informed him that the trauma Ritoja is going under and we are as well not comfortable on her health condition. He contacted Dr. Partha Pratim Sen over phone and after the conversation Dr. Abhra Mukhopdhyay narrated us that as per Dr. Partha Pratim Sen , there is nothing to worry and all our observations are " our over apprehension only". During this time we also reminded Dr. Abhra Mukhopdhyay, regarding his verbal assurance and duty as a house physician of providing all kind of medical monitoring and supervision of Miss Ritoja Banerjee during her hospital stay, as he is associated with this said Hospital and our main guide for selecting this nursing home and surgeon amongst other, what was absolutely absent from his end.

18. That though there was no relief of the acute pain my daughter Miss Ritoja Banerjee was suffering, no Doctor, neither Dr. Partha Pratim Sen Surgeon-in-Charge, nor Dr. M. Khan Anesthetic In-Charge attended my Daughter Miss Ritoja Banerjee from 07.00 pm dated 28.10.2017 onwards till 03.00 am of 28.10.2017.



19. That the Night between 28.10.2017 and 29.10.2017 my daughter Miss Ritoja Banerjee was again sleepless and she went on complaining about her acute pain throughout the night and she was restless. At around 12.30 am on 29.10.2017 my daughter again vomited and this time clot of blood was found in the vomitus. My wife reported this very serious incident and shown the vomitus to the on duty nursing staff and to Dr. Niladri, On duty RMO but nobody paid any seriousness on this.

20. That around 3.00am on 29.10.2017 I had to reach Narayana Super Speciality Hospital and requested the RMO to examine the health condition of my Daughter. No Senior Nursing staff were present at night to monitor the health condition of Ritoja Banerjee.

21. That Dr. Niladri, on duty RMO discussed the health condition of my daughter Miss Ritoja Banerjee with Dr. Partha Pratim Sen over phone at around 3.00am on 29.10.2017 and three injection e.g PCM (IV), Pethidine 975mg) IM and Buscopan (20) IV were administered simultaneously. Immediately after administration of these three injection we observed that heart of my daughter is pumping at a very high rate and it was so heavy that it can be observed from outside. She also started sweating. The matter was brought to the notice of Dr. Niladri, On duty RMO at around 3.30AM, he contacted Dr. Partha Pratim Sen, over phone. Dr. Sen advised to call any on duty Anesthetists to examine the health condition of Miss Ritoja Banerjee.

Accordingly Dr. Arpan Nandy visited my daughter at around 05.00 am on 29.10.2017. On enquiry he informed us that the patient is heavily dehydrated for which he was introduced bolus 250ml IV. He also informed that bowel movement has not yet started as there is no peristaltic sound in the abdomen of my daughter and the periphery of her body is cold. On my further enquiry he informed us that he is giving a detail report about patient condition to Dr. Partha Pratim Sen Surgeon-in-Charge and he will in turn update us about future treatment procedure. It is also noted by us that though it is a very SOS condition even at this point of time also Dr. Partha Pratim Sen Surgeon-in-Charge not present himself at the Hospital or not bothered to consult with any Cardiologist at this point of time to reduce the excessive heart rate of my daughter Miss Ritoja Banerjee.

22. That at around 07.00 am on 29.10.2017 we again contacted Dr. Abhra Mukhpodhyay through SMS and over phone and requested him for immediate help but practically no immediate aid was made available by him.

23. That at around 08.00 my daughter was forced to go to toilet as the nursing staffs were refused to give any bed pan to her even after our repeated calls instead the nurse on duty instructed my wife to take Miss Ritoja Banerjee to the bathroom. On her return from the toilet the nursing staff tried to put enema on my daughter Ritoja Banerjee and they were tried forcibly put some higher sizes of enema as smaller size of it was not putting enema further worsen the health

condition of my daughter Miss Ritoja Banerjee. She started losing her sense and was gone into a confused state.

