

IN THE COURT OF THE DIST. CONSUMER DISPUTES REDRESSAL COMMISSION,CUTTACK.

C.C.No.96/2020

1. Ramesh Chandra Pattanaik,
S/o: Late Gopala Pattanaik.

2. Namita Pattanaik,
D/o: Ramesh Chandra Pattanaik,
Permanent resident of Madhubana-5th Lane,
Puri.

3. Ranjeet Kumart Pattanaik.

4. Biswajit Pattanaik,
Residing At:C-304,SRK Gardens
168/1 Kudulu Hosur Main Road,
Near to Kudlu Bus Stop,Bangalore-56008.

Both are sons of Ramesh Chandra Pattanaik,
All except Complainant No.4 are Permanent
Resident of Madhubana-5th Lane,
Puri, at present residing At:Blue Lagoon Hotel,
P.O:Chandinichowk,P.S:Lalbag,
Dist:Cuttack.

... Complainants.

Vrs.

1. Apollo Hospitals Enterprise Ltd.,
Represented through its Chairman,
Having its Regd. Office At:No.19,Bishop Gardens,

Raja Annamalai Puram,Chennai,
Tamilnadu,India-600028.

2. Superintendent of Apollo Hospital Enterprise Ltd.,
Bhubaneswar,Plot No.251,Sainik School Road,Unit No.15,
Bhubaneswsar,Dist:Khurda,Pin-751005.
3. Dr. Bibenakanda Pattanaik,
Apollo Hospitals,Bhubaneswar of
Plot No.251, Sainik School Road,
Bhubaneswsar. ... Opp. Parties.

Present: Sri Debasish Nayak,President.
Sri Sibananda Mohanty,Member.

Date of filing: 19.11.2020

Date of Order: 03.11.2023

For the complainants: Mr. B.S.Das,Adv . & Associates.

For the O.Ps No.1 & 2: Mr. M.K.Mohanty,Adv. & Associates.

For the O.P No.3: None.

Sri Debasish Nayak,President.

Case of the complainant bereft unnecessary details as made out from the complaint petition in short is that Nirupama Pattanaik the wife of the complainant no.1 and mother of the rest of the complainants had sustained injury at her left leg by falling down, for which she was admitted at Chanakya Hospital at Cuttack on 4.5.2015. She was shifted from Chanakya Hospital to Health Care Hospital at Cuttack on 5.5.2015. Again on 7.5.2015 she was shifted to the Apollo Hospital at Bhubaneswar and was admitted there that night at about 11.30 P.M. The admission fee of Rs.10,000/- was deposited there for her. She was taken to the ICU on 8.5.2015 and had remained there till 14.5.2020. The patient was also shifted to HDU on 14.5.2015 where she had to stay for 3 days and on 17.5.2015 she was shifted to Semi Private ward where she was kept for two days.

Again on 19.5.2015 she was taken to the HDU for 4 days and lastly on 23.5.2015 she was shifted to the private ward where she remained for four days. In such manner a sum of Rs.87,050/- was collected by the O.Ps illegally from them towards her room-rent charges. During treatment, the complainant no.2 got only a single chance to discuss about the patient with the treating doctor of the O.Ps but they had not disclosed as regards to the fee structure of the said hospital inspite of query of the complainants. The complainants were rather made to understand on 24.5.2015 that since because the TLC of the patient was high, operation could not be conducted for which they were waiting for the normalcy of the TLC. Time and again, the complainants had requested the O.Ps in order to know the fee structure that is to be spent for the patient but each time the O.Ps had taken some plea or the other and had never disclosed the fee structure to the complainants. The complainants had expressed their financial condition to the O.Ps and after their discussion with the O.Ps, it was suggested to shift the patient to any other hospital if possible. The treating doctor wanted to observe the patient for seven days in order to find out that if the TLC rate comes down. Ultimately on 27.5.15 the said patient was shifted from the ICU to the cabin where she developed itching problem for which Dr. B.N.Panda instructed the nursing staff to administer "Spectra" drug but soon after administering the said drug, the patient became unconscious. When the matter was brought to the notice of the doctor, the said doctor advised the complainants that they were at liberty to take away the patient elsewhere. On 28.5.15 it was found out by the complainant no.2 that all the treatments were stopped to the patient and the nursing service was also suspended. No medicine was administered to the patient who was by then at a traumatic condition. On 27.5.15 the patient was discharged from the Apollo Hospital and subsequently she was admitted at E-24 Hospital at Puri at a worsening condition. Ultimately the patient Nirupama Pattanaik had died there at the E-24 Hospital on 6.6.2015. It is alleged by the complainants through their complaint petition that though various tests were being conducted by the O.Ps, they had never communicated or consulted with the complainants about the treatment procedure or even about the fee structure that which was required to be spent for the patient. In the said manner bill was raised to the tune of Rs.4,98,950/- by the O.Ps which the complainants were compelled to pay. The description of the bill as provided is given below:

