DMC/DC/F.14/Comp.2827/2/2021/ 28th September, 2021

**O R D E R**

The Delhi Medical Council through its Executive Committee examined a complaint of Ms. Nidhi Jain, r/o- 9/1989, Street No.04, Kailash Nagar, Delhi-110031, alleging medical negligence on the part of Dr. A.K. Dhal and Lok Nayak Hospital, Delhi Gate, Delhi-110002, in the treatment administered to complainant.

The Order of the Executive Committee dated 22nd September, 2021 is reproduced herein below:-

“The Executive Committee of the Delhi Medical Council examined a complaint of Ms. Nidhi Jain, r/o- 9/1989, Street No.04, Kailash Nagar, Delhi-110031(referred hereinafter as the complainant), alleging medical negligence on the part of Dr. A.K. Dhal and Lok Nayak Hospital, Delhi Gate, Delhi-110002 (referred hereinafter as the said Hospital), in the treatment administered to complainant.

The Executive Committee perused the complaint, written statement of Dr. Anil Dhal, Director Professor & HOD Department of Orthopaedics of MAMC & Lok Nayak Hospital and Dr. Nitish Bansal, Senior Resident, Lok Nayak Hospital, copy of medical records of Lok Nayak Hospital and other documents on record.

The complainant Ms Nidhi Jain alleged that she was a patient of Lok Nayak Jai Prakash Narayan Hospital from 16 December 2016. Her treatment regarding bimalleolar ankle fracture was going on there by Dr. A K Dhal and his team. On 15 January 2017, a surgery was conducted for the same in Lok Nayak Hospital. She was facing swelling after that and till now have been consulting the same team of doctors about it. She consulted Dr. Nitish Bansal (from Dr. A K Dhal's team) and he said that it is normal to have swelling after ankle fracture and told her to use crepe bandage on a daily basis. Her operation was delayed by more than a month saying that her wounds were not healing. When she consulted other hospitals for swelling they asked him why her surgery was delayed for one month and she came to know that in spite of the wound, operation can be immediately done after the fracture leaving the wound area. On 9th May 2018, she was declared medically fit by Dr. Nitish Bansal (from Dr. A K Dhal's team). Even after that she was facing swelling in her right ankle. Then she visited St. Stephen hospital, BLK hospital and Safdarjung Sports Injury Centre and they told her that she was suffering from ankle arthritis. On 9th November 2018 and 16th November 2018 Dr. A K Dhal suggested her that two screws present in her ankle were causing swelling and screw removal surgery will help her to reduce this swelling and till that day they never told her anything about arthritis. On 6th December 2018, screws were removed from ankle with no relief from pain and swelling. On 1st February 2019 after asking Dr. A K Dahl's team that whether she had any problem (after saying that she had visited other hospitals and they said she was suffering from arthritis), they revealed (in a very abrasive way saying that they are not cutting her leg and in very bad manner in a very insulting way in front of his unit) that she have ankle arthritis. This declaration was made without any test and reports by Dr. A K Dahl's team. When Dr. Nitish Bansal of Dr. A K Dahl's team (Lok Nayak Jai Prakash Narayan Hospital) declared her medically fit on 9th May 2018 then how is it possible that within 9 months being declared so, she was left with only one option as treatment which is ankle fusion? On visiting Lok Nayak Hospital when she asked Dr. A K Dhal on 1st February 2019 after the same which she got to know from other hospitals mentioned above, he became angry and humiliated her in front of his team members and patients regarding her financial condition and her father's illness. He talked to her in a very bad way that she couldn't expect from the head of the unit (DR A K Dhal). A common person doesn't know much about the medical processes and solely relies on the doctors for proper guidance. It is heartbreaking that she wasn't given the same and instead have been affected severely at such a young age because of this grave negligence. She was just 26 years old. It is going to affect her whole life. Doctors who had seen her case and treated her were Dr. Nitish Bansal, DR A K Dhal, Dr. Yasim, Dr. Saket and Dr. Siddharth. They either didn't do the check up properly or knowingly withheld such a crucial information from her. This is sheer medical negligence/malpractice. Their intended or non-intended negligence has brought her at the last stage of ankle arthritis. She request immediate action against the above mentioned doctors along with a proper report for the same: She demand rightful compensation as her condition was allowed to deteriorate due to doctor's negligence and now has turned into a lifelong ailment. She hope that Delhi Medical Council will take proper action against the faulty doctors.

