DMC/DC/F.14/Comp.2627/2/2020/ 18th March, 2020

**O R D E R**

The Delhi Medical Council through its Disciplinary Committee examined a representation from Police Station, Shalimar Bagh, seeking medical opinion on a complaint of Shri Trilok Chand r/o- Moti Ram r/o- 120 Old Anaj Mandi, Julana Mandi, Distt-Jind, Haryana, alleging medical negligence on the part of doctors of Max Super Speciality Hospital, FC-50, C&D Block, Shalimar Bagh, New Delhi-110088, in the treatment administered to the complainant’s father Shri Moti Ram at Max Super Specialty Hospital.

The Order of the Disciplinary Committee dated 03rd February, 2020 is reproduced herein-below :-

The Disciplinary Committee of the Delhi Medical Council examined a representation from Police Station, Shalimar Bagh seeking medical opinion on a complaint of Shri Trilok Chand r/o- Moti Ram r/o- 120 Old Anaj Mandi, Julana Mandi, Distt-Jind, Haryana (referred hereinafter as the complainant), alleging medical negligence on the part of doctors of Max Super Speciality Hospital, FC-50, C&D Block, Shalimar Bagh, New Delhi-110088, in the treatment administered to the complainant’s father Shri Moti Ram (referred hereinafter as the said Hospital) at Max Super Specialty Hospital.

The Disciplinary Committee perused the representation from Police, copy of complaint of Shri. Trilok Chand, joint written statement of Dr. Palash Gupta, Dr. B Sen and Dr. Archana Bajaj, Medical Superintendent, Max Super Specialty Hospital, medical records of Max Super Specialty Hospital, Goel Orthopaedc Centre, Venkateshwar Hospital and other documents on record.

The following were heard in person :-

1. Shri Trilok Chand Complainant
2. Shri Pankaj Singla Grandson of the patient
3. Shri Arun Singhal Grandson of the patient
4. Dr. Palash Gupta Consultant, Max Super Speciality Hospital
5. Dr. B Sen Senior Consultant, Max Super Speciality

 Hospital

1. Dr. Archana Bajaj Medical Superintendent, Max Super Speciality Hospital

The complainant Shri Trilok Chand alleged that he admitted his father (the patient) Shri Moti Ram in Max Hospital, Shalimar Bagh with IPID no.122 531 on 6th June, 2017 and got discharged on 9th June, 2017. The age of his father is 75 years old. Dr. Palash Gupta had done hip surgery of his father. After the surgery, his father felt pain regularly at the point of operation. When he took advised from the Goel Orthopaedic Centre, after the x-ray, Dr. Goel of Orthopaedic Centre told the complainant that the surgery was not properly done by the doctor of Max Hospital and also told that bolt of plate is also open. Dr. Palash Gupta removed the plate, but his father is having unbearable pain. Inspite of several request made by him, the hospital staff/doctors were not taking care of his father. The complainant’s father is 75 years old and suffering from Brain haemorrhage since 1997. Max Hospital have advised another surgery and also demanded amount for new surgery. It is pertinent to mention that the doctors of Max Hospital due to their medical negligence wrongly operated the complainant’s father; due to this his father was harassed and tortured financially as well as physically and mentally. He spent more than Rs.2,00,000/- on the surgery of his father and deposited the same with the Max Hospital. He requests that strict action be taken against the doctors of Max Hospital.

The complainant stated that he was told by the doctor that they will be putting an implant of good quality namely Zimmer.

