



Maternity Clinic Nursing Home at Pipulpati Chinsurah v. Saikat Shom

Disputes Redressal Commission (NCDRC), REVISION PETITION NO. 204 OF 2006.

Country: India

Region: Asia

Year: 2010

Court: National Consumer Disputes Redressal Commission

Health Topics: Health care and health services, Hospitals, Medical malpractice, Sexual and reproductive health

Human Rights: Right to due process/fair trial, Right to health

Facts

Mahua Shom went to a nursing home's maternity clinic to deliver her child. She was admitted at 8:30 am on August 25, 1997 to a clinic belonging to the wife of Dr. S.B. Mondal, a gynecologist. Despite her emergency condition, she was not seen by physicians until 4:00 pm, when a treating doctor completed delivery using forceps. Mahua Shom's condition continued to deteriorate throughout the night, and at 2:00 am she died. None of the medical staff attended her between 4:00 pm and 10:00 pm, and the treating doctor only prescribed medication.

The deceased's husband, Saikat Shom, filed a consumer complaint on behalf of his child at the District Forum against the maternity clinic and treating physician (petitioners). The District Forum dismissed the complaint due to a finding of no medical negligence. On appeal, the State Commission reversed the District Forum and found the treating doctor and nursing home guilty of medical negligence and deficient in service. The Commission instituted a penalty of Rs. 4,000,000 to be paid by the treating doctor and Rs. 10,000 in costs. The Commission additionally ordered the nursing home to pay compensation of Rs. 20,000.

The petitioners appealed the decision, arguing that they were not given due audience by the State Commission, though the respondents evidenced that the petitioners had been given notice of the proceedings.

Decision and Reasoning

The Redressal Commission rejected the original respondents' claim of insufficient notice and request to vacate the State Commission's decision. The Redressal Commission affirmed the decision of the State Commission holding the doctor and nursing home to be negligent in service. The Redressal Commission determined that the extent of the harm to the mother and lack of quality control in the facility made the nursing home and physician liable under the doctrine of *res ipsa loquitur* (a principle which establishes a rebuttable presumption that satisfies the plaintiff's burden of proof).

In reaching its decision regarding negligence, the Redressal Commission considered a variety of circumstantial evidence. First, an enquiry team dispatched by the government had cited the lack of staff assigned to the maternity ward as well as the treating doctor's participation in a money-marking scheme that diverted his attention. Second, the government had ordered the nursing home to close after the enquiry team concluded its observation. Finally, the Redressal Commission referenced the testimony of a gynecologist who testified that women who must have delivery via forceps were subject to significantly heightened risk of death and serious disability in the subsequent half-hour to three days after delivery. The Commission found the significance of this circumstantial evidence outweighed any "loose ends" regarding the lack of an autopsy which had been performed on the body

However, although the Redressal Commission affirmed the finding of the State Commission it found that the initial amount of compensation awarded was too high, and reduced it to Rs. 3,000,000.

Decision Excerpts

“State Commission held that the treating doctor was engaged more in money spinning businesses than providing medical services to ailing patients who were admitted in the nursing home. Even the enquiry team made adverse comment about the basic infrastructure of the Nursing Home and the negligence exhibited due to paucity of staff attached to the Maternity Centre, violating Clinical Establishment Act.” P. 5.

“Though we are not oblivious of the loose ends in case of respondent about autopsy of dead-body of Mahua Shom getting not carried out even though she died in the hospital of respondent and bed-head ticket too, not reflecting the status of crisis which the deceased faced in last hours of her life, yet we feel that the circumstances which have surfaced and are enforced by the finding of Dr. S.C. Roy, Gynecologist who was also put to cross examination by respondent, speak a volume about the status of ailment of the deceased preceding her death and also negligence exhibited by treating Doctor in attending to her ailment when she was in crisis and in our view, the dictum res ipsa loquitur would apply leaving no room to negate negligence attributed to the treating Doctor for want of death.” Page 7.

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