(2011) 04 NCDRC CK 0032

In the National Consumer Disputes Redressal Commission

B.R.S.Heart Institute — APPELLANT

Vs

Research Centre Versus Kuljit Kaur w/o Late S.Balbir Singh Uppal — RESPONDENT

Date of Decision : 25-04-2011

Acts Referred:

Citation : 2011 0 NCDRC 722 : 2011 3 CPJ 78

Hon'ble Judges : R.C.Jain , Anupam Dasgupta J.

Final Decision : petitions is dismissed

Judgement

1. BOTH these appeals arise out of order dated 20.05.2003 passed by State Consumer Disputes Redressal Commission, Union Territory, Chandigarh (in short, the State Commission) in complaint case no. 61 of 2000. By the impugned order, the State Commission has partly allowed the complaint against opposite party (OP) no.1 B.R.S.Heart Institute & Research Centre, and OP no.3 Dr.Bhabananda Dass, cardiac surgeon holding them guilty of medical negligence and deficiency in service and asking the OP no.1 (hospital) to pay a compensation of Rs.2,00,000/- (Rupees two lakh) and to refund the entire deposited fee of Rs.1,45,000/- and a sum of Rs.2,000/- towards cost of litigation and opposite party no.3 to pay a lumpsum compensation of Rs.1,00,000/- with the stipulation to pay the awarded amount within a period of two months failing which the awarded amount shall carry interest @ 9% p.a. from the date of the order till payment. Aggrieved by the said order, OP no.1 B.R.S.Heart Institute and Research Centre has filed Appeal No. 460 of 2003 and OP no.3 Dr.Bhabananda Dass has filed appeal no. 474 of 2003. We propose to decide both these appeals by means of this common order.

2. THE relevant facts which we may note for deciding these appeals are that on 04.10.99 late S.Balbir Singh was taken to OP no.1 B.R.S. Heart Institute and Research Centre (to be referred as the hospital) for consultation with Dr. Rajesh K Jaiswal - OP no.2, who after some investigations, advised Balbir Singh to undergo coronary angiography. Balbir Singh was admitted to the hospital on the

same day and angiography was performed. Immediately thereafter, OP no.2 advised the above-named patient to undergo Coronary Artery Bypass Graft (CABG) at the earliest. Although the complainants, who are the successors-in-interest of Balbir Singh wanted to get the CABG done at Apollo Hospital, New Delhi, OP nos.1 & 2 persuaded them to get the CABG done at the hospital through OP no.3 Dr. Bhabananda Dass who was a visiting cardiac surgeon to the said hospital. Complainants accordingly deposited a fee of Rs.1,45,000/- with the hospital for the said procedure and the procedure was scheduled for 09.10.99 at 7.00 p.m. at the hospitals branch at Kot Billa. On the scheduled day, OP no.3 travelled to Chandigarh by car and performed the CABG on the above named patient with the assistance of Dr. R. Mehra and Dr. S.Jindal, cardiac surgeons and Dr.K.S.Johar, anaesthetist. After the procedure, OP no.3 left for Delhi without giving any post-operative instructions and guidelines in regard to the post-operative management and care. It is alleged that within a few hours of the procedure, the condition of the patient started deteriorating and ultimately he lost consciousness and died at about 1.40 a.m. on 13.10.99. Alleging gross medical negligence, carelessness and deficiency in service on the part of the hospital and the doctors, the complainants, who are the legal heirs of the deceased Balbir Singh, filed complaint seeking compensation of Rs.9,00,000/- under different heads, besides refund of Rs.1,45,000/- deposited as the fee and charges with the hospital for conducting the said procedure. It would appear that initially the complaint was filed against the hospital, Dr. Rajesh K Jaiswal, Dr. Bhabananda Dass, Dr. K.S.Johar, Dr. R. Mehra and Dr.S.Jindal. But the latter two doctors could not be served with notice on the complaint and they were deleted from the array of parties and the other opposite parties renumbered accordingly.

Complaint was resisted by the hospital, OP no.2, OP no.3 and OP no.4 by filing separate written versions, each denying any negligence or deficiency on its/his part. However, the factum of the examination, admission and the patient (S.Balbir Singh) undergoing CABG on 09.10.99 at the hospital (branch) through OP no.3 Dr. Bhabananda Dass with the assistance of other surgeons were not disputed. Similarly, it was also not disputed that the condition of patient had deteriorated to the stage of no return and he died at 1.40 a.m on 13.10.99. The circumstances in which the condition of the patient deteriorated and how best they managed it is sought to be explained by giving lengthy explanations which we propose to deal with at the proper stage.