Dr. Palash Gupta, Consultant, Max Super Speciality Hospital stated that the patient Motiram, age 75 years/male was admitted in his unit on 6th June, 2017 with diagnosis of fracture I/T right hip(unstable) with a two decade old history of CVA in the brain with hemiparesis of the right side, for which, papers were made available. After due process of clearances from multiple departments, the patient was taken up for surgery on 7th June, 2017 and the fracture was fixed using standard technique of DHS with derotation screw. The patient was observed in ICU for overnight period and check x-rays obtained in hospital showed satisfactory positioning of implant and fracture. As per the records available, the patient was relatively comfortable in the post-operative period. On 9th July, 2016, after due clearances from other specialist, the patient was discharged with clear post operative instructions. The patient visited the hospital emergency on 14th July, 2017 complaining of pain in the right hip. The relatives were carrying x-rays which were difficult to interpret in terms of implant/fractures mal-position. The patient was advised repeat x-ray of the hip to confirm the actual status of the fracture and implant. The same was refused by the relatives of the patient and the patient was taken away. Since, then the patient has not been seen by any member of his team. The doctors at the hospital had never advised any second surgery. Infact, when the patient was brought to the emergency department of the hospital on 14th June, 2017, the doctors at the emergency department in the hospital had advised the patient to get an x-ray done, so that the exact cause of pain could be ascertained before undertaking any further management of the patient, but the patient had left the hospital on his own, without adhering to the advice of the concerned doctor. During the patient’s stay in the emergency department, the patient had been managed with the required medication. The patient was operated taking full care and caution and thereafter the progress was also noted and after the patient’s condition became stable, the patient was discharged. There has been no medical negligence or deficiency in service on his part or the hospital. It is specifically denied that any complaint was ever lodged with the management of the hospital. Further, it is specifically denied that there has been any harassment and torture, either physical or mental at the hands of the hospital herein. It is humbly prayed that the treatment administered to the patient while remaining admitted at Max Hospital was in line with set medical practice in India or globally under the facts and circumstances and the conditions of the patient. There is no question of negligence attributed to the hospital and/him of whatsoever nature.

On enquiry by the Disciplinary Committee, Dr. Palash Gupta stated that Dr. B. Sen, Dr. Ritesh and he, work in a unit. The surgery on 7th June, 2017 was conducted by Dr. B. Sen.

On being enquired by the Disciplinary Committee, Dr. Palash Gupta stated that he never discussed about the name of the brand of the implant; but used good quality implant during the surgery.

Dr. B Sen, Senior Consultant, Max Super Speciality Hospital stated that he was the primary surgeon, who operated on the patient Shri Moti Ram on 7th June, 2017. Further, no bolt of the plate was left open at the time of surgery or thereafter and the patient was discharged in a stable condition with no pain. The check x-ray was also conducted at the post-operation stage to ascertain that the implant has been fixed properly with no anomalies. It is submitted that there is very possibility that the bolt might have been opened due to mishandling by the patient. It is further submitted that he and the hospital had taken due care and caution while operating the patient and the surgery was performed as per the standard medical and surgical protocols. The averments pertaining to the patient’s seeking second opinion from Dr. Goel Oerthopaedic Centre are matter of record. However, with the bare perusal of documents, it is nowhere suggested or stated by the Dr. Goel Orthopaedic Centre that the surgery at the Max Hospital was not properly done. It only suggests of failed implant, which may be caused due to mishandling on the part of the patient himself. There is no document on record, which may suggest or indicate that the failure of implant was in anyway a result of any deficiency or negligence on the part of the treating doctor of the hospital. The documents so referred by the complainant alleged being prescriptions of Dr. Goel Orthopaedic Centre are very subjective and cannot in any way indicate, what to say prove, any negligence or deficiency in service on his part and hospital.

On enquiry by the Disciplinary Committee, Dr. B. Sen stated that post-operative x-ray lateral view was not taken in this case.

Dr. B Sen on being shown the implant, stated that the said implant which was put in the patient Shri Moti Ram during his surgery at Max Super Speciality Hospital, was a locally made titanium screw and they had neither promised nor implanted hip screw of Zimmer Company.

Dr. Archana Bajaj, Medical Superintendent, Max Super Speciality Hospital stated that records of C-arm images in this case are not available.

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

1. It is observed that the patient Shri Moti Ram, a 75 years old male, was admitted in the said Hospital on 6th June, 2017 with alleged history of slip and fall followed by pain, deformity in the right hip region and unable to weight lower right-lower limb. X-ray done outside was indicative of fracture (right) I/T femur. The patient was diagnosed as a case of Inter-trochanteric fracture(unstable) right side. He underwent surgical procedure of open Reduction and Internal fixation with 4 hole locking DHS plate and screws and one Derotation screw, on 7th June, 2017, under consent. The surgery was performed by Dr. B. Sen. The surgery was uneventful and the patient was discharged on 9th June, 2017 with advice to follow-up. The patient, thereafter, reported to the emergency of the said Hospital on 14th June, 2017 with history of earlier visit to a local hospital in Jind for change of dressing and complaint of extreme pain, swelling in Right hip with inability to move right lower limb and kept right lower limb in external rotation. X-ray done elsewhere was suggestive of cut out of lag screw. A working diagnosis of post-operative case of fracture Intratrochentric femur (unstable) right side operated with cut off screws was made. The patient was advised repeat x-ray right hip joint with upper third thigh True AP and True lateral view, advised admission and treated conservatively. It is apparent that that the patient neither got himself admitted nor underwent repeat x-ray at the said Hospital.

