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IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

UDAY UMESH LALIT; J., S. RAVINDRA BHAT; J., PAMIDIGHANTAM SRI NARASIMHA; J.

MAY 18, 2022

CIVIL APPEAL NOS. 4126-4127/2022 Arising out of SLP (C) Nos. 10782-10783/2020

HARNEK SINGH & ORS. *Versus* **GURMIT SINGH & ORS.**

Medical Negligence - Opinion and findings of the MCI regarding the professional conduct of a doctor have great relevance while considering claim for compensation on the basis of medical negligence. *(Para 35)*

Medical Negligence - In the proceedings for damages due to professional negligence, the question of intention does not arise. *(Para 29)*

For Appellant(s) Mr. Raj Kiran Talwar, Adv. Mr. Harikesh Singh, Adv. Mr. Mohinder Singh, Adv. Mr. Satyendra Kumar, AOR

For Respondent(s) Mr. Sushil Kr. Gupta, Adv. Ms. Sunita Gupta, Adv. Mr. Amarinder Singh, Adv. Mr. Manan Verma, AOR Mr. Simran Jot Singh, Adv. Mr. Chanchal Kumar Ganguli, AOR Mr. Vivek Sharma, AOR Mr. Maibam Nabaghanashyam Singh, AOR

O R D E R

1. Leave granted.

2. These appeals arise out of the decision of the National Consumer Disputes Redressal Commission, New Delhi[1] dismissing the appeal of the complainant and allowing the appeal of the doctor and the hospital by holding that no medical negligence was proved. Having examined the evidence, medical records and the report of the ethics committee of the Medical Council of India[2], we have concluded that a case of deficiency of service is made out against the doctor and the hospital, Respondents 1 and 2, herein for medical negligence. Allowing the appeal of the complainants, we have directed payment of compensation. We will first refer to the facts leading to this case.

Facts:

3. Facts as stated in the complaint filed before State Consumer Disputes Redressal Commission[3] are as follows. Appellant 1, the complainant, is a retired Semi-Government employee and his wife Late Mrs. Manjit Kaur, aged 47 years had been working as a Government teacher. Mrs. Manjit Kaur, the patient, developed abdominal pain for which an ultrasound examination was done and it revealed the presence of gall bladder stones. On 13.07.2004 the patient approached Respondent 1, a laparoscopic surgeon at Preet Surgical Centre & Maternity Hospital, Respondent 2. After due examinations and medical tests, Respondent recommended surgery for removing the gall bladder stones and prescribed certain tests to be carried out in advance.

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[1] hereinafter referred to as 'the NCDRC'.
[2] hereinafter referred to as 'the MCI'.
[3] hereinafter referred to as 'the SCDRC'.

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4. The complainant got the advised investigations done and showed the results to Respondent 1. He then asked the complainant to get yet another USG examination from a specific centre as he was not satisfied with the earlier USG dated 14.7.2004. The complainant complied with this instruction of Respondent 1 and again medical tests were done from a specific USG centre on 23.7.2004. Respondent 1 was satisfied with the results and advised the complainant to get the opinion of a cardiologist as the tests revealed the patient's blood pressure to be slightly high. On 26.07.2004 , Dr. Dharamvira Gandhi, the cardiologist cleared the patient for surgery.

5. On the morning of 28.07.2004, Respondent 1 performed a laparoscopic cholecystectomy and placed a drain in the patient's abdomen. On 29.07.2004 , the patient complained of abdominal pain and distension. The drainage tube was showing a discharge of fluid which was slightly green in colour, which later on turned greenish-brown. When the complainant informed Respondent 1 about this, he was told that such fluid was expected and that is why the tube had been inserted. Respondent 1 also informed the complainant that he had reviewed the operative CD and assured that there was no indication of any injury, even in the operative video.

6. On the next day, the patient became very serious and the abdominal distension and pain was compounded by difficulty in breathing. Respondent 1 reassured the complainants and started oxygen infusion to the patient and prescribed some blood tests and ultrasound examination. The request for a second opinion or referral to Rajindra Hospital, Patiala attached to Medical College was dismissed by a further assurance that the patient was in safe hands. Later that evening, Respondent 1 informed the complainants the cause of the problem was acute pancreatitis and that there was nothing wrong with the surgery. However, the complainants remained unconvinced, especially because of the dirty brown discharge coming through the drain and the persistent pain, distension and breathlessness which were indicative of some major intestinal or bile duct injury, which the staff of Respondent 1 had hinted. The complainant again requested Respondent 1 to seek another opinion or shift the patient to another hospital.

