DMC/DC/F.14/Comp.2859/2/2023/ 19th March, 2024

**O R D E R**

The Delhi Medical Council through its Disciplinary Committee examined a complaint of Smt. Moni, r/o- J-565, Shakurpur, Delhi-110034, forwarded by the Delhi Medical Association, alleging medical negligence on the part of Dr. Anshuman Sharma of Avantika Hospital, A-3/8, Sector-3, Rohini, Delhi-110085, in the treatment administered to the complainant’s husband Shri Vinod.

The Order of the Disciplinary Committee dated 19th December, 2023 is reproduced herein-below :-

The Disciplinary Committee of the Delhi Medical Council examined a complaint of Smt. Moni, r/o- J-565, Shakurpur, Delhi-110034 (referred hereinafter as the complainant), forwarded by the Delhi Medical Association, alleging medical negligence on the part of Dr. Anshuman Sharma of Avantika Hospital, A-3/8, Sector-3, Rohini, Delhi-110085(referred hereinafter as the said Hospital), in the treatment administered to the complainant’s husband Shri Vinod (referred hereinafter as the patient).

The Disciplinary Committee perused the complaint, written statement of Dr. Anshuman Sharma and Dr. R.K. Midha, Medical Superintendent of Avantika Hospital, copy of medical records of Avantika Hospital and other documents on record.

The following were heard in person :-

1) Smt. Moni Complainant

2) Shri Vinod The patient

3) Dr. Anshuman Sharma Surgeon, Avantika Hospital

4) Dr. R.K. Midha Medical Superintendent, Avantika

Hospital

The complainant Smt. Moni alleged that her husband (the patient) Shri Vinod for complaint of pain abdomen, consulted Dr. Amit Johari, who after investigation, diagnosed him to be suffering from gall bladder stones and advised surgery. He gave the reference of Dr. Anshuman Sharma. The patient was then, admitted in Avantika Multispecialty Hospital. Dr. Anshuman Sharma on examining the patient, advised laparoscopic gall bladder surgery. The patient was taken-up for the surgery on 20th February, 2019. During the surgery, the condition of the patient deteriorated because of excessive bleeding. Dr. Anshuman Sharma then, took the patient to Jaipur Golden Hospital in an ambulance. The doctors of Jaipur Golden Hospital informed that due to negligence of the doctors of Avantika Multispecialty Hospital during the surgery, his condition has deteriorated. They demanded Rs.1,50,000/-. Dr. Anshuman Sharma reassured them, but he then, took the patient to Rathi Hospital. At Rathi Hospital in the night, Dr. Anshuman Sharma again performed the second surgery. He asked to arrange for six units of blood and took Rs.10, 000/-. For three days, the patient was treated at Rathi Hospital. In the night of 23rd February, 2019, since the condition of the patient did not improve, Dr. Anshuman Sharma took him to St. Stephen Hospital. On 24th February, 2019, the patient was again taken-up for the surgery in St. Stephen Hospital. Dr. Anshuman again assured that he will bear all the medical expenses but later on went back on his promise and refused to pay hospital bills. She further alleged that because of medical negligence of Dr. Anshuman Sharma, her husband had to undergo multiple surgeries and she incurred heavy medical expenditure. She, therefore, requests that strict action be taken against Dr. Anshuman Sharma.

