13. This commission received medical expert report which was signed on 10.12.2014 by four members & the Chairman (Civil surgeon cum CMO, Patna) of the Medical Board.

14. The conclusion of report compiled by Medical Board stated that "**So on the basis of available reports, it can be said that there is negligence in the part of treating Surgeon Dr. Satyajit Kumar Singh at Ratan Stone Clinic & Ruban Memorial Hospital.**"

15. The main point of consideration in this case is that as to whether the O.Ps are liable for deficiency in service for treating the complainant Mr. Ramesh Kumar Yadav & Whether the complainant is entitled to the claim as prayed for?

FINDINGS

16. We have heard in full the Ld. Counsel on behalf of complainant only. Since the hearing of this case has proceeded ex-parte for hearing against O.Ps hence, this case will be decided on merit after perusal of the documents available on the record.

17. Ld. Counsel on behalf of complainant has reiterated the same version as mentioned in the complaint petition.

18. This commission received medical expert report from Civil Surgeon cum Chief Medical Officer, Patna who is the Chairperson of the Medical Board and this board was constituted by Chairman with four other members. The Expert Report which

reads as "**Report is being prepared on the basis of papers made available, as both the parties not attended the board after repeated requests.**

Ramesh Kumar Yadav, S/o- Dashrath Yadav was planning to go to Abu Dhabi for service as Tube Welder. He was subjected to various medical tests and was detected to be suffering from Nephrolithiasis (Stone in Kidney) both Kidneys, he was advised to get himself treated for nephrolithiasis & become fit before joining the service.

Mr. Ramesh Consulted Dr. Satyajit Kumar Singh at Ratan Stone Clinic, Ruban Memorial Hospital for removal of stones from Kidneys He underwent various tests at Ruban hospital and was operated on 01.02.2012. Operation was per cutaneous Nephrolithotomy (P.C.N.A) both side in which ureteric cathedral are left inside ureter (Stent). Patient was discharged with advices on 04.02.2012 and advised to report after 15 days with x-ray report.

On 17.02.2012 patient was informed about both ureteric catheters left inside, during operation and asked to deposit charges for removal of both the catheters (Stent). He was discharged from hospital on same day informing that he is now totally fit.

After 2 days patient had fever, pain during micturition etc. for which patient consulted locally to Dr. S.K Rajan and Dr. Ram Ekval Thakur at Gopalganj but he was not symptom free so he got investigated and X-ray done at 30.03.2012 at Seva X-ray clinic report which reads as "RT sided ureteric

catheter is seen". So, according to report, it can be said that ureteric catheter left in place during PCNL was not removed during follow up stage on RT side but Left sided Stent was removed. RT sided Stent left was the cause of morbidity of patient.

So, on the basis of available reports it can be said that there is negligence in the part of treating Surgeon Dr. Sayajit Kumar Singh at Ratan Stone Clinic & Ruban Memorial Hospital." This medical report itself is self explanatory that there is negligence in the part of treating surgeon Dr. Satyajit Kumar Singh at Ratan Stone Clinic i.e. O.P No-2 & Ruban Memorial Hospital i.e. O.P No-1.

19. After perusal of report, it is crystal clear that both the O.Ps are liable for deficiency in service.

20. Since, the complainant had gone through various medical tests conducted by CCI for serving his job in gulf country as a tuba welder and he was supposed to report to Mumbai within a month after removal of stones from the Kidney but due to negligent act by the both the opposite parties, complainant was unable to report to Mumbai in stipulated time. Complainant could not join his duty in Abu Dhabi & consequently he lost his job and definitely it has been occurred because of negligence by the O.Ps.

21. Under these circumstances, I am constrained to hold that both O.Ps are equally liable for deficiency in service. The Complainant lost his golden opportunity to

work in foreign countries for earning handsome salary and also due to negligent act of O.Ps, the life of complainant was in danger.

Hence, O.Ps are liable to compensate to the complainant for losing his job and for mental agony & physical harassment.

22. Hence, in view of the above said findings, it is therefore hereby,

ORDERED

23. That, the present consumer complaint is allowed & both O.Ps are directed separately as mentioned below.

- **O.P No-1 is directed as under: -**

i.) To refund the sum of Rs 1,90,000/- (One Lakh Ninety Thousand) to the complainant alongwith Simple Interest @ of 18% Per Annum from the date of filing of this case i.e. 04.09.2012.

ii.) To pay a sum of Rs 16,00,000/- (Sixteen Lakh) as compensation to the complainant for inconvenience, job loss, mental agony & physical harassment suffered during last 12 years of pendency of this case.

iii.) To pay a sum of Rs 50,000/- as cost of litigation to the complainant.

- **O.P No-2 is directed as under: -**

i.) To pay a sum of Rs 19,00,000/-(Nineteen Lakh) as compensation to the complainant for inconvenience, job loss, mental agony and Physical harassment suffered during last 12 years of pendency of this case.

ii.) To pay a sum of Rs 50,000/- as cost of litigation to the complainant.

24. The order must be complied by the O.Ps within 45 days from date of knowledge or receipt of copy of this order ; otherwise the complainant shall be entitled to take recourse of Section 71 of C.P Act 2019 for execution of this order & then O.Ps will be liable to pay individually execution cost of Rs 10,000/- also.

25. As per Rule, let a copy of this order be served to the parties/their advocates free of cost and additional copies of the pleadings with annexures be also returned to them as per Regulation 20 of Consumer Protection (Consumer Commission Procedure) Regulations, 2020.

(Rajnish Kumar)
Member,
24.09.2024

I agree,

(Prem Ranjan Mishra)
President,
24.09.2024

Typed by:- PRASOON