7. At around 9 P.M. on 30.07.2004, Respondent 1 decided to shift the patient to Dayanand Medical College and Hospital, Ludhiana, Respondent No. 4 herein and refer the patient to Dr. Atul Mishra, Respondent No. 3 herein. Respondent 1 declined the request by the complainant to give detailed patient records and operation notes by stating that the patient's condition had been adequately explained to Respondent 3. Dr. Punit Gupta was the doctor on duty when the patient was admitted. As per his assessment, there was suspicion of an iatrogenic injury to the bile duct and possibly also to the intestine, during the previous surgery. He advised an urgent abdomen CT scan to get a clearer picture. A CT scan was done and as per the report, the small and large intestines were normal. However, it revealed moderate intra-abdominal and sub-phrenic collection. Respondent 3 examined the patient and the CT scan report the next morning at 9 A.M. Since the patient was suffering from multiple ailments like pneumonia, high blood pressure and coagulopathy, immediate surgical intervention was not advised.

8. On 02.08.2004, the patient's condition became critical and she showed signs of colonic perforation. The bilious drain fluid became feculent and foul-smelling. On

03.08.2004, an emergency laparotomy was performed. Respondent 3 informed the complainants that there was a large collection of intestinal contents in the abdomen due to an injury to the colon and in addition to that there was also a bile duct injury, which would be repaired in a subsequent surgery. The patient's condition kept deteriorating and she went into multi-organ failure including failure of the respiratory system, cardiovascular system and renal failure.

9. The patient died on 11.08.2004.

10. The complainant discussed the cause of death and the need for autopsy with Respondent 3, however, he was told that the patient died due to intraoperative injuries to the colon and bile duct resulting in Peritonitis, Peritoneal Collection, Septicaemia and Multi-Organ failure.

Proceedings before the State Commission:

11. It is in the above-referred circumstances that the complainant filed a consumer complaint before the SCDRC, Punjab on 14.02.2005, which was subsequently transferred to State Consumer Commission, U.T. Chandigarh. The complainant prayed for monetary compensation quantified at Rs. 62,85,160 from the Respondents for negligence and deficiency of services.

12. Respondents 1 and 2 filed a reply stating that Respondent 1 is an experienced surgeon and has performed more than 2,500 laparoscopic operations successfully. It was explained that the patient's surgery was performed with proper care, but after the surgery, she developed epigastrial pain and slight distension in the abdomen. Immediately conservative treatment was started and the patient got some relief from the same. However, on the night of 30.07.2004, the patient's condition got critical, as a result of which she was referred to Respondent 4 hospital to be treated by Respondent 3.

13. Respondents 3 and 4 in their reply denied the allegations of negligence and stated that the hospital provided due and proper care to the patient. It was further stated that most of the iatrogenic injuries to the bile duct during the cholecystectomy were not recognised in the operating room but were detected after a few days as biliary fistula or bile peritonitis. It was stated that the initial response of Respondent 3 was to not operate immediately as it was decided to evaluate the nature of the leak and attempt to control the fistula. Also, conducting the operation earlier was not medically advised. The operation was conducted on 03.08.2004 to tackle perforation in the large bowel.

14. A reply was also filed by Dr. Dharamvir Gandhi, the cardiologist who stated that the patient was 47 years old and was referred to him by Respondent 1. It was found that she was a patient of hypothyroidism and was taking treatment for the same for the last three years. She complained of chest pain and breathlessness for which she was treated with due care. Her cardiovascular status was stable.

15. Both Respondents 1 and 3 were duly cross-examined by counsel of the complainant on 06.07.2006. The complaint also cross-examined Dr. Inderjit Singh and Dr. Navdeep Singh as experts before the SCDRC.

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16. The SCDRC after considering the evidence and hearing both the parties, allowed the complaint and held Respondents 1 and 2 negligent and exonerated Respondents 3 and 4. Respondents 1 and 2 were directed to pay Rs. 15,44,000 jointly and severally and Rs. 10,000 as costs.

