(2017) 09 NCDRC CK 0046

In the National Consumer Disputes Redressal Commission

Case No : 2859 of 2006

KATRA SATYANARAYANA AND ORS — APPELLANT

Vs

LAKSHMI NURSING HOME AND ORS — RESPONDENT

Date of Decision : 11-09-2017

Acts Referred:
Consumer Protection Act, 1986, Section 21(b) - Jurisdiction of the National Commission

Citation : 2017 4 CPR 139

Hon'ble Judges : B.C. Gupta, S.M. Kantikar

Advocate : A. Subhashini, G. Ramakrishna Prasad, Byrapaneni Suyodhan

Judgement

1. This revision petition is filed under Section 21(b) of the Consumer Protection Act, 1986 against the order dated 28.6.2006, passed in First Appeal No. 200 of 1998 by the A. P. State Consumer Disputes Redressal Commission, Hyderabad (in short, '' the State Commission'') whereby the State Commission upheld the order of the District Forum and dismissed the appeal filed by the complainants.

2. The relevant facts for the disposal of the revision petition are that Smt. Rajani Kumari, since deceased, (hereinafter referred as ''the patient'') underwent first Cesarean delivery (LSCS) in the year 1990. During second pregnancy, she was under the care of Dr. K. Vara Prasad/OP 2 and Dr. K. Padmaja/OP 3 at Lakshmi Nursing Home (OP 1) since March 1995. On 20.11.1995, she developed labour pains and got admitted in OP 1/Nursing Home. It was alleged that OP failed to conduct blood tests including Blood Sugar, Urine Tests, Blood Grouping, Cross matching etc. The nursing home does not have proper facility for cesarean section and blood was not kept ready before operation. The doctors without performing any investigation, conducted the vaginal delivery, which resulted into death of the patient. It was further alleged that infusion of Inj. Syntocinon was given at the higher rate of 40 drops per minute, but in the case-sheet, it was recorded as 20 drop per minute. Because of high rate of Syntocinon drip led to rupture of the uterus through previous surgical scar which caused profused blood loss. The baby was delivered at 3.30 p.m. but the bleeding did not stop inspite of

injection Methergine. OPs 2 and 3 did not attempt to investigate the cause of bleeding. Thereafter, at 4.40 p.m., the blood was sent for grouping and cross matching, the relatives were kept in the dark that the patient was in need of ''A'' Negative blood. Due to non-availability of ''A'' Negative blood, ''A'' Positive blood was transfused to the patient without consulting any specialist, which further caused renal failure. The OP has not mentioned record of urine output, subsequently, patient developed shock and then she never recovered. Due to alleged deficiency in service and medical negligence, the complainant filed a complaint before the District Consumer Disputes Redressal Forum, Guntur.

3. The OP filed the written version and denied about the negligence on their part. The OP submitted that the patient did not approach OP at initial stage. There was no negligence while conducting delivery. The blood was needed because there was bleeding after delivery and due to paucity of ''A'' Negative blood, the patient was transfused ''A'' Positive blood. It was necessary to save the life of the patient. Throughout the delivery, the doctor and staff had monitored the entire process.

4. The District Forum on the basis of pleadings and evidence dismissed the complaint. The same order was challenged by the complainant before the State Commission by filing first appeal, which was also dismissed. Being aggrieved by the order of State Commission, the complainant filed the instant revision petition.

5. We have heard the learned counsel for both the parties. Learned counsel for the petitioner argued that the OP was well aware that the patient had first delivery by LSCS, therefore, OP should have been careful while conducting second delivery by vaginal route. The OP neither performed ultrasound nor done any blood test during ante-natal period. Thus, it was a breach in the duty of care from the OP /doctors. During delivery, OP had administered Syntocinon drip at higher rate (40 drips/minute), which further caused more uterine contractions and rupture of the uterus. Also, the counsel submitted that the medical record did not mention about details of trial of labour, which was mandatory in the patient''s undergoing trial of labour after previous LSCS. OP should have advised emergency cesarean but he proceeded with normal delivery. In this regard, counsel for the complainant produced '' SOGC Guidelines for Vagina Birth After Previous Caesarean Birth''. Learned Counsel relied upon the judgments passed by this Commission in RP. No. 3887 of 2012 in Thavarmal (deceased) & Ors. vs. Sheela Maternity Hospital & Anr. decided on 10.12.2014 and Post Graduate Institute of Medical Education & Research, Chandighar Vs. Jaspal Singh and others, civil appeal No. 7950 of 2002 decided on 29.05.2009 and Dr. (Mrs.) Indu Sharma vs. Indraprastha Apollo Hospital III (2015) CPJ 248 (NC).