Dr. Anshuman Sharma, Surgeon, Avantika Hospital in his written statement averred that the patient Shri Vinod visited Dr. Amit Johri with his wife Smt. Moni (the complainant) for abdominal pain. Dr. Amit Johri examined the patient and after due investigation, diagnosed that the patient was having stone in the gall bladder. He referred the patient to him (Dr. Anshuman Sharma) for laparoscopy cholecystectomy. The patient was admitted in Avantika Hospital where, he examined the patient and after due consent and explaining the patient and his attendant(complainant) pros and cons of the surgery and type of the surgery, a proper consent was obtained. It was explained to the complainant that the procedure of open cholecystectomy under general anesthesia may be adopted according to the condition of the patient. The complainant gave the consent for the treatment as well for the surgical procedure. Per-operative bleeding started from the liver bed which was controlled by his team of doctors by packing. Since better supportive care was required for the patient, therefore, the patient was referred to Jaipur Golden Hospital, being the nearest tertiary hospital, but they refused to admit the patient and sent out false message to the relatives that the surgery has been performed wrongly and it would require them to deposit at least rupees two lakh instantly and expenses can go up-to ten lakhs also and may be the patient may also die. He tried to admit the patient in other tertiary care hospitals and called Saroj Hospital, Max Hospital Navjeevan Hospital and even St. Stephen’s Hospital with the will and consent of the patient and the complainant, but no bed was available. Therefore, for the well being of the patient, the patient was taken to a small clinic called as Rathee Hospital where he was given IV antibiotics and FFP and PRBC by him on day care basis without any further charges and on availability of bed, the patient was shifted to St. Stephen’s Hospital in emergency under the care of Dr. Rajiv Sharma, Department of General Surgery. At the time of admission in St. Stephens Hospital, the patient’s all vitals were stable and the surgery for removal of pack was performed. As per the information, the surgical procedure was uneventful, and the patient got better day by day and was discharged in a stable condition. The patient came for follow-up in the general surgery OPD twice. Since the patient was poor; hence, on humanitarian ground, he deposited advance payment in St. Stephen’s Hospital, so that timely treatment may be started for well being of the patient. Thereafter, he also spent money several times for the purchase of medicines of the patient on humanitarian ground. The complaint filed by the complainant is based on wrong facts. It is specifically denied that that there is any negligence or deficiency in service on his part. Bleeding is a known complication of laparoscopic/open cholecystectomy. The averment of three surgeries, as alleged by the complainant, are wrong and baseless. He treated the patient with due care and caution. He denies each and every allegation made in the complaint by the complainant deserves to be dismissed, as there was no negligence or deficiency in service on his part.

Dr. R.K. Midha, Medical Superintendent, Avantika Hospital in his written statement averred that the complainant Smt. Moni in her complaint has stated that suddenly her husband Shri Vinod (the patient) developed pain in abdomen and she took him to a nearby clinic of Dr. Amit Johari, who got conducted many tests and then told that there was stone in the gall bladder and the same will require surgery. On asking about the expenses, she was told that he had talked to Dr Anshuman Sharma of Avantika Hospital and there the surgery would be done in Rs.28500/-. She got her husband admitted in Avantika Hospital and deposited Rs.28,500/- and Dr. Anshuman Sharma came in night, checked the patient and told the surgery would be done in the morning. It is alleged that her husband was taken into OT in the morning on 20th February, 2019 and during the operation, the condition of the patient deteriorated due to profuse bleeding and Dr. Anshuman took her husband in ambulance to nearby Jaipur Golden Hospital. It is alleged that Jaipur Golden Hospital demanded Rs.1,50,000/- for the treatment. It is alleged that Dr. Anshuman told that it was his responsibility and asked her to take the patient to Rathi Hospital where Dr. Anshuman Sharma did second surgery of her patient on 20th February, 2019. She paid Rs.10,000/- for six units of blood and Dr. Anshuman treated the patient there for three days. The condition of the patient deteriorated and on 23rd February, 2019 took the patient to St. Stephens Hospital where his third surgery was done. It is further alleged that when the hospital demanded payment of bill, Dr. Anshuman refused to pay and asked the complainant to pay the bill. Then, she went to Avantika Hospital to get the bill and they gave the bill for Rs.9,800/- only and on asking about the balance amount, she was told to talk to Dr. Anshuman Sharma. The complainant wanted to know as to why the surgeries were done for four days on her husband. She is a poor lady and has a family to support and the condition of her husband has been made worse. She has demanded action against Dr. Anshuman Sharma.