17. The SCDRC found that the CT scan which was performed on 31.07.2004 showed pneumo peritoneum which meant a significant amount of free air in the abdomen outside the intestines was present which is not normally present. During laparoscopic surgery, gas is introduced into the peritoneal cavity and all the gas does not get removed at the end of the surgery. It is a known fact that this residual gas gets absorbed and does not stay in the abdomen for more than 24 hours. The only other area from where the gas can enter the peritoneal cavity is the intestines if they are ruptured at any place. The CT scan was performed three days after the laparoscopic surgery and significant air was present even after three days which is a clear sign of an intestinal injury. There was also some subphrenic abscess found below the diaphragm which has to be removed, otherwise, diaphragm movements cannot be restored. SCDRC found that it was the direct consequence of the intra-operative injury to the bile duct and colon caused by Respondent 1 during the laparoscopic cholecystectomy that later led to the death of the patient. With respect to Respondent 3, the only allegation was a delay in operating on the patient. SCDRC found that Respondent 3 could not detect any important sign of bowel perforation on 31.07.2004 or 01.08.2004 and therefore he decided against any surgical intervention at that point of time and hence there was no negligence on the part of Respondent 3.

18. The complainants filed an appeal before the NCDRC. Simultaneously Respondents 1 and 2 also filed an appeal for dismissal of the Complaint.

<u>Proceedings before the MCI</u>:

19. It is necessary to mention at this stage that while the proceedings were pending before the SCDRC, the complainants also made a complaint to the Punjab State Medical Council against the professional misconduct of the Respondents, which was summarily disposed of on 13.06.2006. The complainants filed an appeal to the MCI. The MCI considered the appeal of the complainant and asked Respondents 1 and 3 to appear before the Ethics Committee. Both the Respondents submitted their detailed replies. The Ethics Committee considered the matter and held Respondent 1 medically negligent and issued a *strict warning to be more careful during the procedure and to be more diligent in treating and monitoring his patients during and after the operation*. Respondent 3 was exonerated as no medical negligence was proved against him.

<u>Proceedings before the NCDRC</u>:

20. Coming back to the appeal before NCDRC, it heard both the appeals together, i.e. the appeal filed by the complainants as well as Respondents 1 and 2. The NCDRC observed that the patient was operated on by Respondent 1 on 28.07.2004 and the injuries were detected after six days. The CT scan report of 31.07.2004 ruled out any evidence of injury or perforation peritonitis and therefore Respondent 1 did not ignore any signs of biliary and fecal peritonitis. Further, the complainant relied on the paramedic

staff of the Respondent 2 hospital who informed him about the operative injury, it was held that there was no evidence in this regard. There was no negligence found on the part of Respondents 1 and 2.

21. In the case of Respondents 3 and 4, it was found that the patient was not fit for diagnostic laparoscopy immediately since there were no signs of any obstructive lesion or proximal dilation. On 02.08.2004, there was a sudden deterioration in the patient's general condition and she was then diagnosed with bowel leak with peritonitis. She was operated on 03.08.2004 to repair the colonic perforation. The patient's condition started weakening and she died on 11.08.2004 due to cardiac arrest. It was held that Respondents 3 and 4 acted with due care and hence there was no negligence.

22. The NCDRC by way of the impugned decision on 05.06.2020 allowed the appeal of Respondents 1 and 2 and set aside the order of the SCDRC holding that negligence was not proved by the complainants. It is from this decision that the present appeals arise.

Submissions:

23. In these appeals, we have heard Mr. Raj Kiran Talwar learned advocate for the Appellants and Dr. Sushil Kumar Gupta, Ms. Suruchi Suri and Mr. Anuj Chauhan, learned advocates for the Respondents.

24. Mr. Raj Kiran Talwar, learned advocate for the Appellants made the following submissions. At the outset, he would submit, that the patient suffered two iatrogenic injuries during her first surgery, one to the colon and the other to the bile duct. From these two injuries, fluids from the bile started to accumulate in the peritoneal cavity of the patient while the overflowing fluid started to come out of the drain. Secondly, after the patient became critical, Respondent 1 referred the patient to Respondents 3 and 4 at Ludhiana which is at a distance of 100 KMs instead of a local hospital at a nearer distance. Thirdly, strong reliance was placed on the statement of Respondent 1 in his cross, where he categorically stated that it did not occur to his mind that the injuries could take place. Fourthly, Respondent 3 negligently delayed the re-exploration surgery even after receiving the CT scan report. Finally, the NCDRC gave its decision without referring to the MCI findings. In support of his submission, he relied on a judgment of this Court in *Maharaja Agrasen Hospital and Ors. v. Master Rishabh Sharma and Ors.*[4]

