IN THE DELHI STATE CONSUMER DISPUTES REDRESSAL COMMISSION

Date of Institution:10.12.2015
Date of order: 17.04.2026
Date of Decision:06.11.2026

COMPLAINT CASE NO.- 1146/2015

IN THE MATTER OF

MR. SURESH KUMAR
(THROUGH HIS WIFE MRS. SHAKUNTALA)
S/O LATE SHIV MANI
R/O P-48, PILLANJI VILLAGE,
SAROJINI NAGAR,
NEW DELHI-110023

……COMPLAINANT
(Through : Adv. Charu Sachdeva)

VERSUS

1. **METRO HOSPITAL & HEART INSTITUTE**
(A UNIT OF INSTITUTE OF MEDICAL SCIENCES PVT.)
14, RING ROAD, LAJPAT NAGAR-IV.
NEW DELHI-110024

(Through : Adv Sachin Gupta)

2. DR. SAMANJOY MUKHARJEE
METRO HOSPITAL
14, RING ROAD, LAJPAT NAGAR-IV
NEW DELHI-110024
(proceeded ex-parte vide order dated 21.07.2016)

…...OPPOSITE PARTIES

CORAM:

HON'BLE JUSTICE SANGITA DHINGRA SEHGAL (PRESIDENT)
HON'BLE MS. PINKI, MEMBER (JUDICIAL)

Present: Ms. Charu Sachdeva, Counsel for the Complainant
Sh. Pradeep Kar, Counsel for the Opposite Part No.1.

PER : HON'BLE MS. PINKI, MEMBER (JUDICIAL)

JUDGMENT

1. The present Complaint has been filed by the Complainant before this Commission alleging utter callousness, negligence and deficiency in service on the part of the Opposite Parties and has prayed for the following reliefs :-

> *"i. Compensation/ damages for medical negligence alongwith harassment and mental agony suffered by complainant and other family members:Rs. 35 Lacs.*
> *ii. Compensation/ damages for loss of future earning by the family other expenses incurred on conveyance etc. Rs. 50 Lacs*
> *iii. Litigation expenses Rs. 50,000/-*
> *iv. Any other and such orders as Hon'ble Forum may deem fit keeping in view the facts and circumstances of the case."*

2. The brief facts necessary for the adjudication of the present complaint are the complainant *(hereinafter referred to as the patient)* was diagnosed with Rheumatic Heart Disease (RHD) with severe Mitral Stenosis, moderate Mitral Regurgitation, and severe Aortic Regurgitation. The patient underwent Dual Valve Replacement (DVR) + LAA Ligation surgery at AIIMS on 25.11.2008 and remained on regular AIIMS follow-up thereafter. On 13.11.2013, he developed acute breathing difficulty and was rushed to the Emergency at the Opposite Party No.1-**Metro Hospital & Heart Institute.** An Echo revealed an obstructed aortic prosthesis (mean gradient 61–66 mmHg) with thrombus. Opposite Party No.2- Dr. SamanjoyMukharjeereviewed the reports, diagnosed a valve obstruction, and advised admission to remove it. Relying on the advice of Opposite Party No.2, the patient was admitted at Opposite Party No.1. Opposite Party No.2 reassured the family "*Everything would be alright within 2–3 days"* and quoted the cost of the whole procedure at Rs. 30,000/-. An advance of ₹10,000/- was deposited by the patient's brother, Mr.Subhash

Chand Yadav, after which treatment began. The patient-Complainant has alleged that the family was told only that "an injection" would be given; it was later learned from medical records that this was an STK Injection and that no side effects were ever disclosed.

