

CIVIL APPELLATE JURISDICTION
 CIVIL APPEAL Nos.2537-38 OF 2011
 Arising out of
 CIVIL APPEAL D NO. 2000 OF 2011

Century Rayon Hospital & Anr.

...Appellants

Versus

Tej Pal Rastogi

...Respondent

ORDER

This appeal is directed against order dated 08.10.2010, passed by the National Consumer Disputes Redressal Commission (for short 'The National Commission) in O.P. No. 133 of 2001, whereby the complaint filed by the respondent was partly allowed and the appellants were directed to pay compensation of Rs. 8,00,000/- with interest @ 9% per annum from the date of death of Smt. Sushila Devi (wife of the respondent).

The respondent had taken his wife to appellant No.1 hospital on 23.01.2001 with the complaint of chest pain, giddiness and the history of hypertension. After examining her, the duty doctor advised that she may be admitted for further observation, tests and follow-up. She was admitted at about 11.30 a.m. and the routine medical tests were conducted. After admission, appellant No. 2 started treating the patient and prescribed some medicines for controlling blood pressure. As a precautionary measure he prescribed Urokinase injection (15 lakh units) and made a note that the same be administered in case of emergency after conducting Trop T test. At about 3.30 p.m. the respondent's wife was administered Urokinase injection. Immediately thereafter her condition deteriorated and, ultimately, she was shifted to Jaslok Hospital. She breath her last on 25.01.2001.

In the complaint filed by him, the respondent alleged negligence on the part of the appellants which resulted in the death of his wife. He claimed that the deceased was administered Urokinase injection without conducting appropriate test and without

any emergency or necessity. In their reply, the appellants denied the allegation of medical negligence and pleaded that the injection was administered to the deceased with a view to avoid myocardial infraction.

The parties served interrogatories on each other and also filed affidavits of the doctors in support of their respective cases. After considering the pleadings of the parties and evidence produced by them, the National Commission held the appellants guilty of medical negligence. For arriving at this conclusion the National Commission observed that the record maintained by the appellants does not suggest that the deceased was suffering from serious chest pain at about 3.30 p.m. necessitating administration of the injection. The National Commission then referred to the records of the two hospitals and observed:

"The case records of the patient from the OP Hospital do not show as to whether any further enquiries were made by the doctor in relation to the history of IHD or hypertension.

The records do not disclose any enquiries having been made nor the doctor asked for any previous case papers which would suggest that the patient was suffering from Ischemic Heart Disease. Hospital record also does not show as to what was the condition of the patient when injection Urokinase was given. There is nothing in the case record maintained by Ops to suggest that the patient was suffering from severe chest pain at 03.30 P.M. and injection was given to avoid heart attack.

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The condition of the patient at 03.30P.M. when injection Urokinase was administered has not been recorded so as to justify the administration of said injection without Trop T test. Such justification should have been recorded in the case papers especially when the said injection was advised only when Trop T Test was positive. No record was maintained by the OP's regarding examination of the patient before injection Urokinase was administered or that the patient had suffered severe pain in chest which could be clinical feature of myocardial infraction. The patient was admittedly in ICU, but no ECG recordings have been produced by the OPs. In the light of the condition of the patient reported by the Ops, CT Scan was absolutely necessary at least immediately after the condition of patient had deteriorated. It may be mentioned here that there are contra indications of said injection Urokinase. Dr. S.V. Khadikar has admitted that intra-cerebral bleed is contra indication for Urokinase.

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At this stage reference be made to Death Summary issued by Jaslok Hospital which reads as under:

"This elderly lady was admitted in an unconscious state. She has an history of acute onset CVA. Admitted outside on 23/1/01. She was treated C IV Urokinase for suspected in Infer Wall M 1. Subsequently, the condition deteriorated and was shifted to Jaslok for further management.

On admission patient was gasping immediately put on ventilator and inotropic support. Subsequent evaluating revealed less of all brain stem refill she was seen by Dr. Mehta (Honorary Carbolic and Dr. J Desai) (Hon. Neurologist) CT plain of head should large - left Thalmic Bleed with Intraventricular extension into both lateral and IV ventricle. Her condition continued to deteriorate and on 20.01.2001 at 03.40 p.m. She had _____ of failure of cardiac function also. All the efforts to resuscitate yielded no result. Patient was declared dead on 25.01.2001 at 4.15 PM.

Cause of death: IHD I inferior Wall infract with large intra cerebral bleed"

From the above discussion it is clear that no proper examination of the patient was done by the doctors at OP hospital and injection Urokinase was administered with great haste which lead to intra cerebral bleed resulting into the death of the patient. After administering injection Urokinase and the patient was shifted to Jaslok Hospital, no details of condition of patient have been recorded by OP in the records. There is no record for 24.01.2001 except for reference to Special visit of Dr. S.V. Khadikar, but the condition of patient is not recorded. Thus it is clear that no treatment whatsoever was given, even though the patient was in a serious condition when discharged. Admittedly, when the patient was examined, she was deeply unconscious and there was no reference to deep painful stimuli and pupils were widely dilated and fixed. There has been thus medical negligence on the part of Dr. S.V. Khadikar and other doctors of OP Hospital."

Shri Shyam Divan, learned senior counsel for the appellants, emphasized that the appeal filed under Section 23 of the Consumer Protection Act should be entertained as a matter of course but we are not felt convinced because the learned counsel could not show as to how the finding recorded by the National Commission on the issue of medical negligence is vitiated by the error of law. The attention of the learned senior counsel was drawn to the finding recorded by the National Commission with reference to the record maintained by the appellants, which reveals that there was no emergency warranting administration of Urokinase injection and if, at all, it was necessary why the required test was not conducted. The learned counsel could not offer any satisfactory explanation for this. Therefore, we do not find any valid ground to entertain the appeal, which is hereby dismissed.

As a sequel to the dismissal of the appeal the appellants' prayer for setting aside order dated 03.12.2010 passed in Review Application Nos. 211 and 212 of 2010 is rejected.

J.

.....
[G.S. Singhvi]

.....J.
[Asok Kumar Ganguly]

New Delhi
March 14, 2011.
ITEM NO.4

COURT NO.11

SECTION XVII

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS
I.A.No.1 IN CIVIL APPEAL D.NO(s). 2000 OF 2011

CENTURY RAYON HOSPITAL & ANR

Appellant (s)

VERSUS

TEJ PAL RUSTOGI

Respondent(s)

(With appln(s) for condonation of delay in filing appeal and office report)

Date: 14/03/2011 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE G.S. SINGHVI
HON'BLE MR. JUSTICE ASOK KUMAR GANGULY

For Petitioner(s) Mr.Shyam Divan, Sr.Adv.
Mr.R.N.Karanjawala, Adv.
Ms.Manik Karanjawala, Adv.
For M/S. Karanjawala & Co.,Adv.

For Respondent(s) Mr.G.D.Rustagi, Adv.
Mr. Anis Ahmed Khan,Adv.

UPON hearing counsel the Court made the following
O R D E R

Delay condoned.

The appeal is dismissed in terms of the signed order.

As a sequel to the dismissal of the appeal the appellants' prayer for setting aside order dated 03.12.2010 passed in Review Application Nos. 211 and 212 of 2010 is rejected.

(Satish K.Yadav)
Court Master

(Phoolan Wati Arora)
Court Master

(Signed order is placed on the file)