24. That no close monitoring of health condition of Miss Ritoja Banerjee was carried out by any doctor at this point of time. After a little while at around 09.00am on 29.10.2017 we observed that the entire hand of my daughter is absolutely cold. We shouted for immediate help then only the morning shift nurse called one senior brother from other ward. He immediately understood that the situation. Blood Pressure was measured and it was not recordable; Saturation was measured (after lot of searching a Saturation measuring instrument was found) and the same was 83% with Oxygen. Immediately they took the decision to shift her to the ICU.

25. That again surprisingly when all this was going on Dr. Niladri, on duty RMO was still busy is explaining me what he had discussed with Dr. Sen over phone and also explained that though USG is suggested but it cannot be done today i.e. on 29.10.2017 as it is a Sunday and USG lab is closed for the day. We also noticed that Dr. Niladri was on continuous duty for three days at this ward.

26. That at around 09.25am on 29.10.2017 though the complication was turning out to be a Cardiac Complication but the patient was shifted to Medical ICU in a gasping condition. We were not allowed inside the ICU and kept



waiting outside. Security arrangement were increased to prevent us from entering inside the ICU. Even after half an hour i.e around 10.00am of 29.10.2017, Dr. Partha Pratim Sen Surgeon-in-Charge reached hospital premises but it is needless to mention that was too late.

27. That at around 10.30 am on 29.10.2017 Dr. Partha Pratim Sen Surgeon-in-Charge informed us in a very casual way that "sorry" and my daughter is no more."

The hospital denied their allegation by filling affidavit, so was Dr. Partha Pratim Sen. They would obviously deny each and every allegation, however, one thing is clear that repeated advise for USG and X-ray could not be done on the pretext of day being Sunday. Moreover, on examination of the records, we find, there was no proper sonologist in the Clinical Establishment. One Dr. Behera was said to be the sonologist. When we examined him, we find, he did not have any proper qualification. In his evidence, he admitted so.

EVIDENCE

We examined the doctors and the para medical staff. The evidence being relevant herein, are set out bellow:-

Deposition of Dr. Partha Pratim Sen Surgeon-in-Charge-

On 27.10.2017, Ritoja Banerjee, the service recipient, was admitted under me at Narayana Superspeciality Hospital. After per-anesthetic assessment, she



underwent laparoscopic cholecystectomy on 27.10.2017. After the operation, the patient recovered and then, she was shifted from recovery room to the bed. The patient subsequently died on 29.10.2017 at 10.30 am.

It is true that in paragraph 4 of my affidavit, I have stated that on 29.10.2017, at around 7.30am in the morning, I contacted the hospital and enquired about the medical condition of the patient. I was told that the patient's medical condition was improving and she was very hungry and the family was insisting that she may be given some food.

At this, stage, the attention of the witness was drawn to a note in the Bed Head Ticket (29.10.2017 at 8am) and more particularly to the parameters of the patient noted therein.

I agree that when the pulse rate of the patient was 158, having abdominal pain, having shortness of breath, it cannot be said that the condition of the patient is good. However, I was reported so by RMO.

At this stage, the witness said that I talked to the hospital at around 7.30 am. Therefore, having recorded in the Bed Head Ticket at 8am subsequent to my phone call.

At this stage, the witness volunteered that he has been informed by the hospital authority and that must not with reference to note in the Bed Head ticket at 8am because I talked to the hospital at 7.30am.

To the Commission: *I do not find that there is any note in the Bed Head Ticket between 5.10am and 8am. It is not possible for me to ascertain that how the medical condition of the patient improving was so communicated to me.*

Therefore, while I was on my way to the hospital at around 9am I received a phone call from Dr. Tanjib, the RMO and I was informed that the medical condition of the patient was not good and she started rolling her eyes and asked me whether the patient should be shifted to ICU or not? Immediately, I told not to waste any time and to shift the patient to ICU. At 8.30am, I received a phone call from the hospital and the RMO was asking me that the patient was feeling hungry and whether she should be fed or not. I replied that until the USG and the blood tests were done no food should be allowed to the patient. I do not find any note in the Bed Head Ticket that between 4.45am to 8am that on what basis I was told by the hospital at 7.30am that the condition of the patient was improving and I admit that what has been noted in the Bed Head Ticket about the medical condition of the patient at 4.45am never indicates that patient's condition was good and stable.