3. It is alleged that Opposite Party No.2 ought to have explained the risk factors of the treatment to the family, which was not done as a confirmed violation under the MCI Act amounting to both negligence and deficiency of service. Thereafter,the brother of the patient was informed that the valves were open, the patient was safe, and discharge was expected the next day. However, on the next day i.e. **15.11.2013**the brother of the patient was called to the hospital floor. The attending nurse informed him that the patient's right side had become **semi-paralytic**; on being questioned further, the nurse allegedly concealed the true condition and refused to elaborate. It is alleged that the treating doctor did not personally inform the family, and a nurse was tasked with it instead. On persistent questioning, the nurse disclosed that the patient was unable to speak and his right side had become motionless. The doctor was called several times by the brother of the patient but did not respond or pick up the phone. Subsequently, at the reception, the brother of the patient was informed a clot had travelled to the patient's brain requiring special/higher management, and **Opposite Party No.1 asked that the patient be shifted to Metro Super Speciality Hospital, Noida.** It is alleged that despite the emergency, the brother of the patient was refused support and Opposite Party No.2 did not even visit.It is pleaded that a brain clot must be controlled immediately, failing which the patient can lapse into a comatose state which, it is alleged, is what occurred in the present case. Opposite Party No.1 assured the brother of the patient that the Noida facility was fully equipped and specialised, and he readily agreed to the transfer. The

attendants waited for discharge formalities and papers, expecting prompt arrangements — instead, after the bill was cleared, the hospital allegedly delayed the arrangements and when asked about the ambulance and an accompanying doctor for a patient in such critical condition, Opposite Party No.1 allegedly replied that no fully-equipped ambulance was available and the accompanying doctor was "busy somewhere." On being pressed, the response given was: "*No arrangements can be made as neither the doctor nor the ambulance is available to take your patient to some other hospital*"

4. It is submitted that Opposite Party No.1 wasted precious time and effectively asked the attendants to leave with the patient on their own pleading as a violation of medical/ethical standards amounting to deficiency of service. The attendants themselves arranged an ambulance from Vimhans Hospital; no doctor accompanied the patient during transit despite repeated requests.

5. It is further submitted that the first treating doctor/hospital must exercise discretion to ensure the best care for the patient's condition, which was not done here, and that Opposite Party No.1 and Opposite Party No.2 are jointly and severally liable for violation of standard medical protocol. It is alleged that almost five hours were wasted by Opposite Party No.1 after the weakness first appeared, and that Vimhan's doctors indicated that timely intervention after the complications arose could have prevented or mitigated the damage. Thereafter, on 15.11.2013, the patient wasAdmitted in ICU at Vimhans Hospital and various tests were conducted. On 22.11.2013, the patient availed consultation at AIIMS Neurology OPD and medicines were prescribed and it was informed that recovery was expected soon. However, the patient was re-admitted on 24.11.2023 to 27.11.2013 at Vimhans for right groin pain/swelling; Warfarin

(anticoagulant) withheld on 25–26.11.2013 and restarted on 26.11.2013. Unsatisfied with the treatment, the patient was discharged after paying over ₹5,00,000/- approximately. Subsequently, from 27.11.2013 to 03.12.2013, the patient was admitted to Sir Ganga Ram Hospital for further evaluation and management. From 17.12.2013 to 19.12.2013, the patientdeveloped headache and was admitted to AIIMS Emergency. Further, from 20.12.2023 to 29.12.2013, the patient was again admitted to AIIMS Cardio Department, was managed conservatively and was discharged stable but with no improvement in speech and with inability to read/write.Between 03.01.2014 and 07.01.2014, the patient availed consultation at AIIMS Cardio OPD and Neuro OPD follow-ups but of no avail. Till date, the patient has not recovered and suffers from vocal loss, memory loss, lack of understanding, reduced mental ability, and inability to read or write. The right side of his body has become weak and lost strength i.e. a semi-comatose state. He is unable to perform daily tasks, is fully dependent on family, and cannot earn his livelihood.

6. Lastly, it is submitted that the attendant's requests to Opposite Party No.1-Metro Hospital for medical documents were repeatedly refused on various pretexts. A legal notice was eventually servedon 18.07.2014 to the CMO/Medical Incharge of Metro Hospital seeking the documents. When Opposite Party No.1 did not respond, the brother of the patient filed a formal application and the documents were supplied only after several months of follow-up. Thus, the patient-Complainant had no option but to file the present complaint alleging medical negligence and deficiency of service on the part of the Opposite Parties. Pressing the aforesaid submissions, the Complainant has prayed that the present Complaint be allowed in the interest of justice.