25. On the other hand, Dr. Sushil Kumar Gupta, learned counsel appearing for Respondents 1 and 2 made the following submissions. The presence of a biliary leak does not signify injury of a bile duct as it can occur from the liver bed from the cholecycto-hepatic duct, slippage of a clip from cystic duct stump which are not injuries. Second, for there to be a presence of a leakage from the large intestine, there are some specific symptoms which were not shown and therefore leakage of the colon was ruled out. Finally, since there was no bile duct or colon injury, the presence of rent in the hepatic flexure of the colon may be either a result of delayed manifestation due to thermal injury

[4] *Maharaja Agrasen Hospital and Ors. v. Master Rishabh Sharma and Ors.* (2020) 6 SCC 501.

because of the electro-cautery, or it may be a rare case of injury to the hepatic flexure of the colon because of the drainage tube.

26. Ms. Suruchi Suri, learned counsel appearing for Respondents 3 and 4 submitted that, the only allegation is of the delay in diagnosis of colonic perforation and corrective surgery. This according to her is proved incorrect as per the findings of the MCI, SCDRC and the NCDRC as well. Second, the surgery was performed diligently and with due care. The bile leak coming out of the drain after the gall bladder surgery had occurred during the first surgery performed by Respondent 1. The patient was already critical when she was admitted to Respondent 4 hospital and therefore immediate surgical intervention was not called for. However, when the fecal matter leak was found in the drain, the patient was immediately operated on.

Analysis:

27. The primary question is whether the complainant has established professional negligence on the part of Respondents as per the standards governing the *duty to care* of a medical practitioner. The SCDRC in its detailed decision considered the oral and documentary evidence including medical journals and concluded that Respondents 1 and 2 acted negligently in performing the operation. SCDRC also held that there is no evidence of negligence in so far as Respondents 3 and 4 are concerned.

28. What we have noticed in the impugned decision of the NCDRC is that a substantive part of the decision refers only to judicial precedents on the question of medical negligence. Reference is made to the decisions in the case of *Kusum Sharma & Others v. Batra Hospital & Medical Research Centre and others*[5]; *Jacob Mathew v. State of Punjab*[6]; *Achutrao Haribhau Khodwa and others v. State of Maharashtra and others*[7]; and *S.K. Jhunjhunwala v. Dhanwanti Kaur*[8]. Apart from the case laws on facts, the NCDRC devoted its attention substantially to the allegations against Respondent 3 who was anyway exonerated by the SCDRC. In so far as Respondent 1 is concerned, the NCDRC did not meet the specific allegations of negligence in the performance of the surgery.

29. There was sufficient material indicative of large bowel perforation after the laparoscopic operation. It is true that it may not have manifested immediately in the normal course. However, there were sufficient indicators to a diligent professional, to detect and take immediate steps for restitution. Instead of examining the material that was placed on record, NCDRC seemed satisfied with raising and rejecting the plea of *res ipsa loquitur* and holding that it is impermissible to assume that any sensible professional would intentionally commit an act which would result in an injury to the patient. In these proceedings for damages due to professional negligence, the question of intention does not arise. Unfortunately, the NCDRC did not even refer to the report of

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[5] *Kusum Sharma & Ors. v. Batra Hospital and Medical Research Centre & Ors.*, (2010) 3 SCC 480.

[6] *Jacob Mathew v. State of Punjab & Anr.* (2005) 6 SCC 1.

[7] *Achutrao Haribhau Khodwa and Others v. State of Maharashtra and others* (1996) 2 SCC 634. 8 S.*K. Jhunjhunwala v. Dhanwanti Kaur & Anr.* (2019) 2 SCC 282.

the MCI. In fact, a reference to the MCI report would have been sufficient to come to the right conclusion.

30. The MCI examined the matter in the context of an appeal filed by the complainants against the decision of the Punjab Medical Council dated 13.6.2006 . MCI referred the appeal filed by the complainant to the Ethics Committee. The Committee recorded the statement of the complainant, and the doctors Respondents 1 and 3. The Ethics Committee also sought the opinion of Experts on the conduct of these Respondents. The two Experts were Professors and HODs of AIIMS, New Delhi and KGMC, Lucknow. We will now refer to each of their opinions.