At this stage, the attention of the witness is drawn to his statement made in the affidavit on page 2 of para 4 that whether it was stated "on 27.10.2017, Ritoja was shifted bed no.320 or no one attended Ritoja throughout the night between 27.10.2017 to 28.10.2017 or when I was visited Ritoja on 29.10.2017". By such statement I mean to say that it is not correct that the patient was not attended by any doctor during that period.

At this stage the attention of the witness was drawn to the note in the Bed Head Ticket and he admitted that laparoscopy done at 2pm on 27.10.2017. She was then shifted to bed after recovery but there is no note in



the Bed Head Ticket by the doctors until 28.10.2017 at 10.45am which was done by me.

It is true that before I examined the patient on 28.10.2017 at 10.45am, the patient was not attended by any doctor as it transpires from the note in the Bed Head Ticket. I do admit that in post-operative period the patient should have been monitored and should be attended by the RMO from time to time but in this case, no record was kept.

On the previous date of hearing, I was present when Dr. Shukla was examined before the Commission and I remember that Dr. Shukla said before the Commission that I have not physically examined the patient and he recorded his note in the Bed Head Ticket based on the sister's communication made to him by the sister.

The attention of the witness is drawn to the vital signs monitoring chart and more particularly to the fact that according to the attending doctor, the vitals were recorded at 6pm on 28.10.2017 and that day Dr. Shulka recorded his note at 9pm.

To the Commission: I am general surgeon but I also practice in pediatric surgery. On 28.10.2017 at 7pm, there is a note associated with vomiting once and she was prescribed Reglan 10ml IVTDS (three times daily) injection in a girl of 11 years 10 month age of 51 kg weight. But actually I mean to say that I told to give one injection on that day and on the next day I will decide whether to increase the dose or not.

At this stage, the attention of the witness is drawn to the medication note of the patient that the Reglan given at 7pm on 28.10.2017 and 29.10.2017 at 6am and that my advice was not followed. Dr. Sen agreed that the patient died of hypovolemic shock with higher concentration of Hb% following laparoscopic cholecystectomy with subsequent cardiac arrest.

Cross-examination by Mr. Pranshu Bothra on behalf of the Clinical Establishment:

- 1. Why you made a statement to the mother that you need not to worry in paragraph 19 of your affidavit?*

Ans. Since she was quite stable, I assure the mother not to get worried.

- 2. On what basis you made the averments in paragraph 25 of your affidavit that Ritoja's pain and distress was better?*

Ans. I was called by the RMO over phone that at 8am in the morning the blood pressure and oxygen saturation of the service recipient was normal and she is feeling hungry but she has not passed flatus and stool. On the basis of RMOs saying, I made the averments.

To the Commission: *At the stage, the attention of the witness is drawn to the note of RMO in the Bed Head Ticket at 8am. I find that blood pressure was 110/70, pulse rate 158/min, oxygen saturation 97% and the patient was in abdominal pain with shortness of breath. In my opinion, this parameters which are noted in the Bed Head Ticket by the RMO does not indicate that the patient was stable.*

- 3. At 8 am you talked to the ward RMO then you advised for USG.*



Ans. No, I advised for USG at 4.45am and according to the record, USG was done at 9.45am by Dr. Behera and she was declared dead at 10.30am.

4. Why did you advised for USG?

Ans. I advised USG to rule out any intra abdominal collection.

Deposition of Dr. Tanjib Hassan Mullick

I am a MBBS and passed from Katihar Medical College in the year 2012. I am registered with West Bengal Medical Council. On 29.10.2017, I was attached with Narayana Superspeciality Hospital and on that day, I joined my duty at 9am and while I was attending another patient, I got a phone call from ward brother that the condition of this particular patient, Ritoja Banerjee is critical. I immediately rushed and found the patient in a gasping condition. I talked to Dr. Sen and on his advice, I shifted the patient to ICU with the help of the ward brother. I have not recorded my observation in the Bed Head Ticket.