7. Opposite Party No. 1 has filed its written statement and has submitted therein that the Complainant has failed to produce any expert opinion, medical and scientific literature to prove or even support his allegations. Whereas, three independent expert opinions have be taken on the behest of the complainant whereby the experts have stated that there is no medical negligence in the treatment given to the Complainant. Secondly, it is submitted that the patient was diagnosed with stuck aortic valve and a high risk consent was taken for thrombolysis with streptokinase. All potential complications including hypotension, arrhythmia, bleeding from the nose, mouth and Brain were explained to the patient and attendants and a high risk written consent was taken. Lastly, it is submitted that after coming to know the medical condition of the patient the Opposite Parties immediately attended the patient. Without any further delay the patient was advised to refer to the neurological management. The attendants were given the option to shift the patient to the Metro Hospital Noida but they did not give the consent hence the patient was not referred to MetroHospital Noida. Later on the attendants sought to discharge the patient to give the treatment at VimhansHospital and the patient was discharged by the Hospital without any delay. Therefore, it is submitted that no negligence can be attributed to the conduct of the Opposite Parties as the patient was treated as per the standard medical protocol. Pressing the aforesaid submissions, the Opposite Party No.1 has prayed that the present Complaint be dismissed with heavy costs.
8. Vide order dated 21.07.2016, Opposite Party No.2 was proceeded *ex-parte* by our learned predecessor.
9. The Complainant has filed the rejoinder rebutting the written statement filed by the Opposite Party No.1.

10. The parties have filed their respective evidence by way of affidavit in order to prove the avermentson record.
11. Parties have filed their brief Written Arguments and the same have been given due consideration.
12. We have perused the material available on record
13. The ***only question*** that falls for our consideration is ***whether the conduct of the Opposite Parties amounts to medical negligence.***
14. At the outset, it is pertinent to note that that expert opinion plays a crucial role in adjudication of medical negligence cases as Consumer Commissions are not experts in medical science, and must not substitute their own views over that of specialists. Our view if further fortified by the decision of the Hon'ble Apex Court in the ***Martin F. D' Souza vs Mohd. Ishfaq AIR 2009 SC 2049,wherein it was observed as follows:***

"123. The Courts and Consumer Fora are not experts in medical science, and must not substitute their own views over that of specialists. It is true that the medical profession has to an extent become commercialized and there are many doctors who depart from their Hippocratic oath for their selfish ends of making money. However, the entire medical fraternity cannot be blamed or branded as lacking in integrity or competence just because of some bad apples.

124. It must be remembered that sometimes despite their best efforts the treatment of a doctor fails. For instance, sometimes despite the best effort of a surgeon, the patient dies. That does not mean that the doctor or the surgeon must be held to be guilty of medical negligence, unless there is some strong evidence to suggest that he is."

15. To resolve the aforesaid controversy in compliance with the directions contained in ***Martin F. D' Souza case (supra)***, this Commission sought an expert opinion from the Expert Medical Board at G.B. Pant Hospital, whereby the ExpertBoard expressed its opinion vide letter dated 02.08.2017 and held as under:

> *"Medical board met under the chairmanship of Dr. Debashish Chowdhury, Director-Professor & Head and Dr. Subodh Satyarthy (Professor- CTVS) and Dr. Vimal Mehta (Professor-Cardiology) in Room No. 508, Department of Neurology GIPMER on 28/07/2017.*
>
> *The opinion of members is as follows:-*
>
> *1. Thrombolytic therapy (Streptokinase) for stuck valve thrombosis is one of the established line of management which was instituted in this patient.*
>
> *2. High risk consent for the administration of streptokinase (thrombolytic) was taken from the patient before the administration of streptokinase and all the risks were explained as per the consent page attached in records.*
>
> *3. Dislodgement of thrombus causing stroke is a known complication of the disease i.e. thrombosis of aortic valve.*
>
> *4. As per case records, it appears that patient was regularly seen by doctors of the hospital. Case records show that patient was seen on 13/11/2013 at 12: 10PM then at 9:10PM, on 14/11/2013 at 8:40AM, 11:30Am 12: 10PM, 12:55PM and 6:30PM*
>
> *5. As per case records available, Dr S Mukhrejee was informed immediately after the stroke, Streptokinase was immediately stopped and the patient's attendants were given the choice of referral to higher centre.*
>
> *6. The differences in the versions of the hospital and patient's attendants regarding logistics of transfer of patient the higher center cannot be commented upon."*