He further averred that Avantika Multi-Speciality Hospital is a duly registered hospital with the Delhi Administration under the Delhi Nursing Home Act, bearing Registration No. DGHS/NH/1268. The Avantika Hospital is being run by Dr. Raj Kumar Midha (Dr R. K. Midha) and he is duly registered with the Delhi Medical Council vide Registration No. 5101 (since the year 2000). The true and correct facts of the case in chronological order are as under :-

1. The patient Shri Vinod Rahul Kumar, male/35 years old, was referred by Dr. Amit Johari to Dr. Anshuman Sharma on 19th February, 2019 and the patient came to Avantika Hospital at 09.55 p.m. on 19th February, 2019 and he also brought all the test reports given by Dr. Amit Johari.
2. The patient was admitted in Avantika Hospital and examined clinically by Dr. Anshuman Sharma, Laparoscopic Surgeon, at 10.30 p.m. All the reports/investigations done by Dr Amit Johari, were seen by him and provisional diagnosis of multiple gall bladder calculi was made and history of the patient was recorded. The consent for the treatment was also taken and examined. The consent for HIV testing was also taken. The surgical consent was also taken after explaining the procedures to the complainant. The consent for administration of anaesthesia was also taken as per protocols. The surgery (lap/open cholecystectomy under general anaesthesia) was planned and fixed for 20th February, 2029 morning. Pre-operative orders were given and documented. Appropriate medication was given.
3. In the morning of 20th February, 2019, Dr Anshuman Sharma came with all equipments (laparoscopic) and assistant staff and the anaesthetist Dr Shivander. The PAC, etc. were done. The patient was clinically examined and thereafter, the patient was again checked-up. PAC was done as per norms. The surgery(laparoscopic cholecystectomy) was started as per medical protocols.
4. As per the operative notes of the patient, laparoscopic was converted to open cholecystectomy under GA. Per operative findings were :- thickened GB wall with adhesions. Sudden profuse bleeding started from the liver bed, for which, multiple liver packing was done and further procedure was planned for next day. The treating surgeon arranged PRBC and perfusion was started and the patient was shifted by him at Jaipur Golden Hospital.
5. The patient was conscious, co-operative, pulse rate was 137/minute, blood-pressure was low and feeble. It was decided to refer the patient to higher centre for better management. The patient was shifted to Jaipur Golden Hospital (about 50 meters away from Avantika Hospital) in a well-equipped ambulance and Dr. Anshuman Sharma accompanied the patient.
6. The patient had paid Rs.28500/- and the hospital issued a bill to the complainant for medicines actually consumed and OT charges amounting to Rs.9800/-. Remaining amount was with Dr. Anshuman for meeting expenses for arranging blood, payment to the anaesthetist and his assistant and staff etc. The hospital issued the bill for the amount received towards OT charges and actual consumption of medicines.
7. In this case, the patient was of Dr. Anshuman and Dr Johari and the hospital provided them the services of operation theatre and medicines. There is no allegation regarding deficiency on the part of the hospital, and only surgical complication arose in this case, which the treating doctors tried their best to manage, and when as per the decisions of the surgeon/treating doctors, the condition of the patient required shifting to a higher medical centre for further and better management; the same was done promptly and without loss of time.
8. For want of knowledge, Avantika Hospital cannot comment of the subsequent events in hospitals, as alleged by the complainant.