Cross-examination by the Complaint: *It is not true that I was not present in the ward as claimed by the complainant.*

Cross-examination by Mr. Pranshu Bothra on behalf of the Clinical Establishment: *I have only shifted the patient and did not provide any treatment. It took 10 minutes to shift the patient from the bed to ICU. I saw the parents of the service recipient who were at the bed side.*



Deposition of Dr. Shashank Shukla

I am working as a Junior Consultant with Narayana Multispeciality Hospital and Narayana Super Speciality Hospital. Under a service contract, I used to receive a Fixed Retainership of Rs.80 thousand, Minimum Assured Incentive of Rs. 25 thousand and Additional Professional Fee, payable as per the invoices raised. I am MBBS and DNB. I am registered with Medical Council UP. I have not updated my DNB. I have not updated my postgraduate qualification. I have applied to the West Bengal Medical Council for registration as well as for up gradation of my degree about a month back. I have been practicing at this hospital since for the last 1 year. I am a Junior Consultant and I used to see the patient admitted under Dr. P.P. Sen. I have not seen the patient on 27.10.2017 evening. On 28.10.2017, 9pm, I went to see the patient accompanied by sister Sunita but I did not physically examine the patient. I have not talked to the patient's mother.

Deposition of Smt. Padmini Singh

I was on duty in the ward till 8am on 29.10.2017. I left the ward after handing over my charges at 9am. I found the patient alright till 8.30 am on 29.10.2017. I helped to the patient to shift in the MICU. I am registered with Odisha Nursing Council. I accompanied the patient to the MICU. I do not know on whose advice the patient was shifted from ward to MICU.



Deposition of Smt Sunita Sarkar

I am the ward-in-charge and I am registered with West Bengal Nursing Council. I was on duty on 28.10.2017 and I observed the vitals of the patient. Dr. Sukla came to the ward to examine the patient but as the patient was sleeping, he has not physically examined the patient and he left after putting his note in the Bed Head Ticket.

Deposition of Dr. Neeladri Ghosh

I am posted as ward RMO. I am in the pay role of the hospital. I have seen the patient. I was on duty on the relevant day and I examined the patient at around 9.30pm on 27.10.2017. I was there up to 12 pm on 218.10.2017. Then again, I came back to the hospital around 6.30 on 28.10.2017 and continued my duty till the next day up to 9am. I had seen the patient in the ward. I independently examined the patient for 5-6 times and with Dr. Sen for twice. After I examined the patient independently, I made necessary notes in the Bed Head ticket for 5 times. There is no note about my observation in the the Bed Head ticket either on 27.10.2017 or on 28.10.2017. Around 12.30am on 29.10.2017 , I again saw the patient and that time I did note my observation. The patient did not complain of any pain during my stay till 12.30am on 29.10.2017. Before advising any medicine, I consulted Dr. Sen over phone and acted upon it. On 27.10.2017, there is no recording of status of the patient in the Bed Head Ticket. I was the ward RMO. I was not aware whether any concerned surgeon has seen the patient or not on the same day.



At about 3am in the morning, the nursing assistant called me over intercom and immediately I rushed to the ward and examined the patient. My observations are noted on the doctors' progress note. I called Dr. Sen as per his advice, I acted upon it.

I have last seen the patient on 29.10.2017 at around 8.45am and, thereafter, I left the hospital after giving handover. I do not know who has referred the patient to the MICU. I also do not find anything from the Bed Head Ticket that which particular doctor advised the patient to shift to the ICU.

Deposition of Mr. Jose Jacob

I am attached with Narayana Super Speciality Hospital since 1.5years. I was posted at MICU on 29.10.2017 in the morning shift. I cannot say who was the particular doctor who referred the patient to MICU. It is true that every time whenever any patient shifts from ward to MICU, the RMO used to accompany the patient. But in this case, I cannot say which particular RMO accompanied the patient on 29.10.2017.