16. A perusal of the record reflects that the patient-Complainant had also sought an Expert Opinion from the Expert Board at Delhi Medical Council through its Executive Committee. Therefore, we further deem it

appropriate to refer to the Order dated 28.11.2017 passed by the Delhi Medical Council,relevant extract reproduced hereunder as:

> *"In summary, patient presented with aortic valve prosthesis thrombosis which was successfully managed by streptokinase thrombolysis. However patient developed left MCA territory infarct, which is a known complication of thrombolysis.*
> *In light of the observations made herein-above, it is, therefore, the decision of the Executive Committee that prima-facie no case of medical negligence is made out on the part of Dr. S. Mukherjee of Metro Hospital, in the treatment administered to complainant at Metro Hospital.*
> *Complaint stand disposed."*

17. Thereafter the complainant filed an appeal before the Medical Council of India against the said order of Delhi Medical Council Dated 28.11.2017. The Medical Council of India vide its decision dated 15.11.2019 disposed of the said appeal filed by the complainant and upheld the order dated 28.11.2017 passed by the Delhi Medical Council.

18. A perusal of the aforesaid medical opinions leaveno room for doubt that the patient was managed successfully using streptokinase as the per the standard medical protocol. However, the patient developed MCA territory infarct, which is a known complication of thrombolysis. Therefore, prima facie, no medical negligence can be carved out qua Opposite Party No.2-treating doctor.

19. Albeit, adverting to the facts of the instant case, it is apparent writ large from the face of the record that the Opposite Party No.1-hospital failed to provide the ambulance service for transferring the patient. Here, it is pertinent to mention that when a patient approaches a high-end, premier hospital, it creates a **legitimate expectation** of a superior level of competence and care from such premier institute. The patient and their family have a **legitimate expectation** to receive a standard of care that is directly commensurate with the stature, premium fees, and reputation

enjoyed by the hospital and its specialist doctor as has been observed by the Hon'ble Supreme Court in ***Civil Appeal No.2867 Of 2012 titled Balram Prasad vs Kunal Saha and Ors decided on 24.10.2013.***

20. Before parting with this aspect, we deem it appropriate to reiterate that the relationship between a hospital and its patient is founded upon trust, confidence and the legitimate expectation of receiving timely and appropriate medical care. A hospital is not merely a commercial establishment providing medical facilities for consideration; it is an institution entrusted with the onerous responsibility of safeguarding human life. The financial consideration charged by a hospital must necessarily be accompanied by a corresponding degree of accountability, diligence and responsibility in the discharge of its obligations. The provision of basic emergency facilities, including an appropriately equipped ambulance and qualified medical personnel for patient transfer, cannot be treated as an optional or dispensable service. Any failure in this regard, particularly in an emergency, strikes at the very foundation of the trust which a patient places in a medical institution. Such lapses, therefore, warrant serious judicial scrutiny and cannot be viewed lightly.
21. Even otherwise, it is a matter of common knowledge that an adequately equipped ambulance constitutes an indispensable component of emergency medical care and plays a pivotal role in preserving the life and safety of a patient, particularly when the patient is in a critical condition. The timely availability of an ambulance, equipped with the requisite life-support facilities and accompanied by appropriately qualified medical personnel, is not a matter of convenience but an essential element of the duty of care owed by a hospital to its patients.
22. In the present case, the record unequivocally reflects that the Opposite Party-Hospital failed to make adequate arrangements for the transportation

of the patient, thereby resulting in the wastage of precious and critical time at a juncture when the patient was in an extremely vulnerable condition and required immediate medical intervention. The failure to arrange an ambulance, despite the patient's critical condition, assumes considerable significance, particularly in the backdrop of the medical circumstances reflected in the record. Furthermore, the Opposite Party-Hospital was also under an obligation to ensure that the patient was accompanied by a suitably qualified medical professional during transportation so as to monitor the patient's condition and provide immediate medical assistance in the event of any deterioration. However, the Opposite Party miserably failed to discharge even this elementary responsibility.