3. PARTIES largely relied upon the medical record of treatment of Balbir Singh as also the supporting affidavits produced by the parties, each trying to substantiate its/his pleas. On consideration of the respective pleas, evidence and material produced on record, the State Commission held the hospital and OP no.3-Dr. B. Dass guilty of medical negligence and partly allowed the complaint in the above manner. We have heard Mr. Salil Paul, Advocate, learned counsel representing the appellant B.R.S.Heart Institute and Research Centre in FA No. 460 of 2003, Ms. Ikasha Bhalla, Advocate, learned counsel representing Dr. Bhabananda Dass in the other appeal and Mr. A.P.S.Shergil, Advocate representing the respondents/

complainants and have considered their respective submissions.

4. MR. Salil Paul would assail the finding and order of the State Commission holding the hospital guilty of deficiency in service primarily on the ground that it is not based on correct and proper appreciation of the plea of the hospital and the material produced on record. According to MR. Paul, the hospital is a fully equipped medical centre capable of conducting cardiac surgeries, has a number of cardiac surgeons, anesthologist, cardiologists, doctors and para medical staff on its roll as well as the requisite infrastructure and operation theatres. These services were provided for conducting the CABG by the above-named doctors on the said patient. Assuming, for a moment, that the hospital had all the requisite infrastructure and facilities in this case, the main issues are the circumstances which led to the complication of severe post-operative bleeding of the deceased patient and after that happened, how best it was managed. From the sequence of events and records produced before the State Commission, it is manifest that after the CABG was performed on the patient, OP no.3 returned to Delhi leaving the patient in the hands of Dr. R.Mehra and Dr.S.Jindal, the assisting surgeons, to take post-operative care. It appears that these doctors were on the roll of the hospital at the relevant time but left the hospital and the country subsequently. The State Commission discussed the role of these doctors in treating the patient for the complications developed after the procedure and held the hospital guilty of deficiency in service. Going by the pleadings of the parties, the crucial question which needs to be considered in this case is as to whether there has been any negligence / lack of care or deficiency in service on the part of the treating doctors and the hospital in particular at the post-operative stage, i.e. between the night of 09.10.99 to the wee hours of 13.10.99 when S.Balbir Singh breathed his last. When a medical practitioner or hospital can be held guilty of medical negligence and deficiency in service has been considered by the Supreme Court in a catena of decisions and we would like to note a few of these. In Jacob Mathew v. State of Punjab (2005) 6 SCC 1, a three-Judge Bench, considered the question whether charges could be framed against the appellant under Section 304A read with Section 34 of the Indian Penal Code on the allegation of negligence. The three-Judge Bench highlighted the jurisprudential distinction between civil and criminal liability in cases of medical negligence, considered various facets of negligence by professionals and laid down several propositions including the following: "(1) Negligence is the breach of a duty caused by omission to do something which a reasonable man guided by those considerations which ordinarily regulate the conduct of human affairs would do, or doing something which a prudent and reasonable man would not do. The definition of negligence as given in Law of Torts, Ratanlal & Dhirajlal (edited by Justice G.P. Singh), referred to hereinabove, holds good. Negligence becomes actionable on account of injury resulting from the act or omission amounting to negligence attributable to the person sued. The essential components of negligence are three: "duty", "breach" and "resulting damage". (2) Negligence in the context of the medical profession necessarily calls for a treatment with a