1. Consultation	Rs.36,050/-
2. CSSD	Rs.1470/-
3. Emergency Services	Rs.250/-
4. Equipment	Rs.43,400/-
5. Invasive Procedures	Rs.5,200/-
6. Investigation	Rs.55,050/-
7. Medical Administration	Rs.13,900/-
8. Non-invasive Procedure	Rs.9,590/-
9. O T Consumables	Rs.9900/-
10. Physiotherapy	Rs.5,190/-
11. Profile	Rs.4,390/-
12. Room rent	Rs.87,050/-
13. Ward Pharmacy	<u>Rs.2,37,300.45p</u>
14.	

It is further contention of the complainants that the O.Ps had burdened them with heavy expenditure towards the treatment of their patient Nirupama Pattanaik and in this manner, the O.Ps are engaged in amassing huge amount of illegal money from various patients by cheating them, which according to the complainants is definitely an unhealthy practice as adopted by the O.Ps. The complainants have questioned about the usage of 782 number of gloves those which were alleged to have been used by the treating staff of the O.Ps which amounts to Rs.4,681/-. According to the complainants, practically no such doctor/staff were visiting the patient though charges were being taken for their visits. The complainants have also drawn attention towards the remark and endorsement of the treating staff and doctors for their patient where charges were being taken but there was actually no visit or attendance by them for the patient. It is for this, the complainants have filed this case seeking compensation from the O.Ps to the tune of Rs.36,00,000/- and also they have sought for refund of the entire amount that which they had paid to the tune of Rs.4,98,946/-. The complainants have further prayed for any other reliefs as deemed fit and proper.

The complainants have filed copies of some documents alongwith their complaint petition in order to prove their case.

2. Out of the three O.Ps as arrayed in this case, O.P no.3 having not preferred to contest has been set exparte vide order dated 30.9.2022. However, O.Ps no.1 & 2 have contested this case and have filed their written version conjointly. According to them, the complainants have not approached this Commission with clean hands. They admit about the patient Nirupama Pattanaik, wife of the complainant no.1 and mother of rest of the complainants was admitted to their hospital on 7.5.2015 and was under the treatment of Dr. Bibeka Nanda Panda(Nephrologist) bearing UHID No.ODB1.0000262684. The patient was suffering from altered Sensorium,hematemesis at the time of admission. She had fallen at her home on 27.4.2015 and again she had fallen from her bed three to four days thereafter for which she was unable to walk. As per the record, the patient was initially admitted to Chanakya Hospital at Cuttack with effect from 3.5.15 to 5.5.15. But when her condition deteriorated, she was shifted to Health Care Hospital at Cuttack where she was admitted from 5.5.15 to 7.5.15 but since because her condition became worse, she was shifted to the Hospital of the O.Ps. Though she was requiring surgery, as her condition was precarious, she was subjected to haemodialysis in the ICU where she was stabilised when antibiotics, antifungal and other drugs were administered to her and all possible cares were being taken in order to stabilize her condition there. The doctors and the nursing staffs were regularly visiting her about twice a day and were maintaining her progress sheet accordingly together with her bed-head ticket. The doctors were counselling the attendants of the patient on regular basis as regards to the condition of the patient and about the next course of action that which was to be taken. On two occasions, the doctors had counselled with the attendants of the patients as regards to the financial expenses also. Since because the TLC of the patient Nirupama Pattanaik was high she could not be operated and for the said reason her surgery was being delayed. When the attendants of the patient expressed their financial stringency and other constraints and as per their desire, the patient was discharged from the hospital on 28.5.2015. By then the patient was stable, tolerating oral feed and no apparatus were attached to her. Thus, the O.Ps no.1 & 2 have prayed through their written version to dismiss the complaint petition with exemplary cost.

Together with their written version the O.Ps 1 & 2 have annexed copies of several documents in order to support their stand.

The complainants have filed evidence affidavit in this case but the contents of the same appears to be a reiteration of the averments as made in the complaint petition.

Similarly the contesting O.Ps no.1 & 2 have filed evidence affidavit through Dr. CA Amar Kumar Behera of their hospital who has also reiterated the averments of the written version of the contesting O.Ps in his evidence affidavit.