Dr. Anil Dhal, Director Professor & HOD Department of Orthopaedics, Lok Nayak Hospital in his written statement averred that the as per the OPD records of the patient, she presented to the Department of Orthopedics Lok Nayak hospital (LNH), New Delhi on 16.12.2016 with complaints of swelling in the ankle following a fall from a scooty 2 days ago. The initial treatment seems to have been provided elsewhere as her ankle had already been immobilized in a slab. On slab removal, the ankle was found to be highly swollen with abrasions and blebs on the medial aspect. Her ankle X-rays revealed a bimalleolar fracture. Measures to reduce the swelling like limb elevation and local ice packs were instituted. A closed fracture reduction was performed and a slab was applied. Antibiotics were also prescribed. The patient was subsequently provided with follow up treatment several times during the next 3 weeks in the OPD and each time the local area was found to be unhealthy for which antiseptic dressings were regularly prescribed and administered. As soon as the local condition improved, surgical fixation of the ankle fracture was performed on 15.1.17. Keeping in mind the facts on record, surgery on initial presentation was not possible due to the gross swelling, abrasions and blebs in the zone of surgery. Ignoring such ominous signs and proceeding with early surgery would have exposed the patient to a significantly higher risk of surgical site infection. Delaying the surgery, yet continuously monitoring the patient till such time, when the local skin condition was considered conducive for safe surgery, was entirely in the interest of the patient and accepted medical practice. Above all, the patient as per her own statement, was kept informed about the reasons for delay in surgery in her case. As per Campbell's textbook of Orthopaedics, 14th edition, year 2021, page 2784 & 2816 (Annex 2 & 3), 'Operative treatment of ankle fractures is limited to two time periods- early within 12 hours and 'may not be possible again for 2-3 weeks because of excessive swelling. Delayed closure and even skin grafting may be necessary if too much swelling exists at surgery. The delayed operation is justified in patients with severe soft tissue injury or fracture blisters. If ORIF is delayed, immediate closed reduction should be performed'. As the patient presented to LN Hospital 2 days after the injury with gross swelling, abrasions and fracture blisters, a closed reduction was initially performed and splintage was provided. Delay in surgery was as per standard recommendations in such situations and does not amount to neglect in treatment on the part of the treating team. On 16.09.2018 i.e. 1 year and 8 months after the surgery the treating surgeon, Dr. Nitish Bansal, Senior resident (SR)consulted him as the patient had persistent pain and swelling in the ankle. In view of the fracture medial malleolus having united and the medial screws being prominent and palpable, he suggested implant removal as an initial step to see if her symptoms get relieved. The implants were removed on 6.12.2018. Removal of symptomatic implants especially after fracture union is as per standard line of treatment. However, it is well documented in medical literature that in some cases pain and swelling may persist in spite of implant removal. As per OPD records on 1.2.2019, ankle arthritis was detected and the patient was advised to go in for wax bath and to use a silicon pad in footwear. The patient has claimed that no investigations were performed. However the patient was being followed up in the OPD regularly and monitored with X-rays. An MRI was not considered since the fibular implants were still in situ. Implants are known to create metal artifacts which make interpretation difficult. Post traumatic ankle arthritis (PTOA) is a known sequela of ankle fractures. It has been suggested that magnitude of injury to the articular cartilage during the initial trauma causing the ankle fracture is the major predisposing factor for development of PTOA. The patient was treated as per standard of care and development of ankle arthritis does not indicate negligence on the part of the treating team. Medical fitness following ankle fracture surgery denotes that the patient is now able to carry out his/her activities of daily living independently from that date onwards. However, it does not guarantee against development of any future deterioration in joint function or ankle arthritis which is a slow process but may occur faster in younger age groups due to their inherently active life style. Regarding patient's claim of ankle arthrodesis being the only treatment being prescribed to her at Lok Nayak hospital, he could not find any document to suggest the same: She was prescribed conservative treatment. Ankle arthrodesis is one of the treatment modalities for advanced arthritis. She may have been told about the possibility of need for fusion in the future. As per record on file, he was consulted only twice during a 2 year follow up of the patient at Lok Nayak Hospital. On both the occasions his interaction with her was entirely professional. Since Lok Nayak hospital is a public hospital providing free treatment to the patients, the financial condition of the patient is never a consideration.

In view of the above, patient Nidhi Jain was treated as per standard medical procedure in line with recommendations in authoritative medical texts in a case of bimalleolar fracture presenting with severe ankle swelling, abrasions and fracture blisters. To the best of his knowledge and belief, there has been no negligence on the part of the treating team/unit.