difference. To infer rashness or negligence on the part of a professional, in particular a doctor, additional considerations apply. A case of occupational negligence is different from one of professional negligence. A simple lack of care, an error of judgment or an accident, is not proof of negligence on the part of a medical professional. So long as a doctor follows a practice acceptable to the medical profession of that day, he cannot be held liable for negligence merely because a better alternative course or method of treatment was also available or simply because a more skilled doctor would not have chosen to follow or resort to that practice or procedure which the accused followed. When it comes to the failure of taking precautions, what has to be seen is whether those precautions were taken which the ordinary experience of men has found to be sufficient; a failure to use special or extraordinary precautions which might have prevented the particular happening cannot be the standard for judging the alleged negligence. So also, the standard of care, while assessing the practice as adopted, is judged in the light of knowledge available at the time of the incident, and not at the date of trial. Similarly, when the charge of negligence arises out of failure to use some particular equipment, the charge would fail if the equipment was not generally available at that particular time (that is, the time of the incident) at which it is suggested it should have been used. (3) A professional may be held liable for negligence on one of the two findings: either he was not possessed of the requisite skill which he professed to have possessed, or, he did not exercise, with reasonable competence in the given case, the skill which he did possess. The standard to be applied for judging, whether the person charged has been negligent or not, would be that of an ordinary competent person exercising rdinary skill in that profession. It is not possible for every professional to possess the highest level of expertise or skills in that branch which he practices. A highly skilled professional may be possessed of better qualities, but that cannot be made the basis or the yardstick for judging the performance of the professional proceeded against on indictment of negligence. (4) The test for determining medical negligence as laid down in Bolam case, WLR at p.586 holds good in its applicability in India. (5) The jurisprudential concept of negligence differs in civil and criminal law. What may be negligence in civil law may not necessarily be negligence in criminal law. For negligence to amount to an offence, the element of mens rea must be shown to exist. For an act to amount to criminal negligence, the degree of negligence should be much higher i.e. gross or of a very high degree. Negligence which is neither gross nor of a higher degree may provide a ground for action in civil law but cannot form the basis for prosecution." In Martin F. D''Souza v. Mohd. Ishfaq (2009) 3 SCC 1, a two-Judge Bench referred to the judgment in Jacob Mathew''s case and proceeded to equate criminal complaint against doctor or hospital with a complaint filed under the Act. This is evident from para 106 of the judgment, which is extracted below:

"We, therefore, direct that whenever a complaint is received against a doctor or hospital by the Consumer Fora (whether District, State or National) or by the criminal court then before issuing notice to the doctor or hospital against whom

the complaint was made the Consumer Forum or the criminal court should first refer the matter to a competent doctor or committee of doctors, specialised in the field relating to which the medical negligence is attributed, and only after that doctor or committee reports that there is a prima facie case of medical negligence should notice be then issued to the doctor/hospital concerned. This is necessary to avoid harassment to doctors who may not be ultimately found to be negligent. We further warn the police officials not to arrest or harass doctors unless the facts clearly come within the parameters laid down in Jacob Mathew case, otherwise the policemen will themselves have to face legal action." In V. Kishan Rao v. Nikhil Super Specialty Hospital and another (2010) 5 SCC 513, the Court noted that the proposition laid down in Martin D''Souza''s case is contrary to the three-Judge Bench judgment in Jacob Mathew''s case and observed: "We are of the view that the aforesaid directions in D''Souza are not consistent with the law laid down by the larger Bench in Mathew. In Mathew the direction for consulting the opinion of another doctor before proceeding with criminal investigation was confined only in cases of criminal complaint and not in respect of cases before the Consumer Fora. The reason why the larger Bench in Mathew did not equate the two is obvious in view of the jurisprudential and conceptual difference between cases of negligence in civil and criminal matter. This has been elaborately discussed in Mathew."

5. THIS Commission going by the intricate nature of the complication (continuous post-operative bleeding) which could not be controlled despite repeated surgical explorations), considered it expedient to seek the opinion of a body of medical experts and with that end in view, made a reference to the All India Institute of Medical Sciences (AIIMS) for constituting a Board of Doctors from the relevant disciplines to give their opinion based on the medical record of the treatment of S.Balbir Singh. It appears that as Dr. Bhabananda Dass was a former member of the faculty of the Department of Cardiology in AIIMS, senior doctors of AIIMS were not willing to give their opinion in the matter. Accordingly, this Commission referred the matter to another premier Medical Centre of the country, i.e., Asian Heart Institute, Mumbai for obtaining expert opinion of a Medical Board to be constituted at the said Institute. The Medical Board comprising Dr. Ramakanta Panda, Chief Consultant-CVTS, Dr. Pradyot Kumar Rath, Sr. Consultant-CVTS, Dr. Sunil Vanzara, Consultant-CVTS of the said Institute examined the matter and submitted its report dated 24.03.2010. We would like to reproduce the relevant portion of the said report for reference: 1. Date mentioned in the letter from NCDRC for surgery and death of Mr.Balbir Singh (9.10.2009 & 1.10.2009) does not match with medical records probably a typographical error. 2. We could not establish correlation between last 4 non-numbered pages regarding revision petition no.3452 and the medical case of Mr.Balbir Singh. 3. Pre-operative investigation done one day prior to operation showed some derangement of Prothrombin Time (Patient-17 sec: control 12 sec). Apart from these the investigations done were as per norms and within acceptable range. 4. Mr.Balbir Singh underwent Coronary Artery Bypass on

