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Case Reference: INT/KOL/2023/127

Present: Justice Ashim Kumar Banerjee (Retired), Chairman
Dr. Sukumar Mukherjee,
Dr. Makhan Lal Saha,
Dr. Maitrayee Banerjee,
Smt. Madhabi Das.

Mrs. Anisha Parveen.....Complainant

- Versus-

Qudra Medical Services Pvt. Ltd.....Respondent

Heard on: August 09, 2023

Judgment on: September 7, 2023.

BACKDROP

Anisha Parveen, the complainant, approached Quadra for appointment for CT scan of whole abdomen of her mother Ms. Salma Khatun 47 years old lady. As per appointment, Salma visited Quadra and upon completion of formalities she was taken to the console. Dr. Pinakpani Bhattacharya was doing the required procedure. After the initial procedure was done the patient was given IV non- ionic contrast that had serious reaction on the patient and the patient had severe anaphylactic shock. She was immediately taken care of. She was administered Hydrocortisone along with Adrenaline injection. The patient's husband was called in. In his presence the second dose of Adrenaline was pushed. The patient became little stable when she was taken out of the console. Suddenly she collapsed. CPR was given. Mouth to mouth breathing was given. Despite all efforts, she expired at about 12.15 PM on the said date i.e, June 30, 2023 due to anaphylactic shock caused by IV non-ionic contrast with ventricular arrhythmia. The complainant and/or her father insisted that the patient be taken to a proper hospital for treatment however, the patient did not give any opportunity. On the insistence of the patient family she was taken to B M Birla accompanied by Dr. Arup Banerjee who was also involved in the process of treatment. The doctors at B M Birla observed that the patient had already died. She was brought back to Quadra when Dr. Banerjee gave the death certificate to the effect, the patient died due to anaphylactic shock caused by IV non-ionic contrast dye with ventricular arrhythmia. The police was called as unruly elements by that time tried to manhandle the doctors and staff. The patient family was offered post mortem. However they did not opt for the same.

COMPLAINT

Anisha filed this complaint on July 27, 2023 as against Quadra alleging medical negligence causing "culpable homicide" of her mother. According to her, on the morning of July 30, 2023 her mother was completely normal. After completing her household chores she left for Quadra for the test at about 08.30 am. After necessary formalities and deposit of fees she was taken to the console. The complainant categorically disclosed that the patient was allergic to "Taxim-o" that was duly recorded in the consent form. At about 10.42 am her father was called in when he saw that the right eye of Salma had swollen. She was gasping for breath that happened soon after the dye was pushed. They requested for transfer to higher setup however, the doctors present including Dr. Bhattacharjee, did not agree and assured them that they would do the needful to save her life. By that time Dr. Arup Banerjee came and he also joined the team. Adrenaline was given by Dr Banerjee. She was taken out of the console. Dr. Bhattacharjee gave mouth to mouth resuscitation but all such efforts were in vain. On their insistence, the patient was taken to the B M Birla accompanied by Dr. Banerjee. B.M. Birla declared her "brought dead". She was taken back to Quadra. Complainant alleged that it was a cognizable offence of culpable homicide under section 304 of IPC as the doctor had complete knowledge that their wilful deliberate act would likely cause death of the patient.

RESPONSE

Quadra gave their response. Quadra denied that Adrenaline was given by Dr. Banerjee for the first time. The moment incident happened adrenaline was pushed. Dr. Banerjee gave the second dose of it. Hydrocortisone was also given. Normal saline infusion was also administered. When the patient was little stable she was taken out of the console. Again she collapsed and ultimately died however, on the insistence of the patient family Quadra arranged for ambulance. She was taken to B M Birla being accompanied by Dr. Banerjee where they also confirmed that the patient had already died. She was taken back to Quadra and death certificate was issued. Since there was law and order problem caused by the unruly elements they had to call police. Police came and controlled the situation.

HEARING

We kept this matter for hearing on August 09, 2023. In course of hearing, Anisha Parveen, the complainant above named, categorically submitted, since they were satisfied about the cause of the death they did not insist for post mortem however, she would insist for a decision on harassment that the Quadra caused to the deceased as well as the family at the post traumatic situation.

SUBMISSION OF THE COMPLAINANT

While narrating in detail she would contend that the patient was taken out from the console. There was no proper treatment room. The patient was kept at the open lobby

where hundreds of People gathered. The patient privacy was compromised. Despite request, they did not agree to shift the patient to another hospital where they could have full treatment support.

PER CONTRA

Dr. Pinakpani Bhattacharya, the concerned Radiologist, would contend, in his 30 years of practice it happened for the first time. There had been few occasions of the like nature that could be successfully taken care of and he was confident, this time also he would be in a position to control the situation. Despite his best efforts the patient did not come back. He would also contend, situation was such she could not be transported to another hospital. There could be casualty during transition. With regard to compromising privacy of the patient, he would admit, at that juncture the patient's life was priority not the wearing apparel. If there was any laxity it was not intentional.

