(2014) 03 NCDRC CK 0026

In the National Consumer Disputes Redressal Commission

K. Ranga Rao — APPELLANT

Vs

Shaikh Dadoo Saheb — RESPONDENT

Date of Decision : 11-03-2014

Acts Referred:

Citation : 2014 0 NCDRC 385 : 2014 2 CPJ 188

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

Final Decision : Petition dismissed

Judgement

1. THIS revision is filed against the impugned order dated 20.3.2013 passed by the State Consumer Disputes Redressal Commission, (in short, ''State Commission'') at Hyderabad, Andhra Pradesh in FA/663/2011. The deceased, Sheikh Hasina, (Patient) daughter of the Complainant Shaikh Dadoo Sahib, consulted the Petitioner/OP Dr. K. Ranga Rao, on 27.7.2008, for severe abdominal pain. The OP examined her on OPD basis, and thereafter, on 28.9.2008, again when she complained of unbearable pain in the abdomen, contacted the OP, who advised the Complainant, for the Scanning report (USG) from Dr. Jaya Kishore, the Sinologists, from Ongole. The Complainant took her for USG to Dr. Jaya Kishore, who did the ultrasound on 29.9.2008 and telephonically informed the OP. Thereafter, Dr. Jaya Kishore, advised the Complainant to take the patient to Srinivasa Hospital. There, Dr. PSM Prasad examined her and examined the USG report. He informed the Complainant about the serious condition of his daughter, and advised him to take her immediately to Andhra Hospital, Vijayawada. In furtherance, the doctors at Andhra Hospital, examined her and advised to shift her when accordingly, she was shifted by ambulance to Nagarjun Hospital, Vijayawada, for better treatment. Thereafter, treatment was started, however, her condition deteriorated, and she expired around 9 p.m., on 29.9.2008. On the basis of USG report, Dr. Prasad''s opinion and the prescriptions of Nagarjun Hospital, the Complainant alleged negligence on the part of OP, for delay in diagnosis and referral. Hence, a complaint before the District Consumer Disputes Redressal Forum, (in short, ''District Forum'') in CC/41/2009 at Ongole was filed for compensation.

2. THE District Forum on consideration of pleadings and evidence directed the Petitioner/OP to pay Rs. 50,000 as compensation and Rs. 5,000 for costs of litigation, the State Commission dismissed the appeal filed by the OP and confirmed the order of the District Forum. Against the impugned order of State Commission, the OP filed this revision petition.

3. WE have heard the Counsel of both the parties, carefully perused the evidence on record, the referral slip, Nagarjun Hospital case sheets and the affidavits submitted by the doctors, who treated the deceased.

4. THE Counsel for the OP argued that the OP is a highly reputed and committed doctor, running a nursing home for past two decades, in a small town, Addanki (Andhra Pradesh). OP performed his duty with reasonable care and caution. OP referred the patient, Hasina for USG study, and then to higher centers. Hence, there was no negligence on the part of OP. We have focused our attention on the written version filed by OP and the relevant submission made by OP is reproduced as follows: the averments mentioned in the complaint that the deceased Shaikh Hasina was the married daughter of the Complainant, and that on two occasions, prior to 27.9.2008, the OP treated her, as she complained pain in her abdomen and that she was brought to OP''s hospital, on 27.9.2008 complaining severe abdomen pain, is true. But the other allegations mentioned in the complaint that on 27.9.2008, she was brought by the Complainant to OP''s nursing home for treatment as the pains became severe, that the OP examined her, but not admitted her as an in patient, by allotting a room in his Nursing Home and on 28.9.2008, the OP examined her again in a routine manner, but on 29.9.2008, when she cried with unbearable pains, the OP advised the Complainant to bring scanning report of hers, from Ongole, by referring her to Dr. Ch. Jaya Kishore, Radiologists and Sinologists, Sai Vijaya Diagnostic Centre at Ongole, for scanning.

5. IT was an admitted fact, by OP that, complainant and his family members used to take treatment from his hospital, for past 20 years. The complainant, on 27.9.2008, brought Ms. Hasina, to his hospital, on account of "Chronic Ulcer Disease". Therefore, in our view, the OP assumes to be a Family Physician. It is also the responsibility of the family physician to make appropriate referrals without any delay. If a diagnosis is made and a referral to a specialist should be made, the failure to communicate this, to the patient, is negligence. Sometimes family physicians are simply too busy to follow -up with patients and, like above, the patient has a responsibility to be his own Advocate, in following up with their physician. However, if a crucial test is never ordered, the results can hardly be followed -up, thereafter. In today''s environment of ever -increasing complicated medicine, it is the responsibility of the family doctor to ensure that diagnostic tests are performed and follow -up is being made in such like Chronic Ulcer Disease.

6. A communication lapse among physicians, their patients, and other health care providers, are frequently the focus of medical negligence claims. Here, we

find that, Causation became an important issue in this case. In our opinion, earlier diagnosis would have altered the outcome. Possibly, that earlier diagnosis/ treatment could have salvaged the life and avoided the serious casualty. It was admitted by OP that, he has treated Hasina on two occasions, for pain in abdomen, prior to 27.9.2008; hence, we are unable to subscribe that, why, during the earlier visits, the OP failed to advise proper investigations and USG study for Hasina, when he knew that it was a case of "Chronic Ulcer Disease"? The OP has not taken the reasonable care and followed the Standards of Practice which, ought to be taken by a qualified doctor. It amounts to the act of omission by OP. It is also pertinent to note that OP has not produced a single document or medical record, showing the past treatment of the deceased. OP has produced only the USG, referral slip dated 28.9.2008, but he has not produced any cogent evidence about the treatment and advice which he gave to the Complainant, on 27.9.2008. We do not agree with the contention of the OP that the Complainant delayed the matter and wasted time, in securing necessary funds, to go to another hospital. Even the record, on file, shows that the patient was referred, without giving any previous medical history like the medicines used and the treatment so far given to the patient and history, etc. OP has delegated his duty of referral, through the diagnostic centre to send the patient to some other hospital, it appears that OP has waddled out of his responsibility. The patient was in critical condition and suffering from severe abdominal pain was referred to three different hospitals. We have perused the affidavit evidences of the Doctors from Srinivasa Hospital, Andhra Hospital and the Nagarjun Hospital which do not support the contention of OP. We would like to refer the Bolam Test Bolam v. Frien Hospital Management Committee,, (1957)1 WLR 582. The OP did not exercise reasonable care and caution. It was the duty of OP towards the patient to inform/communicate about the seriousness of the disease and give proper advice, for further treatment. This amounts to deficiency in service. It was unfortunate that the patient was to rush from one hospital to another, throughout the day, and ultimately lost the golden/crucial period, who, subsequently, became more critical, and succumbed to disease. Applying the Bolam''s principles of Standard of Practice and Reasonable Care, we hold OP -1 liable for medical negligence. Consequently, revision petition filed by the petitioner, is dismissed. No order as to costs.

