

Office of the West Bengal Clinical Establishment Regulatory Commission

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Case Reference: INT/HGY/2023/088

Ms Monalisa Das Complainant

vs

Care IVF, Sarat Bose Road, Kolkata..... Respondent/ Respondents

ORDER SHEET

Office Note	Order No.	Date	Order
	1.	05/06/2023	<p>The complaint would relate to failed IVF procedure. Initially four embryos were prepared, two were implanted that gave negative result. The other two embryos were kept in freeze. The complainant duly paid the maintenance and/or freezing charges every half yearly period.</p> <p>Time was fixed for implant. The patient was made ready. Once the date was cancelled. Second time, when it was about to be implanted it revealed that those two embryos became non-viable and the process was ultimately abandoned.</p> <p>The complainant has came up with the grievance, each time CE would pester for the maintenance charges.</p>

		<p>They misbehaved. Yet, there was no default on the part of the complainant to pay the maintenance charges. It was the duty of the CE to keep the embryos in a proper condition. They failed to do so.</p>
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The CE would contend, quality of embryos would vary from one to the other. In this case, they did not know why it became non-viable. It was a rare case. Since it was not a guaranteed procedure they do not have any liability.

On our request, Professor Dr. Runa Bal, expert on the subject, is present apart from our medical members. They are Ad-idem on the issue, the CE cannot avoid their responsibility. Two embryos were implanted that might give negative result. The other two embryos must be kept intact for further implant. When those became non-viable the CE must take responsibility of the same.

We find a sum of Rs. 36,000/- have been paid to maintain those two embryos for last five years apart from Rs. 97,000/- paid for implant charges. The patient had

also to bear the other expenses including medicines and other treatment protocol.

Considering the backdrop, we feel, interest of justice would be sub-served, if we direct a lump sum compensation of Rs. 1,00,000/- to be paid to the complainant.

Ms. Mandobi Chowdhury, Learned Advocate appearing for the CE, would pray for four instalments. Such prayer is allowed.

Let the CE pay the said sum of Rs. 1,00,000/- in four equal monthly instalment of Rs. 25,000/- each payable on July 1, 2023 and thereafter on the first day of each succeeding months.

The complainant is directed to share her bank details so that money could be transferred to her account.

The complaint is disposed of.

Sd/-

The Hon'ble Chairperson

Sd/-

Prof. (Dr.) Sukumar Mukherjee – Member

Sd/-

Prof. (Dr.) Makhan Lal Saha – Member

Sd/-

Dr. Maitrayee Banerjee – Member

Sd/-

Smt Madhabi Das – Member

Authenticated
S. P. Mukherjee
13/06/2023

Secretary
West Bengal Clinical Establishment
Regulatory Commission