09.10.1999. The operation note as well as anesthesia report suggest that operation underwent without any untoward incident. 5. After the operation patient was shifted to ICU in reasonably stable condition. He had excessive bleeding from drains (1700cc till next morning) for which he was transfused 5 units of blood till next day morning 8.00 a.m. The ICU record suggests that he was maintaining in adequate homodynamic status. 6. Mr. Balbir Singh was taken up for re-exploration at 8.00 a.m. on 10/10/1999 following excessive bleeding. The operation record suggests that there was no specific surgical bleed. The bleeding was due to generalized ooze, necessary surgical procedure was carried out and three vials of Aprotinin was given. At the time of shifting to ICU, patient was maintaining adequate hemodynamic status. 7. After the re-exploration (second surgery) he continued to bleed and between 12 noon on 10/10/1999 to 8.00 am on 11/10/1999 he bleed 1550cc for which he was given 4 units of blood as well as Aprotinin 3 vials and Protamin thrice. ACT done during this period showed high values. Patient hemoglobin status reflected the blood loss and he was transfused at regular interval. We could not find any more details about coagulation disturbance and investigations apart from ACT done three times during this period. The hematological test done on 11/10/1999 does not mention the status of platelet count. The treatment record also does not mentioned whether any specific measures for coagulation disturbance in the form of FFP, Platelets or specific factors if any were given or not. Patient continued to maintain borderline hemodynamic status with continued blood loss. Mr. Balbir Singhs kidney function showed some deterioration and Serum Creatinine had gone up to 1.9. 8. On 11/10/1999 Mr. Balbir Singh continued to bleed and had 800cc blood loss till 5.00 pm. He was given 7 units of blood and ACT was regularly checked. 9. On 11/10/1999 at 4.00 pm he was again re-explored (3rd surgery) from the operation record it appears that no specific surgical bleeder was found. The area around heart was packed and the operation would was left opened. At times in cardiac surgery such decisions are taken as a last resort after adequate attempts. 10. After second re-exploration he showed periods of compromised hemodynamic status and continued to bleed. He bled 800 cc additionally ill till morning 8.00 AM on 12.10.99.

6. ON 12.10.99 Mr.Balbir Singh continued to bleed, though his blood pressure was maintained. His kidney function showed further deterioration, his urine out put dropped and creatinine went up to 2.3. The hematological study done on 12.10.99 does not mention platelet count. ACT was checked twice but no record of any other coagulation parameter was found. The medical record on 12.10.99 does not show whether FFP, Platelet or specific factors if any were given or not. ON the mid night of 12.10.99 patient started deteriorating rapidly and in spite of resuscitative measures, Mr.Balbir Singh expired on 1.40 am on 13.10.99. Mr. Balbir Singh was re-explored twice for bleeding in post operative period and from the record submitted we did not find any surgical cause of bleeding. Surgical intervention seems appropriate in the form of two re-exploration. However, in such clinical situations a detailed coagulation profile including platelet count is