ANALYSIS

We have heard the parties in detail. We find from the record, the chronological events were consequently absent.

Dr. Bhattacharya assured us, it would be given to us. Dr. Bhattacharya would inform, the records were seized by the police including the CCTV footage. He assured us, chronology of the events and the CCTV footage would be sent within a week from date with copy to the complainant so that the complainant could also offer her views on those records.

Pursuant to the liberty granted by us in course of hearing Quadra submitted chronology of events and the CCTV footage. The chronology of events as submitted by Quadra, is extracted below:

Chronological event of the patient management during the emergency situation.

TIME	CHRONOLOGY OF EVENTS
10: 35	CT Topogram was taken
10:36	Plain CT Scan done
10:49	Contrast administered through auto injector.
10:50	Arterial phase taken
10:53	Delayed scan- scan completed.
10:54	Noticed swelling over the right eye of the patient – sister raised an alarm – and loaded Injection Avil 1 amp and Injection Hydrocortisone 1 amp for immediate administration.
10:57	Dr. Pinak Pani Bhattacharyya arrived in the CT Gantry and Injection Avil (IV) 1 amp and Injection Hydrocortisone (IV) 1 amp was given. Injection Adrenaline 0.5 mg subcutaneous was also administered. <u>These were administered between 10.57 am & 11.02 am by Dr Pinak Pani Bhattacharyaa in the CT Gantry.</u>
10:58	Patient's husband, was called inside the Gantry.
10: 59	Dr. Bhaswati Mukherjee joined the team.
11.00	Dr. Sunetra Mukherjee also joined the team in the Gantry. Patient's Vitals were monitored which was recorded to be- BP

140/80 at that time. O2 saturation was 98% in room air and Heart rate was 92 beats/min.

- 11:02 Stretcher was brought inside the Gantry to shift her from CT gantry to the CT Emergency hold area for monitoring and observation.
- 11:04 O2 inhalation was started to the patient at the emergency patient hold and Pulse Oximeter readings were checked by Dr.Bhattacharyya.
- 11:06 Repeat Adrenaline 0.2 mg was administered in the secured IV channel of the patient as patient was not improving.
- 11:09 Patient started vomiting.
- 11:10 Patient was turned to the right side to avoid aspiration.
- 11:11 Foot end elevated.
- 11:13 Cardiologist Dr. Dipankar Datta joined the team.
- 11:15 RMO-Dr Arup Banerjee joined.
- 11:15 CPR initiated.
- 11:16 Mouth to mouth breathing started.
- 11:16 Saline infusion started and CPR was continued.

11:19 Adrenaline 0.3 mg repeated in IV route.

11:20 ECG monitoring was started.

11:21 Umbo bag was used.

11:22 Umbo discontinued. Mouth to mouth re-started.

11:23 CPR continued.

11:24 Support given to raise shoulder of the patient for better airway care and facilitating suction.

11:25 Adrenaline 2 amp was charged in the normal saline bottle and slow drip started. Additional DNS bottle was added to the line.

11:30 ECG monitoring continued showing VF pattern.

11:32 Suction done. ECG print out taken, discussed with Dr. Datta and Defibrillation decided.

11:34 Defibrillation done.

11:35 Defibrillation repeated.

11:36 The patient's husband was briefed that the patient's situation was grim.

11:37 Defibrillation repeated.

- 11:39 ECG print out taken and shoulders support was adjusted for better oral care.
- 11:44 Inj. Hydrocortisone 1 amp was given IV and 150 mg of Amiodarone was added in the Saline bottle which was infused slowly.
- 11:54 Defibrillation done and Amiodarone drip was discontinued but CPR was continued
- 11:55 Informed Dr. Leena Sarkar, referring physician, over telephone the situation of the patient.
- 11:58 Pupils checked and found to be dilated and fixed.
- 11:59 Resuscitation process stopped.
- 12:15 Patient's daughter and husband were informed that the patient could not be saved.
- 12:15 Patient's daughter did not believe that the patient is no more and wanted to take her to another Hospital for further care, which eventually we complied with.
- 12:16 Patient started for BM Birla along with Dr Arup Banerjee – RMO, QUADRA.
- 12:24 Dr. Bhattacharyya briefed all the other patients waiting at the reception about the incident.
- 13:12 Patient came back from BM Birla and was kept inside in an isolated place in the working area.
- 13:23 The body had to be brought out in the waiting area on insistence of their accompanying friends and relatives (who were seen talking to the complainant-therefore known to her) who later manhandled our doctors and staff during their stay at the facility.
- 15:43 Took the body downstairs and they left the center at around 4:00 pm.