When the Members of the Commission put a question to Mr. Joes regarding the name of the RMO who was present at the time of shifting the patient to MICU, he kept mum and gave no answer. But after sometime, he finally said that it was Dr. Niladri. I know Dr. Niladri by face.

Cross-examination: *I cannot remember who was there when the patient was being shifted.*



Deposition of Mr. Rajib Banerjee

On 29.10.2017, at around 3am, after repeated insistence, when the condition of the patient appears to be turning worse, I went to the RMO room but found that same was locked from inside and I also requested Dr. Ghosh to see my daughter but Dr. Ghosh showed his gross annoyance and after prolong insistence, he came to the ward. I was present at the time when my daughter was shifted from ward to MICU on 29.10.2017 at around 9am. Dr. Niladri Ghosh was also present at the time, when my daughter was being shifted from ward to MICU.

Deposition of Dr. Raja Kishore Behera

On 29-10-2017, I was the in-charge of ICU of Narayana Superspeciality Hospital, Howrah. I took over the charge at 9.15AM while I was giving round inside the ICU at around 9.25AM, the patient was brought to the ICU, I rushed to the patient and take part in resuscitation of the patient. I have not put any note in the Bed Head Ticket. I did the USG at 9.45AM. I hereby submit the Training Certificate of one day Training Course i.e. September 14, 2013.

To The Commission:

Q.1 Does this certificate to carry out the USG in ICU setup?

Ans. Yes.

Q.2 Do you know the meaning of FAST?

Ans. Focussed Assessment Sonography Training. I am entitled to do the USG in ICU.



Q.3 Was is the cause of death of the patient?

Ans This may be sepsis/aspiration phenomena or myo-cardial infarction leading to Cardiac arrest.

Q.4 During your FNB Training period, do you have any Training on USG?

Ans. No.

Q.5 Apart from this one day Training course, do you have any other USG Training Course?

Ans. No. I never attended any USG Training Course on human being.

Q.6 Have you provided USG plate to the patient party?

Ans. No, the Portable Machine dose not generate any plate, it is only for screening.

Volunteered: *I have no knowledge about USG machine generation of plates.*

Deposition of Mr. Uddipan Halder-

I was on duty on 29-10-2017 in the morning when the patient was received in ICU. I have entered my observation in the Bed Head Ticket. Dr. Behera was also there with me during resuscitation of the patient. Usually, once a requisition is made for USG, generally it is done by the Sonologist, who comes from Radiology Department. Usually, we get only printed report and not USG Plate.

Deposition of Mr. Shinto Mathew-

I am attached with Narayana Superspeciality Hospital, Howrah as a shift-in-charge on 29-10-2017, I was on duty in the same capacity. On that day, Dr. Niladri was in the Ward doctor was left the ward at 9.00 AM. I gave a phone call to Dr. Tanjib, he came to the ward immediately and assess the patient. By 9.15AM, the patient shifted to ICU, and according to the records,



the patient was received in ICU at 9.25AM and that time Dr. Tanjib was also there.

Cross-examination by C.E :

Q. 1 What was your duty on 29-10-17?

Ans. My shifting time is started at 8.00AM on 29-10-17 .

Q.2 At what time you meet the patient party?

Ans. I met the patient party at 8.40AM.

To The Commission:

Q.3 On that day what is your observation about the patient?

Ans. My observation was that the patient was conscious and oriented at that time, according to me the patient was good.

Q.4 In case of patient is under went lapchole, when he/she can be discharged?

Ans. Usually the patient can be discharged after 2 days. But in this case, patient was operated on 27-10-2017 and she was not discharge on 29-10-2017, and I have not noted in the Bed Head Ticket.

