DMC/DC/F.14/Comp.2592/2/2021 ­ 22nd November, 2021

**O R D E R**

The Delhi Medical Council through its Executive Committee examined a representation from the police seeking medical opinion on a complaint of Shri Naveen Gupta s/o Shri Ram Prakash Gupta r/o Z-87 Dayalsar Road Uttam Nagar New Delhi, alleging medical negligence on the part of Dr. Meera Gupta of Gupta Nursing Home in the treatment of complainant’s wife Deepika and her new born baby, resulting in death of new born baby.

The Order of the Executive Committee dated 28th October, 2021 is reproduced herein below:-

“The Executive Committee of the Delhi Medical Council examined a representation from the police seeking medical opinion on a complaint of Shri Naveen Gupta s/o Shri Ram Prakash Gupta r/o Z-87 Dayalsar Road Uttam Nagar New Delhi (referred hereinafter as the complainant), alleging medical negligence on the part of Dr. Meera Gupta of Gupta Nursing Home in the treatment of complainant’s wife Deepika and her new born baby, resulting in death of new born baby.

The Executive Committee perused the representation from Police, copy of complaint of Shri. Naveen Gupta, written statement of Dr. Meera Gupta, BM Gupta Hospital, copy of medical records of Gupta Nursing Home, Mahendru Hospital and other documents on record.

It is noted that as per the complaint dated 10.08.2013 of Shri Naveen Gupta, it is alleged that hiswife Dipika Gupta, during her 8 months pregnancy, remained underregular check-up and supervision of doctors of BM Gupta NursingHome, H-11 to 15, Uttam Nagar, New Delhi - 110059,both the mother as well as the baby were alright. On 02.08.2020, he took his wife for the secondtime in BM Gupta Hospital for check-up ( because as per his wife thebaby was not having any movement of in the womb). The check-up wasdone by Dr. Meera Gupta, both the mother andthe baby were alright. Dr Meera Gupta had given her okay report withoutseeing the Fetal Heart Rate. On the night of09.08.2013, the wife of the complainant again told that the baby was notshowing any movements and the complainant took her to MahendruHospital for check-up on 10.08.2013. They told that the baby had alreadydied some 12-15 days back and asked the patient to get a colouredultrasound done. The advised ultrasound was got done and as per theUSG report the baby had died 12-15 days back and infection had set inthe body of wife of the complainant and she was in a very seriouscondition. As per the ultrasound report Dr. Meera hasdone the check-up negligently and she did not tell the truth to the complainant, as a result of which the condition of the wife of the complainantwas very serious. It has been requested to Police to take stringent actionon the complaint, so that such negligent acts are not repeated with any one in future.