There is no allegation against the Avantika Hospital relating to any deficiency in services provided to the patient and the complainant is complaining only against Dr. Anshuman Sharma, alleging cheating and putting the patient in poor condition. Since the patient was investigated and diagnosed by Dr. Amit Johari and after doing various tests and seeing the USG report of dated 12th February, 2019 (with impression- Acute Cholecystitis with Cholelithiasis), the treating doctors had diagnosed it a case of multiple stone in gall bladder. The fee was decided between the patient party and the treating doctors (Dr. Amit Johari and Dr. Anshuman Sharma). Avantika Hospital had only provided the OT and the medicines and there is absolutely no allegation on the services rendered by the hospital. As per the treatment records of the patient, the team of the treating doctors of Avantika Hospital performed the surgery (cholecystectomy) as per standard protocols, using requisite knowledge, skills and with due care at all stages and, therefore, neither any negligence nor any deficiency, can be attributed to the treating team. Due to thickened wall of the gall bladder, the bleeding started from the liver bed and the surgery also had to be converted from laparoscopic to open surgery (cholecystectomy) and the opinion of another senior surgeon Dr P.K. Jain was also taken. Adequate number of units of PRBC were transfused and the patient was shifted to a higher medical centre promptly and the surgeon himself accompanied the patient to the higher centre. As per scientific literature, an injury to other nearby organs in gall bladder surgery, is a known complication and the known complication can occur even in the best surgical hands, and the same cannot be termed as negligence. Dr Anshuman Sharma is an experienced and well qualified laparoscopic and general surgeon. The hospital cannot comment on the alleged cheating/thuggi of the patient party by the said doctor. Though, the complainant has lodged the complaint with the Delhi Medical Council, for action against a credible opinion is required from experts of the subject for proving medical negligence, which the patient has not filed. A perusal of the complaint and the allegations made therein, reveal that there is absolutely no allegation of any deficiency against the Avantika Hospital. So far other allegations relating to the alleged thuggi/cheating and the treatment in other hospitals is concerned, he (Dr. R.K. Midha) feels that Dr Anshuman Sharma is the right person to elucidate the facts to the satisfaction of the Delhi Medical Council. It is therefore, most humbly prayed that the present complaint may kindly be dismissed and filed against the Avantika Hospital, in the interest of justice.

In view of the above, the Disciplinary Committee makes the following observations :-

1. It is observed that the patient Shri Vinod, 35 years old male, was a known case of gall bladder stone and admitted in Avantika Hospital on 19th February, 2019. He was advised for laparoscopic cholecystectomy/open cholecystectomy. After due consent, the patient was taken-up for surgery next day(20.02.2019). Per operative bleeding started, for which, packing was done. For better care of the patient, he was taken to Jaipur Golden Hospital where he was denied admission because of financial reasons.

Thereafter, the patient was taken to Rathee Hospital where he was admitted for three days and I/V antibiotics, FFP and PRBC were given. Later, the patient was shifted to St. Stephens Hospital where the surgical pack was removed and the patient was discharged in a stable condition. The part payment at St. Stephens Hospital was done by the surgeon (Dr. Anshuman Sharma) on humanitarian ground.

1. It is observed that the decision for surgery (laparoscopic cholecystectomy) is justified on basis of ultrasound report and symptoms.
2. Bleeding may be encountered during laparoscopic cholecystectomy, and it is acceptable and justified to open and pack bleeding area for forty-eight hours.
3. Re-exploration (as done in St. Stephens hospital), is required after packing for bleeding. The patient is well thereafter.
4. Receipt for full amount paid by the patient to hospital was not given (only receipt for OT charge and hospital stay was given to the patient).

In light of the observations made herein-above, it is the decision of the Disciplinary Committee that no medical negligence can be attributed on the part of Dr. Anshuman Sharma of Avantika Hospital, in the treatment administered to the complainant’s husband Shri Vinod.

Complaint stands disposed.

Sd/: Sd/: Sd/:

(Dr. Maneesh Singhal) (Dr. Satish Tyagi) (Dr. Rajdeep Singh)

Chairman, Delhi Medical Association, Expert Member,

Disciplinary Committee Member, Disciplinary Committee

Disciplinary Committee

The Order of the Disciplinary Committee dated 19th December, 2023 was confirmed by the Delhi Medical Council in its meeting held on 21st February, 2024.

By the Order & in the name of

Delhi Medical Council

(Dr. Girish Tyagi)

Secretary

Copy to :-

1. Smt. Moni, R/o- J-565, Shakurpur, Delhi-110034.
2. Dr. Anshuman Sharma, Through Medical Superintendent, Avantika Multi Speciality Hospital, A-3/8, Sector-3, Rohini, Delhi-110085.
3. Medical Superintendent, Avantika Multi Speciality Hospital, A-3/8, Sector-3, Rohini, Delhi-110085.
4. Delhi Medical Association, Medical Association Road, Daryaganj, New Delhi-110002-w.r.t. letter No. F.DMA/DMC/2019/1583 dated 20.07.2019-**for information & necessary action.**

(Dr. Girish Tyagi)

Secretary