We heard the matter on October 31, 2019 when we reserved our decision. Expert in our panel Dr. Makhan Lal Saha gave his opinion which is set out as under :-

"The patient Ritoja Banerjee daughter of Rajib Banerjee consulted Dr Abhra Mukhopadhyay on 6.10.2017. with pain abdomen and she was prescribed some medicines and USG abdomen. USG done on 13.10.2017 revealed gall bladder stone and patient was seen by Dr Abhra Mukhopadhyay again on 14.10.2017. He referred the patient To Narayana Hrudalaya(NH) to Dr. Partha Pratim Sen on 14.10.2017. Dr Sen examined the patient at SOPD on 14.10.2017. Patient was admitted on 27.10.2017. at NH under Dr Partha Pratim Sen. Preanesthetic checkup was done on 27.10.17. Patient was ASA grade 1 with no known comordity. Patient was taken up for laparoscopic cholecystectomy on 27.10.17. at 1.30pm. Patient was hemodynamically stable and procedure was uneventful as per anesthetic record. Dr P.P.Sen was the surgeon and Dr S. Sukla was the assistant and Dr M. Khan was the anesthetist. Postoperative advice was written by Dr P.P.Sen.

Dr P P Sen saw the pateintnon 27.10.17. evening. The next recording in the BHT is again by Dr P P Sen on 28.10.2017 at 10.45am. The time interval between 27.10.2017. evening and 28.10.2017. 10.45am there is no note in the BHT by any of the on duty doctors. Only the nursing chart showed the vitals recorded by the nurse on duty. Pateint was seen by Dr P P Sen on 28.10.2017 aqt 7pm and he advised to continue IV fluids and advised Inj Reglan and kept he patient nil orally.

There is a note in BHT by Dr Shukla on 28.10.2017. at 9pm. mentioning that Patientn stable, No fresh complaints, vitals stable and advised to continue same. Mother of deceased Ritoja Banerjee categorically stated that Dr

Shukla has not visited Ritoja on 28.10.2017. Dr shkula while being examined by the commsiion confessed that he has not seen the patient physically and wrote the notes in BHT based on sister's observation.

From 29.10.17. night 12.30am patient condiution deteriorated and there is note in the BHT mentioning patient complain of abdominal pain. Discussed with Dr Sen and his advise was followed. He next bnote in BHT on 29.10.17 at 3am revealed tachycardia(Pulse 126/min), abdominal distension , Blood pressure 110/70mmHg, Discussed with Dr Sen and patient w3as given Inj Buscopan and Inj Pethidine. The next note at BHT at 4.45am on 29.10.17. mentioned shortness of breath, abdominal pain, abdomen diffusely tender, Pulse 150/min. Discussed with Dr P P Sen. And he advised USG whole abdomen,CBC, urea and creatinine,to change antibiotics and urgent referral to anesthetist on call.

Seen by anesthetist on 29.10.17. at 5am by anesthetist and noted his observation and discussed with Dr P P Sen. Urgent USG and X ray abdomen was advised. Another note in BHT at 8am on 29.10.17. noted some improvement and discussed with Dr P P Sen and repeat request for Urgent USG and X ray abdomen. The next note in BHT at 8.45 am on 29.10.17. revealed persistent tachycardia(Pulse 156/min). Discussed with Dr P P Sen and patient party counselled

The next note in BHT is at 9.25am the receiving note at MICU. The patient was received at MICU in gasping condition. Patient unresponsive, Pulse not palpable, BP not recordable, abdominal distension tense. CPR started.



Intubation done and patient given Inotropes , Inj Adrenalin, Noradrenaline and vasopressin. And other supportive treatment given.

One note on 29.10.17 at 9.45 am revealed Bedside USG was done by Dr Rajkishre Behera and commented no free fluid is seen in the abdomen.

Patient had a cardiac arrest at 10am on 29.10.17. and CPR continued but ROSC not achieved and patient declared dead on 29.10.17 at 10.30am Dr P P Sen and Patient party informed.

Observation and comments:-

This young girl underwent Cholecystectomy for gall stone disease. As per statement of the mother of Late Ritoja that the patient was in severe pain following the operation. This is corroborated by the fact that patient received a good number of analgesics injection in the postoperative period.

On the day of operation(27.10.17) from evening to next day morning 10.45. it appears that no doctor has seen the patient and there is no note by any doctors during this period. The sister chart revealed recording of vitals.