normally done. The medical record submitted to us does not show any such test. Also in such a situation in addition to blood, specific blood components like FFP/ Platelets or specific coagulation factors are given based on results of the tests. The record submitted to us does not mention whether they were given or not. Overall impression is that, though surgically appropriate intervention was undertaken, the post operative investigation and management of bleeding could have been done better. 11. Mr. Paul contended that the above report is inconclusive and in any case it does not hold the hospital guilty of any negligence. We must reject this contention simply on the strength of the observations made in para 11 & 12 of the report (supra). The expert report states in no uncertain terms that hematological study done on 12.10.1999 does not mention platelet count. ACT was checked twice but no record of any other coagulation parameter was found. Similarly, in para 12, the Medical Board has given a categorical opinion that in such clinical situations a detailed coagulation profile including platelet count is normally done. The medical record submitted to the Board did not show any such test. Also, in such a situation, in addition to blood, specific blood components like FFP/Platelets or specific coagulation factors are given based on results of the tests. The record submitted to the Board did not mention whether they were given or not. Overall impression of the Board was that, though surgically appropriate intervention was undertaken, the post-operative investigation and management of the bleeding could have been done better. 12. On a careful consideration of the opinion of the Medical Board, the irresistible conclusion is that the opposite party-hospital and the attending surgeons had omitted to conduct certain tests which were essential for treatment and for controlling the post-operative bleeding of the patient. In our opinion, this is an act of grave omission amounting to medical negligence on the part of the surgeons who were entrusted the task of post-operative management of the patient. Had these tests been conducted, perhaps it would have been possible to control the bleeding and save a precious life. We have, therefore, no hesitation in holding Dr.R.Mehra and Dr.S.Jindal guilty of medical negligence and deficiency in service. Since these doctors have been dropped from the array of parties and as they were on the roll of opposite party no.1-hospital at the relevant time, the hospital is squarely liable for the negligence of the above named doctors in vicarious capacity as well as the main service provider. In this view, we are supported by the Supreme Court decision in the case of Smt. Savita Garg Vs. The Director, National Heart Institute 2004 CTJ 1009 (Supreme Court) (CP. We, therefore, confirm the finding of the State Commission holding the appellant B.R.S. Heart Institute guilty of medical negligence and deficiency in service in providing treatment to S.Balbir Singh which resulted in his death. The compensation awarded by the State Commission against the hospital also appears to be just and proper. We thus confirm the finding of the State Commission qua opposite party no.1 B.R.S. Heart Institute, however, on different / additional grounds.

So far as the appeal filed by Dr. Bhabananda Dass is concerned, learned counsel

for the appellant has strongly argued that finding of the State Commission qua this appellant is untenable on facts and in law. The State Commission has given the following reasons for holding Dr. Dass guilty of negligence : Dr. B. Dass (OP-3), however, took a different stand in his written statement wherein he pleaded in para 2 of the preliminary submissions in the written statement that he regularly operates at Apollo Hospital, New Delhi and requires prior intimation of his attendance, if required outside Delhi. In the present case, he had been requested a day or two in advance to visit Chandigarh and to assist the team of cardiac Surgeons and Cardiologists of OP-1 Hospital for three or more cases. In para 4 of the preliminary submission, Dr. B. Dass averred that on 9.10.99, when he reached Chandigarh the surgery of late S.Balbir Singh Uppal had already been started and had been underway for about 45 minutes. He then carried out Coronary Artery Bypass Grafting (CABG) which lasted for about 30 minutes. Thereafter, the patient was attended to entirely by the team of Surgeons and Cardiologists of OP-1 Hospital as he had no further role to play in the case. In para 5 of the preliminary submissions he again reiterated this stand in these words:.As aforesaid, it was no part of the answering OP duty as a visiting Surgeon to issue instructions regarding post operative care or to be physically present during the patients recovery, especially since the concerned Hospital was itself very well equipped in terms of cardiac Surgeons and Cardiologists. In para 4 of parawise reply Dr. B.Dass denied the averments made in the complaint about giving any personal assurance to the complainants at Manimajra on phone for the cardiac surgery and post operative care of the patient. He also denied that he gave any assurance to the complainants that he had any tie up with the OP-1 and that he is regularly performing such surgeries on the patients on every Saturday and further that the complainants should deposit a sum of Rs.1,45,000/- inclusive of his fee charge of Rs.30,000/- with OP-1 Hospital. He took a specific plea that he came in contact with the patient and the complainants only on 9.10.99 at the time of the said surgery and he had never known nor had any contact with the patient or the complainants before the said surgery. He further denied that the complainants and the patient were persuaded to undergo the said surgery from him. This averment made by OP-3 that he had not any tie up with the OP-1 Hospital and that he was regularly performing such surgeries on every Saturday runs counter to his own case that he had a tie up with OP-1 Hospital where he used to visit to give technical advice at the time of cardiac surgery (CABG) and he used to charge fee of Rs.30,000/- . It may be mentioned that notwithstanding the fact that the complainants succeeded in establishing their case of contacting Dr. B. Dass on phone prior to the cardiac surgery and about their being assured by OP-3, it remains a fact that under the arrangement which Dr. B. Dass had with OP-1 Hospital, he did come on 9.10.99 for performing cardiac surgery (CABG) on the patient S. Balbir Singh Uppal and he conducted CABG on him. It is also undisputed that Dr. B. Dass charged his fee of Rs.30,000/- out of the total package of the sum deposited by the complainants for the cardiac surgery of the patient. The complainants thus hired and availed the services of Dr. B. Dass through OP-1 Hospital for consideration of