6. Learned counsel for OP vehemently argued that there was no negligence at all. The patient first time on 26.09.1995 came to OPD. As she had previous LSCS, after clinical examination, the necessary tests viz. urine-albumin B.P., Hb%, Blood Grouping, Typing, Bleeding time and clotting time etc. were advised. She was advised for periodical check-up but she did not turn up even once for

the check up. On 20.11.1995 around 12.00 noon, she was brought to the hospital during labour pain and she was admitted directly and kept in the labour room. She was given routine Enema, Antibiotics and 2.5 units of Syntocynon, inj. 5% dextrose drip with the rate of 20

drops per minute. The dose of Syntocynon was the lesser than the usual dose of 5 units. OP 2 and 3 were constantly monitoring fetal heart rate (FHR) and progress of the labour. The patient delivered healthy child at 3.30 p.m. There was no negligence in conducting the delivery and there was no need for LSCS. After delivery, placenta was completely expelled spontaneously within 10 minutes. Thereafter, IV Methergine injection was given as a routine at 3.45 p.m. but unexpectedly, the mother started profuse bleeding and same could not be controlled inspite of repeated doses of Methergine followed by Prostadin injection at 4.00 p.m. There was a fall in Pulse and BP, the uterus of patient became flabby. The patient was given Haemaccel. The patient was found to be ''A'' Negative. Due to non-availability of ''A'' Negative blood, she was transfused ''A'' Positive blood initially and thereafter, the patient was given six units of ''A'' Negative blood alongwith Dopamine drip to revive her condition but instead of that, the patient did not recover.

7. We have perused the medical record of Laxmi Nursing Home and the evidence filed by both the parties before lower fora. As per the medical record (Annexure -4) the history was recorded as ''Post Cesarean Pregnancy'' and patient approached OP on 20.11.1995 with the complaint of pain in abdomen and backache. OP 3 recorded the findings as pulse rate 90/mt. and BP was 140/90 mmHg., the uterus was full term, Cephalic presentation mentioned surgical scar. P/V examination revealed Cervix fully effaced 4 cm dilated, with tense bag of membranes, vertex at 0 station and the pelvis was adequate for vaginal delivery. Accordingly, OP/Dr. K. Padmaja advised for Enemia and 5% Dextrose with 2.5 units of Syntocinon with 20 drops. The record also shows notes dated 20.11.1995 at 1.30 P.M. which reveals that patient started getting contractions at regular intervals 20-30 / 2-3 minutes. The service was fully effaced 6 cm. dilated and the vertex at ''+1'' station. At that time, OP performed ARM, which revealed ''Mild Meconium Stained liquor''. At 2.15 p.m., the head of the patient was totally descended into pelvis, uterine contractions were regular at 30-40 per/2-3 minutes. FHR was 134/mt. Therefore, Syntocinon drip was increased to 40 drops/ per minute. Finally the baby was delivered at 3.30 p.m. and baby cried after birth. The placenta expelled totally. One Amp. Methergine IV was given and the episiotomy wound was sutured under asephic precautions. The OP noted at 4.00 p.m. that the uterus was well contracted but fresh bleeding was seen coming out of the introitus. The blood clots were removed from vagina and it was packed. Again, inj. Methergin was given but the bleeding did not stop, the bleeding was seen coming out of the Cervical os, OP 3 removed the blood clots from vagina and bimanual pressure on uterus was applied. Immediately the patient was given 3 ampoules of Syntocinon. The patient became hypotensive. Simultaneously, second IV line was started with Haemacel at very fast rate. The blood was sent

for grouping and cross matching. As the patient was ''A'' Negative and the blood was not available, therefore, patient was given two bottles of ''A'' Positive blood at 7.30 p.m. thereafter, ''A'' Negative blood was given from 10.30 p.m. So, in this way, total 8 units of blood were given alongwith Dopamine drip but the condition of patient went on deteriorating and she was declared dead at 7.10 a.m.