It is pertinent to note that on 14th June, 2017, itself, the patient had consulted Goel Orthopaedic Centre, Jind where a diagnose of I/T fracture Right femur with implant failure with CVA was made and revised surgery was advised. The patient, thereafter, on 18th June, 2017 consulted Dr. S.K.S. Marya at Medanta, the Medicity with complaint of pain in Right hip, where on x-ray, he was noted to have failed DHS Right side and the surgical procedure of complex Primary Total Hip Replacement-Right was advised.

The patient apparently got himself admitted in Venkateshwar Hospital, Dwarka, New Delhi on 18th July, 2017, where he was diagnosed with infected non-union cut through fracture intertrochenteric femur right with implant in situ. He underwent Right Hip implant removal on 19th July, 2017. The patient had to again get admitted in Venkateshwar Hospital, Dwarka, New Delhi. A diagnosis failed DHS Right hip was made and he underwent Total Hip Replacement right side (Zimmer constrained Hip) on 25th August, 2017 and discharged on 28th August, 2017. The patient, thereafter, was re-admitted in Venkateshwar Hospital, Dwarka, New Delhi on 1st November, November, 2018. He was diagnosed with infected THR Right Hip with implant in situ. He underwent implant removal with debridement and skeletal traction on 2nd November, 2018 and discharged on 4th November, 2018.

1. It is observed that the initial surgery done on 07th June, 2017 was correctly indicated. The patient had unstable intertrochanteric fracture right side, for which DHS is one of the standard surgical procedure. The patient with CVA and hemiplegia for the past 20 years is likely to have poor bone quality. The x-rays AP Lateral view show the DHS implant screw was not in ideal position. CVA with hemiplegia might have been an additional factor for the failing of the implant. It is also noted that the patient had not followed up with the primary surgeon, after the discharge from the hospital. The quality of implant, as in question, does not make any difference in the outcome of the procedure.

In light of the observations made hereinabove, it is the decision of the Disciplinary Committee that no medical negligence can be attributed in on the part of doctors of Max Super Speciality Hospital, in the treatment administered to the complainant’s father Shri Moti Ram at Max Super Specialty Hospital.

Complaint stands disposed.

 Sd /: Sd/:

(Dr. Subodh Kumar), (Dr. Ashwini Dalmiya),

Chairman, Delhi Medical Association,

Disciplinary Committee Member,

 Disciplinary Committee

 Sd/: Sd/:

(Dr. Sumit Sural) (Dr. V.K. Goyal)

Expert Member, Expert Member,

Disciplinary Committee Disciplinary Committee

The Order of the Disciplinary Committee dated 03rd February, 2020 was confirmed by the Delhi Medical Council in its meeting held on 28th February, 2020.

 By the Order & in the name

 of Delhi Medical Council

 (Dr. Girish Tyagi)

 Secretary

Copy to:-

1. Shri Trilok Chand r/o- Moti Ram r/o- 120 Old Anaj Mandi, Julana Mandi, Distt-Jind, Haryana.
2. Dr. Palash Gupta, Through Medical Superintendent, Max Super Speciality Hospital, FC-50, C&D Block, Shalimar Bagh, New Delhi-110088
3. Dr. B. Sen, Through Medical Superintendent, Max Super Speciality Hospital, FC-50, C&D Block, Shalimar Bagh, New Delhi-110088.
4. Medical Superintendent, Max Super Speciality Hospital, FC-50, C&D Block, Shalimar Bagh, New Delhi-110088.
5. S.H.O. Police Station Shalimar Bagh, New Delhi-110088-w.r.t. Despatch No.3924 dated 17/10/18 P.s. Shalimar Bagh, Delhi-for **information.**

 (Dr. Girish Tyagi)

 Secretary