3. Keeping in mind the averments as made in the complaint petition and the contents of the written version of the O.Ps no.1 & 2, this Commission thinks it proper to settle the following issues in order to arrive at a definite conclusion here in this case.

- i. Whether the case of the complainant is maintainable?
- ii. Whether there was any deficiency in service on the part of the O.Ps and if the O.Ps have adopted any unfair trade ?
- iii. Whether the complainant is entitled to the reliefs as claimed by them?

Issues no.ii.

Out of the three issues, issue no.ii being the pertinent issue is taken up first for consideration here in this case.

After perusing the complaint petition, the written version, the written notes of submissions filed from either sides, evidence affidavit filed from either sides and also after perusing copies of documents as filed from either sides in this case, it is noticed that admittedly, Nirupama Pattanaik

the wife of the complainant no.1 of this case was admitted to the Apollo Hospital for treatment on 7.5.2015 and was under the treatment of Dr. Bibekananda Panda(Nephrologist) . It is not in dispute that the said patient was initially admitted to Chanakya Hospital at Cuttack and then to Health Care Hospital at Cuttack. It is not in dispute that the condition of the said patient Nirupama Pattanaik was precarious by the time she was admitted to the hospital of the O.Ps. It is the contention of the O.Ps that since because the TLC of the said patient was high they had tried their best to stabilize her condition through antibiotics, antifungal and other drugs. It is also not in dispute that the said patient was requiring surgery but the same could not be done due to her condition then. The complainants have urged through their complaint petition that they were never discussed about the condition of the patient, the requirement of treatment and the expenses that which was to be incurred for their patient but only on one occasion they could have a discussion with the treating physician. They were never told about the amount of money that which was to be paid by them towards the treatment of their patient Nirupama Pattanaik. Per contra, the O.Ps no.1 & 2 have drawn attention towards copy of the Family Meeting Record vide Annexure-A/4 wherein it is presumed that they had a discussion with the attendants of the patient. As regards to the financial issues and suffering wherein the patient was agreed to be shifted to any other economical hospital. Of course, the said documents amply suggest about the discussion that the treating physician with the attendants/relatives of the patient but nowhere the amount of money involved for the clinical surgery has been quoted/mentioned by the said physician apprising the attendants/relatives of the patient accordingly. When the O.Ps do admit that they could diagnose the disease of the patient Nirupama Pattanaik, they could have provided the tentative expenditure that was to be incurred towards the treatment of the said patient. It is alleged by the complainants that O.Ps were silent as regards to the expenses that was to be spent for their patient. As a genuine physician and of a good reputation the O.Ps should have provided the approximate expenditure to the complainants so as to make them aware of their expense for their patient in order to bring clarity in their profession and business. By avoiding the said fact it cannot be said here in this case that the O.Ps had fair trade which also violates the provisions as laid down in “The Indian Medical Council Act 1956” . That apart, the complainants have also urged about the charges levied upon them those which appears to be abnormal and far from truth. The visits of the treating doctors and nursing staffs also though charged promptly, they were not in practical terms visiting the patient so regularly or periodically as charged. It is admitted fact that the patient was thereafter taken away being discharged from Apollo Hospital at Bhubaneswar to E-24 Hospital,Puri where she had expired ultimately. Be that as it may, here in order to implicate the O.Ps as regards to the allegation of deficiency in their service, it is noticed that though comafloaged by the O.Ps in every manner, the quintessence of truth is well significant which imbibes this Commission to arrive at an irresistible conclusion that infact by suppressing/not disclosing about the quantum of money that which was to be required for treating the patient Nirupama Pattanaik, the O.Ps had infact practised unfair trade and had thereby were also deficient in their services towards the complainants.

Issues no.i & iii.

From the discussions as made above, the case of the complainants is definitely maintainable and complainants are thus entitled to the reliefs as claimed by them. Hence it is so ordered;

ORDER

Case is decreed on contest against the O.Ps no.1 & 2 and exparte against O.P no.3 who are found to be jointly and severally liable here in this case. Thus, the O.Ps are directed to pay compensation to the tune of Rs.13,00,000/- (Thirteen lakhs) to the complainants towards their mental agony and harassment and a sum of Rs.30,000/- towards cost of their litigation. This order is to be carried out within a period of 30 days from the date of receipt of this order.

Order pronounced in the open court on the 3rd day of November,2023 under the seal and signature of this Commission.

Sri Debasish Nayak

President

Sri Sibananda Mohanty

Member