Dr. Nitish Bansal, Senior resident, Lok Nayak Hospital, in his written statement averred that on 16.12.2016 the patient was brought to the Orthopaedics OPD of the hospital and at that time the patient already had: Below knee slab in situ over the right ankle and leg. The slab was removed and on examination it was found that the ankle had swelling, abrasion and blebs on the medial aspect of the ankle with both distal arteries palpable. Patient was shifted to the Orthopaedic emergency, and X-ray of right ankle was done which showed a bimalleolar fracture with ankle subluxation. Ice fomentation, closed reduction and below knee slab was applied and the leg elevated over a BB splint. Patient was given antibiotics and analgesics. Patient was sent home with further instructions for limb elevation, ice pack application, medication and to follow up in orthopaedics OPD. Patient presented on 20.12.2016, and on examination there was swelling present in the ankle and the skin condition on the medial aspect of ankle was found to be unhealthy. After dressing and further instructions of limb elevation, active toes movement, ice pack application to reduce the swelling, patient was asked to follow up in OPD. Patient followed up on 27.12.2016, dressing was done and a repeat closed reduction with application of below knee slab and a repeat x-ray was done. Patient followed up on 30.12.2016, skin condition was found unhealthy. Dressing was done, splintage and medication was continued. Patient followed up on 06.01.2017, case was discussed with consultant Dr. Sumit Arora. Skin was examined and found unhealthy for open reduction and internal fixation. Splintage and medication was continued and patient was asked to follow up. Patient followed up on 13.01.2017, all operative investigations were done. On 15.01.2017, when- skin condition was found to be fit for surgery,patient was taken up for surgery and open reduction and internal fixation with one-third tubular plating and malleolar screws was done and a below knee back slab was applied in emergency operation theatre. The course of stay in the hospital was uneventful. The patient was discharged on 17.01.2017 in a satisfactory condition after wound inspection with no distal neuro-vascular deficit. Patient was given postoperative instructions, medications and told to ambulate non weight bearing with crutches. Patient was asked to report immediately in case of increase in pain, swelling, discoloration of toes or fever. Patient was asked to follow-up in OPD on 24.01.2017 .Patient followed up on 24.01.2017, surgical wound site was found to be healthy. Dressing was done, splintage and medication continued. Patient followed up on 03.02.2017, sutures were removed and dressing was done. Patient was regularly followed up on 10.02.2017,23.02.2017(check x-ray was done), 10.03.2017. Patient came on 2.04.2017, X-ray was done and splintage was removed. Patient followed up on 09.05.2017, found to have ankle stiffness and advised weight bearing ambulation and physiotherapy. Patient followed up on 06.06.2017, on examination patient had ankle stiffness for which physiotherapy and ankle range of motion exercises were advised. Patient came on 21.02.2018, 05.04.2018 and was advised physiotherapy for ankle stiffness. Patient followed up on 09.05.2018, patient was given medical fitness to resume duty and advised physiotherapy and crepe bandage application. Patient came on 16.11.2018, patient complaint of on and off pain, swelling and stiffness for which patient was advised screw removal from medial malleolus. Screws were removed on 06.12.2018 in the operation theatre. Patient was also advised medical rest for 5 days on 07.12.2018. The patient was advised hot fomentation, ankle range on motion physiotherapy for the ankle stiffness. Thus, it is clear that the patient was treated diligently, prudently with reasonable care and skill as per accepted medical standards. All the X-rays and OPD record is with the patient and are needed to formulate a complete reply. With reference to the allegation that the operation was delayed for more than one month with excuse that her wound was not healing, it is submitted that the allegation is wrong as stated, twisted the facts, based on suspicion and presumptions, without any expert medical opinion and thus denied. The fact is that the plan of care was discussed with the patient and she was treated diligently, prudently with reasonable care and skill as per accepted medical standards. With reference to the allegation that, the patient was declared medically fit and after 9 months she developed arthritis of ankle joint, and that she was not informed about the arthritis, it is submitted that the allegation is wrong as stated, twisted the facts, based on suspicion and presumptions, without any expert medical opinion and thus denied. The fact is that medical fitness was given based on the clinical findings and the same was accompanied with medical advice /precautions to be taken. The fact is that the patient was informed about the arthritis and the finding of arthritis is also documented in the medical record of the patient. It is further submitted that the complainant herself stated that she had arthritis after 9 months of medical fitness which clearly indicates that there was no deficiency in providing fitness because at the time of giving opinion of fitness there was no arthritis. It is pertinent to mention that delayed appearance of arthritis can occur as a sequalae of fracture of the joint and does not indicate any negligence in treatment of the patient. There is also a possibility that the patient did not follow the precautions which contributed in the development of the arthritis. With reference to the allegation that, the patient was misbehaved/insulted by Dr. AK Dhal, it is submitted that the allegation is wrong, malicious, derogatory, mere aversions without any proof whatsoever and thus denied. The fact is that the patient was treated empathetically and was never misbehaved or insulted.