Rs.30,000/- and as such they are consumers within the meaning of the term as defined under Section 2(1)(d)(ii) of the C.P. Act and OP-1 hospital and OP-3, Dr. B.Dass are the providers of the service to the patient and particularly OP-3 as an expert in the field of cardiac surgery. It seems quite surprising that such an expert like Dr. B.Dass would straightaway come to OP-1 Hospital on the date of the cardiac surgery itself and joined the surgery which had already been in progress for the past 45 minutes by the team of cardiac Surgeons, Dr. R.Mehra and Dr. S.Jindal and then he would by way of giving his technical expertise, conduct CABG on the patient. At the time when Dr. B.Dass arrived at the OP-1 Hospital, the aforesaid patient was evidently under anaesthesia and not conscious so that Dr. B. Dass could have any contact directly with the patient. Even the statement about contacting the complainants at that time appears to be quite improbable and unbelievable. As per own case of OP-3, he straightaway joined the team of cardiac Surgeons in conducting CABG on the patient, which took about 30 minutes time. Dr. B. Dass remained at OP-1 Hospital for about five hours before leaving for New Delhi on the same night. In para 3 of his affidavit Dr. B. Dass deposed that some hospitals and institutes in the country request for his assistance in handling cardiac surgery cases and he visits those institutes and hospitals and provide technical assistance to the Surgeons of these institutes during cardiac surgeries. In para 9 of his affidavit, he has deposed that the surgery of late S.Balbir Singh Uppal had already been started by the principal Surgeons i.e. OP-4 and Dr. S.Jindal and had been underway for about 45 minutes on 9.10.99 and on his arrival he assisted the Surgeons in the surgery and carried out CABG that lasted for about 30 minutes. In para 13 of his affidavit he deposed, inter alia, that on 9.10.99 he waited for 4/5 hours after the surgery and as there was no major complication, he left. The post operative care of the patient was the responsibility of the OPs 1,4 & Dr. S. Jindal and it was their duty as well. In the affidavit Dr. B. Dass has tried to project himself as a technical expert providing assistance to the principal Surgeons namely Dr. R.Mehra and Dr. S.Jindal, which fact is clearly contradicted by the summary (Annexure C-2) issued by the OP-1 Hospital to the complainants where Dr. R.Mehra and Dr. S.Jindal have been described as assistants and Dr. B. Dass has been described as the cardiac Surgeon.

7. IN our opinion going by the material placed on record, the above observations and finding of the State Commission cannot be upheld because it is the consistent case of Dr. Dass that he had gone to the opposite party no.1-hospital in order to conduct the procedure of CABG on S.Balbir Singh with the clear understanding that post-operative care and management will the responsibility of other associate surgeons who were permanently based in Chandigarh. The Medical Board of Asian Heart INstitute has found no fault with Dr. Bhabananda Dass in conducting the surgery. Although it was alleged that the attendants of S.Balbir Singh tried to contact Dr. Bhabananda Dass personally and on phone, there is no proof to show that the said doctor was in fact contacted and the latter avoided to give his consultation or help needed by the patient. It was for the

hospital or the surgeons on the spot to have consulted Dr. Bhabananda Dass about the future course of treatment and management once the bleeding complication had developed but it was never done. IN our view, having regard to the entirety of the facts and circumstances and the material obtaining on record, the finding of the State Commission holding Dr. Bhabananda Dass guilty of any medical negligence is unsustainable. Hence, the appeal of Dr. Bhabananda Dass deserves to be allowed. In the result, appeal no.460 of 2003 filed by B.R.S.Heart Institute fails and is hereby dismissed. Appeal No. 474 of 2003 filed by Dr.Bhabananda Dass is hereby allowed and the finding and order of the State Commission against this appellant are hereby set aside. The appellant B.R.S.Heart Institute is hereby directed to make the payment of the awarded amount as per the order and directions of the State Commission to the complainants within a period of four weeks from the receipt of the order, failing which the rate of interest shall stand enhanced to 12% p.a.. Under the directions of this Commission, Dr.B.Bhabananda Dass, appellant in appeal no. 474 of 2003 had deposited a sum of Rs.1,00,000/- (Rupees one lakh) with this Commission. In the given facts and circumstances, we would like him (Dr.B.Bhabananda Dass) not to insist on the refund of the said amount and allow it to be paid to the complainants alongwith accrued interest thereon. Costs are made easy in these proceedings.