8. We have perused medical literature available on file and also took a reference from few text books like Williams Obstetrics, Transfusion Medicine, Rh incompatibility and the ''Anaesthesiology'' by Churchill''s Ready Reference.

9. As per Book of Obstetrics by D. C. Dutta, which has discussed about the complications after previous Cesarean delivery section, that : "Previous history of Caesarean Section does not appreciately alter the course of pregnancy and labour. However, the following complications are likely to increase 1) Abortion 2) Premature labour 3) Normal pregnancy ailments 4) Operative interference and incidental morbidity 5) Retained placenta and postpartum haemorrhage".

10. Thus, it is clear from the medical literature that, the previous history of Cesarean section does not appreciately alter the course of labour. It means the doctor can conduct normal delivery under such circumstances. In the instant case, the patient underwent first delivery in 1990 i.e. almost 5 years back, thereafter the second delivery was in 1995 in the OP 1/hospital. OP 3/doctor after examination of patient, decided to conduct normal delivery instead of LSCS. Therefore, choosing the different method of treatment is not a medical negligence. In this regard, we rely upon the judgment of Hon''ble Supreme Court in Achutrao Haribhau Khodwa v. State of Maharashtra (1962) 2 SCC 634, which laid down the law as follows: "The skill of medical practitioners differs from doctor to doctor. The very nature of the profession is such that there may be more than one course of treatment which may be advisable for treating a patient. Courts would indeed be slow in attributing negligence on the part of a doctor if he has performed his duties to the best of his ability and with due care and caution. Medical opinion may differ with regard to the course of manner which is acceptable to the medical profession and the court finds that he has attended on the patient, but as long as a doctor acts in a manner which is acceptable to the medical profession and the Court finds that he has attended on the patient with due care, skill and diligence and if the patient still does not survive or suffers a permanent ailment, it would be difficult to hold the doctor to be guilty of negligence."

11. OP 3 is a qualified Gynecologist and OP/her husband was a surgeon, who had conducted the delivery. The medical record also proves that the Syntocinon was not given in controlled excess but it was administered in controlled manner. The patient was efficiently managed throughout the delivery. The post delivery bleeding was also managed by giving Haemaccel and 8 units of blood transfusion. Therefore, in our view, there was no failure of duty of care by OP 3. Though it has been noticed that the OP had not confirmed the blood group of the patient before delivery, certainly it has created panic and the patient was in need

of blood. As the patient''s blood group was ''A'' negative, which itself is a rare blood group, certainly, it has created panic and also mental agony to the patient''s relatives to arrange the rare blood group but immediately with the prudence of OP/doctors, they have administered Haemaccel and ''A'' Positive blood, which was an accepted method of treatment to save the life of patient. The medical record did not show that there was uterine rupture as alleged by the complainant. The death of patient was due to Post Partem Hemorrhage (PPH) and Disseminated intravascular coagulation (DIC). On the basis of available medical literature, the cause of death was due to Post Partem Hemorrhage (PPH) and Disseminated intravascular coagulation (DIC).

12. In Jacob Mathews Case , (2005)6 SCC 1, the Hon''ble Supreme Court observed that:- "When a patient dies or suffers some mishap, there is a tendency to blame the doctor for this. Things have gone wrong and, therefore, somebody must be punished for it. However, it is well known that even the best professionals, what to say of the average

professional, sometimes have failures. A lawyer cannot win every case in his professional career but surely he cannot be penalized for losing a case provided he appeared in it and made his submissions."

13. Considering the entirety of the facts, in our view, the OP/doctors have acted in accordance with accepted, ''standard medical practice. In our view, the impugned order, therefore, does not suffer from any illegality, irregularity or jurisdictional error, which may call for interference in the exercise of revisional jurisdiction. We do not find any merit in the instant revision petition. Hence, it is dismissed. There shall be no order as to costs.

