

(1998) 06 NCDRC CK 0014

NATIONAL CONSUMER DISPUTES REDRESSAL COMMISSION

Case No: None

S.L.DHAWAN

APPELLANT

Vs

POST GRADUATE MEDICAL
INSTITUTE AND RESEARCH
CENTRE

RESPONDENT

Date of Decision: June 1, 1998

Citation: 1998 2 CPC 320 : 1998 2 CPR 425 : 1998 3 CPJ 128

Hon'ble Judges: J.B.Garg , Sada Nand , P.Ojha J.

Final Decision: Complaint dismissed

Judgement

1. THE complainant is a private Dental Medical Practitioner of Chandigarh and aged 71. He has pleaded that he was satisfactorily operated upon for T.U.R. Prostate by Dr. Col. V.K. Kapur, a Private Practitioner at Chandigarh on 3.4.1995. He started walking as earlier and also resumed taking exercises as earlier. However, the complainant did have some pain in the buttock and had to get up for urine once or twice every night. On account of this uneasiness and pain in the buttock he came to the P.G.I, where he was examined by doctors on 16.4.1995 and was admitted. THE doctors in the P.G.I, observed that the T.U.R. Prostate was not done properly and only alternative was to go for open surgery. It has been alleged that he was kept in dark, that doctors in reality suspected Epidural Abscess in the Spine. THE diagnostic treatment is contained in Annexure C-1. At about 1.30 a.m. on 17.4.1995 the doctors on duty advised the X-ray and the complainant was taken to the X-ray department where X-ray and C.T. Scan was also performed and thereafter MRI Scan was also advised which was conducted at Mohali on 17.4.1995. On 18.4.1995, open surgery was performed on the complainant by Dr. S.N. Mathuria, which allegedly was not required. He was administered antibiotics, analgesic and anti-inflammatory drugs and thereafter discharged on 1.5.1995. It has been alleged that subsequently the complainant had haemorrhagic spots all over the body, the haemoglobin came down drastically. He was again rushed to P.G.I, where a heavy dose of blood was given to raise haemoglobin level. THE complainant himself being a doctor protested

against the treatment and acts of negligence of the doctors attending on him especially by Dr. S.N. Mathuria. Subsequently it was revealed that cause of lower haemoglobin level was prescription of heavy dose of anti-inflammatory analgesic drugs which were consumed after the "Open Spine Surgery". It has further been averred that doctors of P.G.I. were so negligent that they performed the "Open Spine Surgery" in a Sceptic THEatre suspecting epidural Abscess which was not found later on. THE medical prudence required that such an operation should have been done in sterilised theatre. On 19.5.1995, the complainant was forcibly discharged apprehending that chances of infection were more in hospital and no further treatment was required. THE backbone problem of the complainant which had cropped up on account of Open Spine Surgery, his pain became unbearable and he consulted other renowned doctors of the region i.e. Dr. J.S. Chopra, Dr. N.D. Aggarwal, Dr. Praduman Singh, Dr. P.S. Maini and finally Dr. Nagi and Dr. Jaswant Rai. Dr. Santosh Kumar was also consulted for removal of pain in the Spine which was going to lower extremities of the body. THE frequency of passing urine increased tremendously. On 30.11.1995, Dr. Khosla of P.G.I, admitted the complainant in a Private Ward for immediate surgery in view of the diagnosis "failed back syndrome with spondylitis L4 ST area". THE complainant remained indoor patient till 8.12.1995. It has also been alleged that Dr. Khosla and Dr. Kak did not attend on him considering it to be a spoilt case of Dr. S.N. Mathuria. On the advice of Dr. T.N. Shadangi the complainant proceeded to Appollo hospital. New Delhi where he was admitted on 15.4.1996 and surgery of Spine was again conducted there for setting the failed back syndrome with spondylitis L4S1. He was discharged from the aforesaid Hospital on 23.4.1996. In all the complainant has spent Rs. 5 lacs on the treatment, medicines and consultations in the different Hospitals. He has claimed compensation to the tune of Rs. 13 lacs totalling Rs. 18 lacs on account of aforesaid negligence and deficiency of the respondents jointly as well as severally.