31. In the opinion of Professor and HOD, Department of Surgery, AIIMS, extracted in the MCI report is as under:

"The findings at laparotomy confirmed it to be a case of large bowel perforation, which could be iatrogenic, related to the laparoscopic procedure. Appropriate surgical intervention was done on a by now very sick patient. Patient died on 11.8.2004.

Comment: It appears on the basis of available records that the diagnosis and operative intervention for generalised peritonitis as a result of bowel perforation was significantly delayed first at the local hospital and subsequently at DMC Ludhiana and lead to the unfavourable outcome."

32. In the opinion of Professor and HOD, Surgery, KGMC Lucknow, extracted in the MCI report is as under:

"In case of Dr. Gurmit Singh also, as per records it appears that he is not negligent his duties towards Mrs. Manjeet Kaur during her stay in his hospital and has given care to best of his proficiency and available facilities. However, following relevant observations are made: -

1. Pre-operative clearance from Cardiologist was taken.

2. Pre-operative correction of anaemia by three unit of blood done.

3. Pre-operative consent paper has been signed which mentions the possibility of fatality and likelihood of complication.

4. Post-operative second opinion was taken by Dr. Gurmit Singh.

5. Records of Preet Hospitals are present in document sent by you, but recorded CD of Surgery is not available.

6. In his statement of complaint, he mentions that both Dr. Gurmit Singh and Dr. Atul Mishra are qualified medical professionals.

7. Shifting of patient was done in distant hospital where better GI and ventilatory facilities are claimed. However, availability of these facilities in local city is matter of survey, which should be sought for.

8. Minor bile leak during surgery is accepted by Dr. Gurmit Singh, which kept on increasing in postoperative period.

9. Bowel perforation and bile duct injuries were noted in surgery done by Dr. Atul Mishra at Ludhiana."

33. After considering the material on record as well as the opinions of the Professors as indicated above, MCI concluded as under:-

"In addition to that the Ethics Committee has decided to request Prof. & HOD of Surgery, AIIMS, New Delhi and Prof. & HOD of Surgery, KGMC, Lucknow to kindly assist the Ethics Committee by going through all the records of the case and give their opinion regarding this matter. Accordingly, Prof. & HOD of Surgery, AIIMS, New Delhi has given his opinion in writing and also Prof. & HOD, KGMC, Lucknow has sent his opinion.

The Ethics Committee after perusal of all the above documents have come to the conclusion that –

1. In the case of Dr. Atul Mishra, no case of medical negligence can be established against him. Therefore, the Ethics Committee decided to drop the matter against Dr. Atul Mishra and exonerate him from the charges.

2. Ethics Committee found that Dr. Gurmit Singh has failed to exercise adequate medical competence in treating the patient as is apparent from the following points: -

(a) There was a large bowel perforation after the laparoscopic operation. This complication which though not known in the normal course of time, had occurred in this particular case. This complication could have been prevented if care had been exercised during the procedure by Dr. Gurmit Singh.

(b) More important Dr. Gurmit has failed to suspect the occurrence of complications despite following warning, signs/symptoms-

i) the patient not recovering after the operation.

ii) the patient increasingly deteriorating.

iii) there was a strong indication of a complication occurring after the procedure. Thereafter, his failure to detect all these conditions led to delay in diagnosis all perforation of the bowel and has to lead a situation of avoidable delay which causes increased deterioration of the patient."

34. In view of the clear findings, the MCI decided to issue a strict warning to Respondent 1 to be *more careful during the procedure and to be more diligent in treating and monitoring his patients during and after the operation.* As against Respondent 3, the MCI dropped the case and exonerated him.

35. So far as present proceedings are concerned, as they arise out of a claim for compensation on the basis of medical negligence, the opinion and findings of the MCI regarding the professional conduct of Respondent 1 have great relevance. The findings of the Medical Council, which is a statutory regulator have been extracted hereinabove, may be formulated as under:

1. Existence of Generalized peritonitis as a result of bowel perforation. *(per the opinion of Professor & HOD, Department of Surgery, AIIMS)*.