On 28.10.17 at 9pm Dr Shukla the assistant surgeons put some note in the Bed Head ticket mentioning her as stable and no fresh complaint. Dr Shukla confessed before the commission that he has not physically examined the patient. This type of note by a surgeon is highly undesirable as he has not examined the patient physically. Subsequent deterioration of the patient from midnight suggest that all were not well.



Dr P P Sen advised for a USG of abdomen to assess any abdominal collection. The advise for USG was given at 4am but USG could not be done till her death. Dr Rajkishore Behera has done the bedside USG after cardiac arrest and commented as normal. Dr Behera has no qualification to perform USG and he has submitted one certificate of one day training in FAST. Mere one day training does not entitle a doctor to carry out the job of sonologist.

This patient underwent laparoscopic cholecystectomy and developed some postoperative complications and death is most likely due to some postoperative complications.

Patient was not monitored properly in the postoperative period .

Dr Shukla has put a note in the bed had ticket without examining her in the critical period.

Although an urgent USG was advised by Dr Sen on 29.10.2017 at 4am. This examination was not carried out by a competent person (Sonologist) till her death on 29.10.17 at 10.30am.

Dr Rajkishore Behera is not th competent person to carry out USG abdomen in a postoperative case of Lap Cholecystectomy to detect any postoperative complications.

There is gross deficiency of service on the part of clinical establishment in the postoperative period .

She would have been better monitored in the postoperative period to detect the complication and necessary treatment could have been initiated.



This is a fit case for awarding compensation."

CONCLUSION

From the analysis of evidence and the medical opinion received from Dr. Saha, we are unanimous of the view, despite being prima-facie satisfied about the medical negligence, the hospital negligence is apparent on the face of the record. There is no qualified sonologist present in the Clinical Establishment. Repeated advice for USG and X-ray was not taken into account. It revealed, just 50 minutes before the cardiac arrest followed by death within half an hour, Dr. Behera did the bedside USG and commented, no free fluid was seen in the abdomen and within 55 minutes the patient was declared dead. Dr. Behera was not a qualified sonologist. He did not have any proper training. He attended one day training course in this regard. He categorically deposed, he never attended any USG training course on human being. No USG plate could be given as the bed side USG, according to Dr. Behera, would only allow live screening and there is no scope for any print being taken.

The hospital negligence is apparent from the sequence of events. For medical negligence if any, we do not have any authority to go in detail and it would be for the West Bengal Medical Council to judge, however, the hospital negligence cannot be brushed aside.

From the evidence, it appears, the patient was advised by Dr. Abhra Mukhopadhyaya for being admitted in the Clinical Establishment. The patient party, being advised so and reposing trust and confidence on the Clinical



Establishment, approached the Clinical Establishment for treatment of her daughter hence, the Clinical Establishment is responsible for negligence, if any.

From the discussion that our expert did in his opinion it would clearly show callous and negligent treatment meted out to the patient by and on behalf of the Clinical Establishment for which, we feel, interest of justice would be subserved if we impose appropriate penalty on the Clinical Establishment. For the time being, we impose a penalty of Rs. 8,00,000/- on the Clinical Establishment that would be subject to the result of the West Bengal Medical Council proceeding. We permit the complainant to approach us again if he gets any positive result from the West Bengal Medical Council proceeding, for appropriate final compensation as against the Clinical Establishment.

Records be sent to the West Bengal Medical Council for appropriate adjudication.

The Complaint is disposed of accordingly.

Sd/-

ASHIM KUMAR BANERJEE



We agree,

Sd/-

Dr. Sukumar Mukherjee

Sd/-

Dr. Gopal Krishna Dhali

Sd/-

Dr. Makhan Lal Saha

Sd/-

Dr. Madhusudan Banerjee

Sd/-

Dr. Debasis Bhattacharya

Sd/-

Dr. Maitrayee Banerjee

Sd/-

Smt. Madhabi Das.

Authenticated

AR

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