

IN THE STATE COMMISSION: DELHI

(Constituted under Section 9 of the Consumer Protection Act, 1986)

Date of Decision: 16.08.2018

Complaint No.347/2001

In the matter of:

1. **Sh. Pritam Ch. Rana** :
S/o. Late S. Rana
Resident of E-103, Sewa Nagar,
New Delhi-110003

2. **Smt. Sarla Devi**
w/o. Sh. Pritam Ch. Rana
Resident of E-103, Sewa Nagar,
New Delhi-110003

Complainants

Versus

1. **Sir Ganga Ram Hospital** :
Rajendra Nagar,
New Delhi-110060

2. **Dr. Anupam Sachdeva** :
ED 25 A, Pitampura,
Madhuban Chowk, Near TVS Showroom
New Delhi-110034.

3. **Dr. Sikha** :
40 Sir Ganga Ram Hospital
Rajendra Nagar
New Delhi-110060

Opposite Party(s)

CORAM : N P KAUSHIK

:

Member (Judicial)

- | | | |
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| 1. | Whether reporters of local newspaper be allowed to see the judgment? | Yes |
| 2. | To be referred to the reporter or not? | Yes |

N P KAUSHIK – MEMBER (JUDICIAL)

JUDGEMENT

1. Complainants no. 1 and 2 are the father and mother respectively of the deceased child Master Rishabh Rana who died at the age of 6 years in Sir Ganga Ram Hospital, New

Delhi (in short OP1 hospital) on 28.05.2001. Complainants have also impleaded Dr. Anupam Sachdeva and Dr. Shikha of OP1 hospital (in short OP2 and OP3 respectively). Before admission to OP1 hospital on 17.09.1998, child was shown at Safdarjung Hospital, New Delhi. Neither complainants nor the OPs have referred to the details of the treatment given at Safdarjung Hospital, New Delhi. Child Rishabh Rana was admitted to OP1 hospital on 13 occasions during the period from 17.09.1998 to 28.05.2001 and given treatment. Such admissions and the treatment given to the child are not in dispute. For the sake of brevity, the dates of admissions alongwith the dates of discharge and the details of treatment given are given below in the tabular form:

Date of Admission	Date of Discharge	Medicines Administered
17.09.1998	15.10.1998	IVF, Tab Prednisolone, Inj Vincritine, I/TMethotrexate, RDP, Inj Rantac, Inj Fortum, Inj Amikacin, Inj Metrogyl, Tab Zyloric, Inj Oflaxacin, Inj L-Asparaginase, Inj Daunorubicin, Inj Dexona
28.10.1998	22.11.1998	Tab Prednisolone, I/T Methotrexate, Inj Vincritine, Inj Cytrarabine, Tab Etoposide, Tab 6 TG, Inj Rantac, Inj Ammikacin, Inj Metrogyl, Inj Oflaxacin, Inj L-Asparaginase, Inj G-CSF, Inj Fluconazole, Inj Venamycin
17.02.1999	23.02.1999	IVF, TIT, Inj Methotrexate, Inj Leucovorin
26.04.1999	03.05.1999	Inj Ceftriaxone, Inj Acyclovir, Inj Isypen, Inj

		G-CSF
17.01.2000	25.02.2000	Inj Ethyol, Inj Cyclophosphamide, Inj Cytosine Arabinoside, Inj Vincristine
09.05.2000	14.05.2000	Inj Ethyol, Inj Cyclophosphamide, In Cytosine Arabinoside, Inj Emeset, Inj Vincristine, Tab 6 TG, Tab Prednisolone
04.07.2000	04.07.2000	Inj Avil, Inj Hydrocortisone, RDP
18.07.2000	19.07.2000	IVF, Inj Amikacin, Inj Metrogyl, Inj Oflaxacin, Syp Domstal, Syp Potklor, Syp Shelcal
19.07.2000	29.07.2000	IVF, Inj Amikacin, Inj Metrogyl, Inj Oflaxacin, Syp Domstal, Syp Potklor, Syp Shelcal, Tab Dexona, Inj L-Asparaginase
04.09.2000	12.09.2000	Inj Supacef, IVF, Inj Ammikacin, Tab Septran, Inj Demona, Inj Rantac
08.11.2000	21.11.2000	Inj Rantac, Syp Digene, Inj Supacef, Inj Amikacin, Syp Septran
11.01.2001	05.03.2001	Inj Monocef, Inj Clafron, Inj Amikacin, IVF, Inj Rantac, Inj Fortum, Inj Vicritine, Inj Cyclophosphamide, Inj Daunomycin, Inj Ammphotericin B, Inj Vancomycin, Inj Idarubicin, Inj Vincristine, Inj Cyclophosphamide, Inj Cytosine Arabinoside, Inj Emeset, TIT
24.05.2001	28.05.2001	Inj Monocef, Inj Dexona, Inj Amidacin, IVC, Inj Metronidazole

2. Contention of the complainants is that the disease from which the child was suffering relapsed due to the negligence of OP2 and OP3 doctors. Complainants submitted that the OPs failed to exercise caution and skill expected from them in view

of the seriousness of the disease and age of the patient. In August/ September, 1999 and during the course of treatment OP2 (Dr. Anupam Sachdeva), left for a foreign country leaving the treatment in between and without giving proper instructions to be followed for completing the remaining course of treatment. It was because of this reason only that the condition of the patient deteriorated leading to his death. Complainants further submitted that on 13.06.2000, complainant NO. 1 was informed that Acute Lymphoblastic Leukaemia (ALL) had relapsed. Lab test also shows that the blast cell counts which was 2% on 20.12.2000 had increased to 98% on 03.01.2001. Grievance of the complainants is that the child was not admitted when his condition deteriorated from bad to worse. It was due to negligence on the part of the OPs doctors.