In view of the facts and circumstances enumerated hereinabove, it is most humbly prayed that the present complaint be rejected and dismissed, in the interest of justice, more so when the same is neither based on medical/scientific facts nor supported by any expert opinion or medical literature.

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

1. It is noted that the complainant reported to the Orthopaedic OPD of Lok Nayak Hospital on 16.12.2016 with history of fall from scooty 2 days back with swelling in the right ankle and foot. She had a slab in situ. The slab was removed and on examination it was noted that the ankle had swelling and blebs on the medial aspect, with both distal arteries being palpable. X-ray of right ankle revealed bimalleolar fracture with ankle subluxation. Ice fomentation, closed reduction and below knee slab was applied and the leg elevated over a BB splint. Patient was advised antibiotics and analgesics and instruction for limb elevation, icepack application, medication and review in OPD. Thereafter the patient regularly followed up in OPD and underwent aseptic dressings, splintage and medications continued. As per 30.12.2016 and 06.01.2017 OPD notes skin condition was noted to be unhealthy for ORIF procedure. The patient underwent open reduction and internal fixation (ORIF) with one third tubular plating and malleolar screws fixation under spinal anesthesia on 15.01.2017 once skin condition permitted and a below knee slab was applied. The surgery was performed by Dr. Nitin Bansal, S.R. Orthopaedics. The surgery was uneventful and complainant was discharged on 17.01.2017 with advise to follow up in OPD. The complainant regularly followed up and on 09.05.2017 was found to have ankle stiffness for which weight bearing ambulation, physiotherapy was advised. Thereafter in follow-ups complainant complained of pain and swelling in right ankle and on 06.12.2018 medial malleolus screws (2 screws and 2 washers) were removed. On 01.12.2019 complainant was diagnosed with ankle arthritis at Lok Nayak Hospital. As per Stephen’s hospital OPD prescription dated 10.11.2018 she was advised ankle fusion. The complainant consulted Sports Injury Centre, Safdarjung Hospital where she was noted to have advanced degenerative changes right ankle ad counselled for future need of ankle arthrodesis.

2. We concur with the decision of the treating team of Lok Nayak Hospital regarding initially carrying out closed reduction, because of the extensive swelling and abrasions/blebs on skin in the ankle. The decision to delay the ORIF procedure by doctors of Lok Nayak Hospital in view of the skin condition being not healthy, was as per accepted professional practices in such cases. Similarly the removal of screws after union of the fracture of medial malleolus and their being complaints of pain and swelling, was also as per standard protocol in such medical condition. The post traumatic ankle arthritis which the patient had developed is a known sequlae complications of ankle fractures.

In light of the observations made herein-above, it is the decision of the Executive Committee that primafacie no case of medical negligence is made out on the part of Dr.A.K. Dhal, Dr. Nitish Bansal of Lok Nayak Hospital in the treatment administered to complainant.

Complaint stands disposed.

Sd/: Sd/: Sd/:

(Dr. Arun Kumar Gupta) (Dr. Raghav Aggarwal) (Dr. Ashwini Dalmiya)

Chairman, Member, Member,

Executive Committee Executive Committee Executive Committee

Sd/: Sd/: (Dr. Saudan Singh) (Dr. Ish Kumar Dhammi)

Member, Expert Member

Executive Committee Executive Committee

The Order of the Executive Committee dated 22nd September, 2021 was confirmed by the Delhi Medical Council in its meeting held on 23rd September, 2021.

By the Order & in the name of Delhi Medical Council

(Dr. Girish Tyagi)

Secretary

Copy to:

1. Ms. Nidhi Jain, r/o- 9/1989, Street No.04, Kailash Nagar, Delhi-110031.
2. Dr. A.K. Dhal, G-41, Lajpat Nagar-III, New Delhi-110024.
3. Dr. Nitish Bansal, House No. 17-A, GF, Vikram Nagar, New Delhi-110002
4. Medical Superitendent, Lok Nayak Hospital, Delhi Gate, New Delhi-110002..

(Dr. Girish Tyagi)

Secretary