
(2015) 05 NCDRC CK 0181

In the National Consumer Disputes Redressal Commission

Case No : 2782 of 2010

JARNAIL SINGH

APPELLANT

Vs

DR. MAMTA GOEL

RESPONDENT

Date of Decision : 19-05-2015

Acts Referred:

Consumer Protection Act, 1986, Section 21, Section 19, Section 17 -
Jurisdiction of the National Commission - Appeals - Jurisdiction of the State
Commission

Citation : (2015) 05 NCDRC CK 0181

Hon'ble Judges : J.M. Malik, S.M. Kantikar

Advocate : Hanish Saharawat, Sunil Sehgal

Judgement

1. In this revision petition, the only short question which arose for consideration is, "whether, a Govt. doctor, the OP/Dr. Mamta Goel (OP-2), was negligent in giving the treatment to the patient, Smt. Neelam Kumari which resulted in the death of her new born baby?".

2. The facts of the case are that on 10.4.2001, the patient, Smt. Neelam Kumari, wife of the complainant, Shri Jarnail Singh, was admitted to Civil Hospital, Jagadhri (OP-1). Ultrasound was performed in the private centre on 11.4.2001, which revealed the condition of baby was normal. Dr. Mamta Goel(OP-2) and Dr. Deepak Gupta told the complainant that the delivery was to be normal. Thereafter, the patient suffered severe pain, nobody attended her. The OP-2 came to duty late at about 9.30. p.m., instead of 8.00 p.m. Without conducting any tests, OP-2 conducted delivery by "C" section, at 11.00 p.m. The male child was delivered, could not be saved due to delayed operation performed by OP 1. Thereafter, the patient was unable to conceive further

pregnancies. Hence, the complainant alleged negligence on the part of OP 2/Dr. Mamta Goel and filed a complaint before the District Forum.

3. The District Forum allowed the complaint, whereas, the first appeal filed by

the OPs in the State Commission was allowed, consequently the complaint was dismissed.

4. Hence, aggrieved by the impugned order of State Commission, the complainant preferred this revision petition.

6. Heard both the counsel, perused the file and medical records. The delay of one day in filing this revision is condoned. The medical records reveal that the OP had noted decrease in fetal heartbeat (FHS), and suspected fetal distress. The consent of complainant for conducting caesarean operation to save lives of mother and child was to be obtained. The complainant delayed to give consent for about 1 1/2 hours while consulting with his relatives and finally gave consent at 11.00 p.m. for C-section. Secondly, Dr. Mamta Goel, OP-2 was working in a government hospital. Moreover, it was an emergency operation, which was performed in the government hospital, without any consideration i.e. free service. This view is supported by the celebrated authority of Indian Medical Association vs. V.P. Shantha 3 (1995) CPJ 1 SC. The delivery notes reveal that at 9.30 PM, the FHS were at the rate of 80 per minute, it was a fetal distress. It was a correct decision taken by OP-2, to conduct LSCS. Same was informed to the patients' relatives, but the consent was given by complainant at 10.40PM. The post-operative and delivery notes clearly reveal that the new born was severely asphyxiated. Resuscitation was tried with oxygen inhalation and mouth to mouth respiration, but the baby passed away. Also, the operative finding mentioned about the accessory horn of uterus, which can also be one of the causes of infertility afterwards.

7. Hence, we do not find any negligence on the part of OP 2, who treated the patient with care and as per standards of practice. There is no correlation between the death of the child and subsequent infertility in this case. Therefore, we dismiss this revision petition as it is lame of strength and on the point of jurisdiction.