**(1998) 12 NCDRC CK 0045**

**In the National Consumer Disputes Redressal Commission**

Maya Devi — APPELLANT

Vs

ESCORTS MEDICAL CENTRE — RESPONDENT

**Date of Decision :** 22-12-1998

**Acts Referred:**

**Citation :** 1999 1 CLT 331 : 1999 1 CPC 386 : 1999 1 CPJ 449

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

**Final Decision :** Complaint dismissed

## Judgement

1. COMPLAINANT-Miss Maya Devi has invoked the original jurisdiction of this Commission by filing the present complaint alleging deficiency in service against Escorts Medical Centre, Faridabad- opposite party No. 1 and Dr. Anjoo of this hospital as opposite party No. 2, alleging negligence and deficiency in rendering medical service while treating the complainant on 1st April, 1994.

2. ACCORDING to the complainant she was admitted in Paediatric (Children Ward) of the Escorts Hospital on 1st April, 1994 as she was complaining of high fever and Broncho Pneumonia. The complainant remained in the hospital for 5 days and was discharged on 6th April, 1994. During this period number of medicines and injections were administered to her but she developed gangrene on her left hand. The complainant was suffering from measles for which no treatment was given by the opposite party. However, when the complainant was referred to All India Institute of Medical Sciences, New Delhi on 6th April, 1994, where she remained upto 16th April, 1994, gangrene developed on the left forearm of the complainant. The Doctors of the AIIMS referred the case of the complainant to Safdarjang Hospital on 16th April, 1994 where her left arm was amputated above elbow. Attributing negligence on the part of the Doctor of Escort Hospital, Faridabad i.e. opposite party Nos. 1 and 2 the present complaint has been filed claiming compensation of Rs. 10 lacs against the opposite parties for the alleged negligence in rendering medical service. In their reply, the opposite parties have stoutly refuted the allegations levelled in the complaint and have stated that the complainant was not only suffering from high fever and

 

Broncho Pneumonia as stated in the complaint but was also dehydrated and was suffering from a rash of measles, respiratory distress, hypoxia, acidosis, cyanosis and continuous convulsions (fits) and shock. It has further been stated that the following medicines were administered to the patient, none of which cause gangrene : 1. Inj. Cefotaxim and cloxacillin were administered for treatment of septicemia (infection). 2. Inj. deriphylline was administered for treatment of respiratory problem. 3. Inj. Phenytoin was administered for controlling the convulsions (fits).

Inj. Escorpin was administered for management of shock.

3. I.V. Fluids were administered for correction of dehydration. Sodabicarb was administered for correction of acidosis.

4. OXYGEN Inhalation through a mask was given for correction of hypoxia. Salsol nebuliza was administered through mask for treatment of respiratory complications. Ryle''s tube was inserted from the mouth to the stomach for maintenance of feeding.

5. CHEST physiotherapy was administered for treatment of respiratory complications.

6. SYRUP Ipcazide was administered for treatment of respiratory complications. Nasal saline drops was administered for treatment of nasal blockage.

Suction was done to clear respiratory passage." It is further stated that the treatment rendered by the Doctors was in accordance with the well-recognised techniques adopted for treating such complications. In support of their assertion reference has been made to Behram Kliegman Arvin on Nelsons Textbook of Paediatrics 15th Edition at page 706. It has further been asserted by the Doctors that due care and attention was given by the Doctors to the patient and after reference to the AIIMS and onward reference to the Safardarjang Hospital, if ultimately hand of the patient had to be amputated, it did not attribute any negligence or deficiency in service on the part of the Doctors. Dr. Anjoo Bhatnagar has also claimed that she had done M.B.B.S. in 1980 and M.D. in the year 1984 and possessed rich experience in the field of Paediatrics. 4. Additional affidavits and documents have been placed by the parties during the trial of the complaint in support of their respective allegations, but no oral evidence was produced either of any expert or specialist in the line or any other person to substantiate the allegations of any negligence or deficiency in service on the part of the Doctor-opposite party. 5. We have heard the learned Counsel for the parties at length and have also gone through the record but we do not find any cogent or convincing evidence on the basis whereof allegations of negligence or deficiency in rendering medical service could be established against the opposite party. 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. 6. In view of the aforesaid factual and legal position we find that the complainant has not been able to establish any deficiency or negligence in rendering medical service to the complainant; hence the complaint is dismissed with no order as to costs. Complaint dismissed.

 