2. IN the reply filed on behalf of respondents No. 1 to 4, it has been averred that the complainant had told that he had merely an income of Rs. 5,000/- per month and when he expressed his inability of pay the full charges. Dr. S.N. Mathuria on purely humanitarian grounds recommended for 50% concession which was availed by the patient. The T.U.R. operation was done under epidural anaesthesia and not under spinal anaesthesia. The complainant told not merely pain in the buttock but had large number of problems which have been enumerated as under:

(i) Severe pain in the back and inability to get up; (ii) Shivering and fever; (iii) Felt weakness in his legs; (iv) Pain was so severe that the slightest movement produced pain radiating to both lower limbs; (v) He was unable to take sides in the bed; (vi)

tingling sensation and; (vi) Felt that legs can't take weight and there was increased frequency of maturation.

On examination in the P.G.I, it was found that his lower limbs showed weakness, his knee and ankle reflexes were absent and he had acute pain in the back. An expert neurologist was also consulted and further investigations were done with the object of preventing further complications. All the details were explained to the complainant and his written consent for surgery was taken. There was no negligence on the part of any of the respondents. In this case surgery was contemplated even before the MRI was done. However, there was a review on 18.4.1995 as well after the MRI. It was not a case that decision for surgery was taken on-wrong report of MRI. He was never given heavy antibiotics as alleged. These medicines were administered according to the standard prescribed doses for a short period. On his subsequent admission in P.G.I. on 6.5.1995 it was reported to be a case of febrile neutropenia. The record showed that the complainant was a known case of osteoarthritis. All the theatres are sterilised depending upon the need. The complainant too was treated in the routine emergency theatre with due precautions. It has been denied that the patient had improved after the surgery at Appollo Hospital, New Delhi. The complaint has been instituted only with a view to defraud the answering respondents and it is false and frivolous.

On behalf of the complainant, it has been argued that after a regular T.U.R. Prostate operation by a private doctor of Chandigarh on 3.4.1995 the complainant started feeling pain in and around the buttock. He entered into the P.G.I, on 16.4.1995. On the contrary, it has been pointed out on behalf of the respondents that it was not a simple case of pain near the buttock. The doctors attending on the complainant were of the view that he had epidural abscess in the spine and they proceeded for operation and conducting the aforesaid operation in good faith. It has been stressed on behalf of the respondents that the surgery was contemplated and conducted on the basis of clinical symptoms and findings. It is specifically argued that it was an emergency case of epidural abscess and surgery was carried out in routine emergency operation theatre with all due precautions and all the theatres are sterilised depending upon the need. In support of the pleas of the respondents Dr. V.K. Khosla, Head of Department of Neurosurgery, P.G.I., Sector 12, Chandigarh has filed an affidavit. It shall be useful to refer to paras 4 to 7 of his affidavit dated 3.9.1997, which are reproduced as under :

"4. That the deponent still stands by his decision to operate upon the complainant or "Epidural Abscess" in D-8 to L-8 region and states that the decision to operate upon the complainant was correct as per the examination findings of the patient the X-ray (Myelogram/myelo CT scan). It is matter of record that the condition of the complainant improved after the surgery.

3. THAT the complainant was on heavier anti-biotics" after his TUR Prostrate Operation before admission to PGI and was already suffering from a number of problems, as mentioned in the written statement, at the time when he came to the Institute as an Indoor-Patient in April, 1995.

That the deponent further states that in case the complainant has been operated upon at a different region of his spinal cord by another Institute it does not mean that there existed no problem with the complainant in the area of his spinal cord for which he has been operated upon at the PGI. The deponent stands by the decision of his department to operate upon the complainant in the setting of prevailing symptoms at that time could lead to fatal consequences.

4. THAT the complainant who is an aged man of 71 years was already suffering from a number of problems at the time of his admission to the Institute in April, 1995 and there was efficient management regarding ailment of the complainant by the Institute due to which his condition improved substantially". The complainant did not cross-examine Dr. V.K. Khosla to challenge his version. 5. In this case, the complainant has not brought on record the details of surgical treatment which he received at the Private Clinic before entering into the P.G.I, in beginning of April, 1995. On the contrary the record of the P.G.I, shows that it was not a case of simple pain at or around the buttock and in reality the complainant had a large number of problems such as severe pain in the back, inability to get up, shivering and fever, weakness in the legs, unable to take sides I in the bed, legs could not take weight etc. It appears that the complainant a Dental Surgeon, aged 71 had a large number of ailments and the contention that now he has improved only after treatment in the Appollo Hospital does not establish any particular "deficiency" while he was in the P.G.I. In the absence of affirmative evidence of deficiency, we are of the view that the complaint for damages does not succeed and it is hereby dismissed. Complaint dismissed.