
(1998) 12 NCDRC CK 0048

In the National Consumer Disputes Redressal Commission

MASTER SUBAM KASHYAP

APPELLANT

Vs

SARLA MADKAN

RESPONDENT

Date of Decision : 22-12-1998

Acts Referred:

Citation : 1999 1 CLT 333 : 1999 1 CPC 384 : 1999 1 CPJ 505

Hon'ble Judges : M.R.Agnihotri , Sushil Paul , A.D.Malik J.

Final Decision : Complaint dismissed

Judgement

1. MASTER Subam Kashyap and his grand-father Gian Chand have invoked the original jurisdiction of this Commission by filing the present complaint alleging deficiency in rendering medical service against Dr. (Mrs.) Sarla Madkan and Dr. (Mrs.) Sudesh Singla while treating Smt. Sunita during her delivery on 22nd October, 1995.

2. ACCORDING to the complainants, Smt. Sunita was admitted in the Payal Nursing Home, Kurukshetra run by Dr. (Mrs.) Sarla Madkan for the delivery of child on 22nd October, 1995. After delivering a male child on 22nd October, 1995 even certain stitches were required to be given to Smt. Sunita. Since there was some complaint, she was referred to Dr. (Mrs.) Sudesh Singla - opposite party No. 2 and the patient was thereafter referred to P.G.I., Chandigarh. She was discharged from opposite party No. 2's Nursing Home on 25th October, 1995 but she came to the P.G.I. only on the following day i.e. 26th October, 1995. In the P.G.I, she was treated for Cortical Venous Thrombosis but died on 27th October, 1995. From the record of P.G.I, the cause of death of Smt. Sunita was "Raised intra cranial tension". On these facts the complainants have filed the present complaint alleging deficiency in service and negligence against the opposite parties claiming Rs. 18 lacs by way of compensation. In the written reply filed by Dr. (Mrs.) Sarla Madkan-opposite party No. 1 and Dr. (Mrs.) Sudesh Singla-opposite party No. 2 allegations of deficiency in service and negligence in treating Smt. Sunita has been stoutly refuted. According to them Smt. Sunita was admitted in the Nursing Home of Dr. (Mrs.) Sarla Madkan by her husband for

the delivery. With the help of episiotomy within 5 hours of the admission Smt. Sunita gave birth to the baby. This being the first delivery and almost in 100% cases episiotomy, which is just a minor cut to facilitate normal delivery, was given. There is no question of septicemia and after the delivery the stitches were healing properly. However at about 10.00 a.m. on 25th October, 1995 Smt. Sunita started behaving abnormally and was not well oriented to time and was complaining of severe headache and immediately she was referred to Dr. (Mrs.) Sudesh Singla- opposite party No. 2, who referred the patient to the P.G.I., Chandigarh but for full one day the patient did not report to P.G.I. and was admitted only on 26th October, 1995 where she died on the following day at 11.45 a.m. It is stated by Dr. Madkan that she is a Gynaecologist (Gold Medalist) and is running her Hospital for the last more than one decade; similarly opposite party No. 2-Dr. Sudesh Singla in her reply fully supported the version of Dr. Sarla Madkan and has reiterated that there was no negligence in rendering medical service. It is further stated that she is M.D. in Medicine since 1986 and had been in service of Himachal Pradesh Government from 1978 to March 1992 and has been running her private Nursing Home-cum-Clinic at Kurukshetra since 1992. According to her she had examined number of cases and is expert to find out whether a certain patient is suffering from Sepsis or infection or otherwise, etc. Both the Doctors have stated that the treatment given to the deceased was the same which almost in all the cases the Doctors at the time of delivery have been giving to such patients.

National Insurance Company, which was impleaded later on as Dr. (Mrs.) Sarla Madkan - opposite party No. 1 had got herself insured for an indemnity limit have placed on record a copy of the insurance policy by which Payal Nursing Home was insured for the period 27th August, 1995 to 26th August, 1996.

3. WE have heard the learned Counsel for the parties and have also gone through the record but there being no evidence whatsoever, on the basis whereof it can be inferred much less concluded that there was negligence or deficiency in rendering medical service against opposite party Nos. 1 & 2. Only document on record indicating cause of death being the certificate issued by the P.G.I., it does not substantiate the allegations of the complainants. It is settled by number of decisions of the Hon'ble National Commission as well as Hon'ble Supreme Court of India, that if while treating a patient the Doctor Incharge adopts the conventional method and manner of treatment, as prescribed by texts and followed by specialists of the line and during the treatment even if the patient does not respond and death takes place, the Doctor attending the patient cannot be accused of any negligence or deficiency in service. Therefore, the complaint is wholly without any basis and the same is dismissed with no order as to costs. Complaint dismissed.