23. What is particularly disconcerting is that the Opposite Party-Hospital has maintained complete silence on this material aspect and has failed to furnish any cogent, satisfactory or plausible explanation for its omission. Neither has it placed on record any material to demonstrate that reasonable arrangements were made for the safe and timely transportation of the patient, nor has it explained the circumstances which prevented it from extending such basic medical assistance. The absence of any explanation assumes significance, especially when the relevant facts and circumstances were within the exclusive knowledge and control of the Hospital.

24. We are constrained to observe that a hospital, particularly one which holds itself out as a premier medical institution and charges substantial amounts from patients for the medical facilities and treatment rendered by it, cannot absolve itself of its fundamental obligations towards patient care. The duty of a hospital does not come to an end merely upon providing consultation or administering treatment within its premises. Rather, such duty necessarily encompasses taking reasonable and appropriate measures to ensure the safety, continuity of care and well-being of the patient,

including during the process of transferring the patient to another medical facility, wherever such transfer becomes necessary. A patient and their attendants, particularly in circumstances involving a medical emergency, are entitled to repose confidence in the medical institution and cannot be expected to independently arrange for essential medical infrastructure which the hospital itself ought reasonably to provide.

25. We further observe that the failure to arrange for an ambulance and appropriate medical supervision during the transportation of a criticalpatient is not a mere procedural lapse or an inconsequential administrative omission. It represents a failure to adhere to the elementary standards of reasonable care and medical responsibility expected of a hospital. The gravity of such omission becomes all the more pronounced when viewed in the context of the patient's precarious medical condition and the urgency with which medical assistance was required. In matters concerning human life, precious time lost in arranging basic emergency medical facilities may have consequences which cannot subsequently be undone or compensated for.
26. In our considered opinion, the aforesaid conduct reflects a serious dereliction of the duty of care owed by the Opposite Party-Hospital towards the patient and constitutes deficiency in service as defined under the Consumer Protection Act, 1986. The conduct also raises serious concerns regarding adherence to the requisite standards of professional responsibility and medical ethics. A medical institution cannot be permitted to evade accountability for such omissions, particularly when the consequences of its failure may directly affect the life, safety and dignity of a patient.
27. Consequently, having regard to the facts and circumstances of the present case, the material available on record and the failure of the Opposite Party-

Hospital to discharge its fundamental obligations towards the patient, we hold the Opposite Party No. 1 liable for deficiency in service. ***Accordingly, the present Complaint is partly allowed qua the Opposite Party No. 1 and the Opposite Party No.1 is directed to pay to the Complainant:***

A) A sum of Rs.15,00,000/- as compensation for the mental agony and distress caused to the patient and the attendants on account of deficient service in failing to provide the life support ambulance and putting the life of the patient at risk.

B) A sum of Rs. 50,000/- as cost of litigation for a protracted litigation of more than 10 years.

28. The Opposite Party No.1 is further directed to comply with the directions as contained in para 27above within two months from the date of the present judgment, i.e. on or before 06.01.2027 failing which the entire amount shall be paid alongwith interest @9%p.a. from the date of filing the Complaint till the actual realisation of the amount.
29. Applications pending, if any, stand disposed of in terms of the aforesaid judgment.
30. The judgment be uploaded forthwith on the website of the commission for the perusal of the parties.
31. File be consigned to record room along with a copy of this Judgment.

JUSTICE SANGITA DHINGRA SEHGAL
(PRESIDENT)

PINKI
MEMBER (JUDICIAL)

Pronounced on :

06.11.2026