2. There was a significant delay in its diagnosis and operative intervention, first at the local hospital and subsequently at DMC, Ludhiana. *(per the opinion of Professor & HOD, Department of Surgery, AIIMS).*

3. This has led to the unfavourable outcome. *(per the opinion of Professor & HOD, Department of Surgery, AIIMS).*

4. Shifting of the patient by Respondent 1 was done in a distant hospital where better GI and ventilatory facilities are claimed. However, the availability of these facilities in the

local city is a matter of survey, which should be sought for. *(per the opinion of Professor & HOD, Department of Surgery, KGMC, Lucknow).*

5. Minor bile leak during surgery is accepted by Dr. Gurmit Singh. This kept on increasing in the post-operative period. Bowel perforation and bile duct injuries were noted in surgery done by Dr. Atul Mishra at Ludhiana. *(per the opinion of Professor & HOD, Department of Surgery, KGMC, Lucknow).*

6. Dr. Gurmit Singh has failed to exercise adequate medical competence in treating the patient as is apparent from the facts. *(Experts Common Opinion)*

7. There was a large bowel perforation after the laparoscopic operation. *(Experts Common Opinion)*

8. The complication which though not known in the normal course of time, had occurred in this particular case. This complication could have been prevented if care had been exercised during the procedure by Dr. Gurmit Singh. *(Experts Common Opinion)*

9. Dr. Gurmit Singh failed to suspect the occurrence of the complication despite warning signs/symptoms. *(Experts Common Opinion)*

10. Dr. Gurmit Singh ignored the following factors namely,

(a) the patient was not recovering after the operation,

(b) the patient's condition was increasingly deteriorating, and

(c) there was a strong indication of a complication occurring after the procedure. *(Experts Common Opinion)*

11. Failure of Dr. Gurmit Singh to detect the warning signs/symptom led to a delay in diagnosis of bowel perforation and this has, in turn, led to a situation of avoidable delay which eventually cause increased deterioration of the patient. *(Experts Common Opinion)*

36. The above-referred findings of the MCI on the conduct of Respondent 1 leave no doubt in our mind that this is certainly a case of medical negligence leading to deficiency in his services. NCDRC, except referring to the general principles of law as laid down in the judgments of this Court has not attempted to draw its conclusion from the oral and documentary evidence available on record.

37. Apart from the facts that clearly emerge from the report of the MCI, there is sufficient evidence to reiterate the same findings of deficiency. In the oral evidence, the following answers were elicited from Respondent 1 in the cross-examination which fortify the report given by the MCI.

Q) Did you consider during your investigation that there was possible intra-operative injury to bile duct or intestines?

A) No it did not occur to my mind. In-fact there was no such injury while the patient was in my hospital.

Q) Did you think it necessary to take opinion/consultation of another Surgeon?

A) I did not think it necessary in the circumstances of this case to consult another surgeon.

Q) Why did you consider it proper to refer the patient to another Surgeon instead of a Chest Specialist as according to your opinion, the patient was not having any surgical problem but was having chest problem.

A) The patient was referred to a Surgeon because we wanted to know that why the abdomen pain has developed as also why there was excessive discharge from the drain."

38. Having considered the matter in detail, we are of the opinion that the NCDRC has committed an error in reversing the findings of the SCDRC and not adverting to the evidence on record including the report of the MCI. The decision of the NCDRC deserves to be set aside and we hold that the complainants have made out a case of medical negligence against Respondents 1 and 2 and are entitled to seek compensation on the ground of deficiency of service.

39. The State Commission as well as the National Commission and even the MCI have not found Respondents 3 and 4 negligent in performing their services, and we are in agreement with such findings and therefore, confine our conclusion and directions to Respondents 1 and 2. To this extent, we reject the appeal of the complainant against all except Respondents 1 and 2.

40. In view of the findings as indicated above we are of the opinion that the appeal filed by the complainants deserves to be allowed. The complainants had claimed an amount of Rs. 62,85,160/- on various counts such as amounts paid to the doctors and the hospitals for treatment, loss of income of the patient who was a Government servant with the salary of Rs. 37 ,150 per month with 10 years remaining service, damages for trauma and shock and on certain other grounds. Having considered the matter in detail, we are of the opinion that the interest of justice would be subserved if Respondents 1 and 2 are directed to pay to the complainants a total amount of Rs. 25,00,000 (Rupees Twenty Five Lakhs only) with interest @ 6% per annum from the date of SCDRC order as compensation. Respondents 1 and 2 will be entitled to adjust any amount already paid or deposited in favour of the complainants pending proceedings. The amount shall be deposited within a period of 6 months from today, failing which it shall carry an interest of 9% per annum.

41. For the reasons stated above, these appeals are allowed and the judgment of the National Consumer Disputes Redressal Commission, New Delhi in Appeal No. 108/2008 and Appeal No. 120/2008 is hereby set aside. Parties shall bear their own costs.

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