OUR COMMENTS ON CCTV FOOTAGE AND CHRONOLOGY

We have perused the CCTV footage. The complaint of Anisha as to mismanagement during post traumatic situation, is perhaps not correct. The patient was treated by a team led by Dr. Bhattacharjee. The doctors and paramedical staff were all busy with support that the patient needed.

The other complaint as to comprising the patient modesty, we could not find any serious lapses on that score. However, we must confess, there was no close-up view of the patient as the camera was possibly placed far away from the trolley where the patient was lying.

On a close watch of the entire CCTV footage, two things are apparent.

The entire medical and paramedical staff tried their level best to save the patient.

Outsiders were not there at the place where the patient was being treated, at least, we could not see any other person in the footage.

The chronology of events would also match with the CCTV footage.

OUR VIEWS

Death is always unfortunate.

When a person enjoyed his full life and breathe at the last everyone would feel sorry yet, they celebrate the life of the deceased. The sweet memories they have with the

departed soul, they cherish those unforgettable moment that they spent with the departed soul. Such death is normal and is accepted by all concerned at the last.

If a person is in vegetative state due to neurological complication and such state prolongs his dearest and nearest one would always pray to almighty that his sufferings may be lessened and he may be relieved of such sufferings. Such death, although unfortunate, is always acceptable to the dearest and nearest one with grief and sorrow.

In a case where a patient has various co-morbidities and would suffer immense pain and sufferings for prolonged treatment and when such treatment would in fact result into prolongation of death rather than prolongation of his life it is always desirable, he should die a peaceful death.

If a person suffers an accident and such sudden accident, specially untimely, would result into casualty it would be difficult for the family to accept so. Yet, in course of time, they come to their normal life blaming the destiny.

None of the above, could be said something gracious as we say, death is always unfortunate.

Yet, we cannot conceive of death of Salma Khatun who was quite hale and hearty and in her prime age. She completed morning chores, made preparation for the lunch and proceeded to have a test that is absolutely free from hazard and ultimately suffers such untimely death. This could only be said "rarest of the rare". No word of consolation

could heal the traumatic stage of the dearest and nearest one of Salma including the complainant.

Yet, we have to decide on the complaint being free from all emotions and of course, with cogence and prudence.

CONCLUSION

By watching the CCTV footage for hours from four locations we are unanimous of the view, whatever best the doctors and the paramedical staffs could do they did.

The complainant would think, her mother could be saved if she was transferred to any higher set-up having proper facility to combat with the situation. We fully agree with her. However, on seeing the CCTV footage and watching every minute of it, we are of the view, whatever treatment the treating team could do, would not be there because in all probability, the patient could die in transition.

Console where the patient was undergoing the test, is a complete private zone and no clinical establishment is entitled to have CCTV there. Hence, we do not get any opportunity to know and watch what had happened within the console. However, from the chronology of events that we could watch from the outside area of the console we are fully satisfied, the patient was being taken care of by the treating team.

There is one more salient feature that we cannot overlook, from the CCTV footage it is apparent, the patient was left unattended, not even for a second.

To us, whatever best could be done by Dr. Bhattacharjee and his team, was done. We fully appreciate the mental state of Dr. Bhattacharjee who, in his 30 years of experience did not experience this kind of traumatic situation as explained to us in course of hearing.

We must appreciate pragmatic approach of Ms. Anisha Parveen, the ill-fated child of the deceased who, despite blaming the treating team about medical negligence and blaming them for culpable homicide under section 304 of the IPC, probably being inspired by black robes, fairly conceded, she would accept the death of her beloved mom due to anaphylactic shock. She would restrict her argument only on the post traumatic situation.

Dr. Bhattacharjee explained to us and tried to give a complete picture of what had happened on that day. He was candid enough to say, when after administering Hydrocortisone and Adrenaline of the first dose the patient became little stable he took out the patient from the console. Immediately thereafter the patient had collapsed when he gave CPR and even mouth to mouth resuscitation. He was candid to say, at that moment he was only concerned with the life of the patient not her modesty. There was no intentional or callous attitude on the part of Dr. Bhattacharjee or his team. They all tried their level best to save Salma. Yet, despite best of their efforts they could not do so.

We hope and trust, the complainant, her sister, her father and all concerned would soon come to their normal life and cherish the suitable moments that they spent with Salma !

their dearest and nearest one.

RESULT

With these words we dispose of the complaint.

Sd/-

(ASHIM KUMAR BANERJEE)

We agree,

Sd/-

Dr. Sukumar Mukherjee,

Sd/-

Dr. Makhan Lal Saha,

Sd/-

Dr. Maitrayee Banerjee

Sd/-

Smt. Madhabi Das.

Authenticated
M.F.
Secretary
West Bengal Clinical Establishment
Regulatory Commission