3. Complainants further submitted that being dissatisfied with the treatment, they wanted to have a second opinion from AIIMS. They were not provided with the requisite information as asked for by the doctors at AIIMS. In such a situation complainants were forced to get the child treated in OP1 hospital only. They were coerced to purchase expensive medicines and visit the

private clinic of OP2 doctor who was doing his private practice as well.

4. In their defence OP1, OP2 and OP3 submitted that the child was diagnosed as a case of Acute Lymphoblastic Leukaemia (ALL) on 17.09.1998. His treatment was started. The child was very sick. In between he had to be shifted to Incentive Care Unit as his condition has worsened. Necessary medicines were provided from the hospital. During this period child needed blood competent therapy. On stabilization of the condition, the child started responding to the treatment. He was discharged after one month's treatment. He was again admitted for further chemotherapy from time to time as per protocol. Child remained under treatment for nearly 2½ years. Periodical treatments have been given in the table above.

5. Contention of the OPs is that the complainants levelled wild allegations. OPs had relied upon the opinion of the medical board who have held the OPs 'not negligent'. OPs submitted that they followed the entire treatment on the lines UK ALL for the entire period from 1999-2001. Protocol as required for a

Leukaemia patient was followed. Patient had relapsed. OPs contended that the complainants should have shifted the child to some other hospital in the event of their dissatisfaction with the treatment.

6. Before proceeding further it may be mentioned here that the complainants suggested the following points of reference for inviting experts' opinion:

- a) *Whether UK XII protocol was followed during treatment of Master Rishabh Rana?*
- b) *Whether UK XII protocol was prepared in prescribed format before starting treatment of Master Rishabh Rana.*
- c) *What was the schedule of administration of drugs to Master Rishabh Rana as per protocol of treatment? (Please specify tentative dates and examine whether the schedule was followed during treatment)*
- d) *What was the protocol of maintenance therapy of Master Rishabh Rana?*
- e) *Whether protocol of maintenance therapy was followed as per schedule? (Please specify from the records if there was any lapse)."*

7. Rajiv Gandhi Cancer Institute and Research Centre New Delhi vide its letter dated 03.11.2014 furnished to this Commission the experts' opinion. Relevant portion of the said letter is reproduced below:

*“Dr. Gauri Kapoor – Director Paediatric Haemato
Oncology*

*Dr. Dinesh Bhurani – Senior Consultant – Haemato
Oncology*

*Dr. Anurag Mmehtha, Director – Laboratory & Blood Bank
Services*

*The Board has attempted to clarify and reply as per the
points of reference on the basis of provided documents.
This is to bring to the kind notice of the Hon’ble
Commission.*

- a) *As per the records provided to us, it appears that
UK XI protocol was followed during the treatment
of Master Rishab Rana.*
- b) *No conclusion can be drawn regarding ‘before’
starting the treatment of the patient.*
- c) *On the basis of provided documents, the patient
(Rishab Rana) was admitted at Sir Ganga Ram
Hospital on 17.09.1998 and was subsequently
diagnosed as a case of acute lymphoblastic
leukaemia. The induction chemotherapy was
started from 19.09.1998. Early intensification was
started on 30.10.1998 and high dose methotrexats
was administered 17.02.1999, 01.09.1999. He
subsequently received late intensification therapy
from 17.04.1999, this was followed by Maintenance
treatment.*

*From the medical records provided to us, it appears
that the patient Master Rishab Rana received
induction treatment, intensification treatment and
maintenance treatment on the lines of UK ALL
protocol.*

*d) & e) The documents provided reveal that the
patient received Maintenance Therapy on lines of
UK ALL protocol, 1999 through 2001 till its
relapse.”*

8. I have heard at length the arguments addressed by the
Counsel for the complainant Sh. Manu Prashar and Counsel

for the OPs Sh. S. C. Chawla. Main thrust of the complainants case is that even after finding the rise in blast cell counts from 2% to 98% on 03.01.2001, OPs did not admit the child. This Commission advised the counsel for the complainants to place on record medical literature showing that in such an eventuality, treatment necessitating admission of the patient is required. Sufficient time was given to the Ld. Counsel for the complainants for this purpose. Nothing has been placed on record by the complainants to show that the OPs failed to follow the standard protocol.

9. Principle of law to find out if a doctor is 'guilty of negligence' was laid down in the case of **Bolam vs. Friern Hospital Management Committee**, (1957) 1 W.L.R. 582, 586 = 1957 (2) All.E.R. 118. Relevant paragraphs of the judgement are reproduced below:-

“A doctor is not guilty of negligence if he acted in accordance with a practice accepted as proper by a responsible body of medical men skilled in that particular art. Putting it the other way round, a doctor is not negligent, if he is acting in accordance with such a practice, merely because there is a body of opinion that takes a contrary view. At the same time, that does not mean that a medical man can obstinately and pigheadedly carry on with some old technique if it has been proved to be contrary to what is substantially the whole of informed medical opinion.”

10. Applying the abovesaid law, the burden lies on the complainants to show that during the treatment of the child Master Risabh Rana a standard protocol was not followed. Nothing has come on record upsetting experts opinion. For these reasons I am of the considered opinion that the complainants have failed to establish if OP1 hospital or the treating doctors were guilty of 'negligence' or 'deficient in service'. Complaint is hence dismissed. File be consigned to record room.

(N P KAUSHIK)
MEMBER (JUDICIAL)

(am)