Dr. Meera Gupta, BM Gupta Hospital Pvt. Ltd in her written statement averred that the allegation in the complaint that on the health of the foetus in the womb Dr. Meera Gupta gave a wrong report on 02.08.2013, when the wife of the complainant visited B M Gupta Hospital for check-up, ispatently wrong, false and malafide. Whatever report was given, wasbased on the facts and the same was given with due care and caution, when the complainant had come to Dr. Meera Gupta, she was advised to get admitted in the hospital. The patient, however, refused for admission due to some familyproblem. She advised her to visit the next day during the OPD hours, but patient did not turn up on that day also. Afterabout 10 days, the wife of the complainant went to Mahendru Hospitalfor check-up and there she was diagnosed Intra Uterine Death (IUD).How can the complainant blame her, when themedical advice given by the latter was not followed - neither the motherpatient got admitted, nor the patient came to the OPD on next day for check-up. She had no motive to tell a wrong finding, or tohide or conceal any true observation as alleged. It is patently wrong, falseand motivated that she gave a wrong report and thesame is specifically and vehemently denied.The complainant has alleged in his complaint that when he brought hiswife for check-up on 02.08.2013 to BM Hospital, his wife had told thatthere was no movement of the child in the womb. It is surprising that thecomplainant waited for next 8-10 days, despite having been told by hiswife that there was no movement of the foetus in the womb during allthese 8-10 days, and took her for check-up only on 10.08.2013 toMahendru Hospital. In case the wife of the complainant had anyproblems during the period between 02.08.2013 and 10.08.2013, shewould have consulted her, under whose supervision sheallegedly was during her ante-natal period, or in the alternatively, she (complainant’s wife) could have consulted any other Gynaecologist/doctor for check-up toascertain the veracity of the facts relating to the medical condition of thefoetus in the womb.It is further alleged in the complaint that the wife of the complainant hadtold him on the night of 09.08.2013 that there was no movement of foetusand she (complainant’s wife) was taken to Mahendru Hospital for check-up. Question arises that what prevented him to consult her doctor under whose care sheallegedly remained in the ante-natal period? The answer is simple. Thewife of the complainant had refused for admission when she was advisedwhen she visited BM Gupta Nursing Home on 02.08.2013, nor she visitedthe hospital next day during OPD hours, as had been advised by her. Thus after acting against the medical advice rendered byher, she preferred not to visit her (Dr Meera Gupta), and insteadwent to Mahendru Hospital.She does not have any alleged USG reportsmentioned in the complaint, but can the two reports of two different dateswith a gap of about 8-10 days be compared to ascertain the correctnessof ailment? Chances of IUD having occurred during the gap of 8-10days can not be ruled out in toto. Things would have been different, ifboth the reports pertained to the same day and time and there were a thirdindependent report. In that case a report could be said to be doubtful.Only comparables can be compared, and not uncomparables. Thecomplainant is wrongly and mischievously comparing the two reportsdated 02.08.2013 and 10.08.2013. In case the wife of the complainanthad suffered infection in her body, why she was not taken to any doctorfor check-up and treatment, if required ?From the circumstances narrated by the complainant in his complaint, itappears that the IUD was felt by the wife of the complainant only on the night of 09.08.2013 when she noticed no movements of the foetus in thewomb and not before that. Had it been earlier as alleged, she would havenot refused admission or at least visited the hospital next day during OPDhours, as advised by her on 02.08.2013. Thisclearly shows that she did not have any problem during the periodbetween 02.08.2013 and 09.08.2013 and now she has made a falsecomplaint after receipt of the alleged report from Mahendru hospital andthe same is nothing but an after thought.The complainant has not placed on record any third report or anyscientific evidence or expert opinion to prove the wrong report. Medical negligence has to be provide by adducing agent and germane evidence in support and mere allegations do not suffice. There is nothing on record to prove theallegation of negligence except presumption based on a report which wasbased on observation made after a period of 8-10 days.By no stretch of imagination, she can be blamed forthe alleged wrong diagnosis. The report of BM Hospital was based onthe true observations and the rational and correct findings/inferences andthe same can not be discarded, simply because some other hospital hasgiven a different report based on the ultrasound performed after 8-10days. The subsequent report allegedly given by the Mahendru Hospitalcan not be the basis for discarding the report of the BM Hospital aswrong. It is most humbly submitted that the answering respondent madea diagnosis based on scientific findings/reports, coupled with clinicalfindings, using requisite knowledge, skills/expertise and with due care.The allegation of wrong report or diagnosis is patently false andvehemently denied. She neither did any negligent act, nor concealed ay information from the patient (wife of the complainant), as alleged in the complaint. It is further wrong and denied that the condition of the wife of the complainant became serious, due to any act of commission or omission on the part of him . All allegations leveled in the complaint are baseless, bald, motivated and malafide and she denied the same specifically and emphatically. It is therefore, most humbly prayed that the present 07 years old complaint be dismissed and filed.

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

1. The Executive Committee notes that the patient Smt Deepika, 28 years old female was examined on 02.08.2013 when she complained of decreased foetal movements. Ultra-sonography done on 02.08.2013 had shown normal single foetus with cardiac activity and body movements. Placenta was anterior with no retroplacental clots. Repeat ultrasound done on 10.08.2013 detected IUD. As per fetal autopsy report also fetal death had occurred within last 02-07 days.

1. The Ultra-sonography done on 02-08-2013 showed fetal cardiac activity, hence there was no doubt that the foetus was live on that date. The autopsy report is also stating that the fetal demise has taken place during last one week.

In view of the observation made hereinabove, it is, therefore, the decision of the Executive Committee that primafacie no case of medical negligence is made out on the part of Dr. Meera Gupta of Gupta Nursing Home in the treatment of complainant’s wife Deepika and her new born baby, resulting in death of new born baby.

Matter stands disposed.

Sd/: Sd/: Sd/:

(Dr. Arun Kumar Gupta) (Dr. Saudan Singh) (Dr. Ashwini Dalmiya)

Chairman, Member, Member,

Executive Committee Executive Committee Executive Committee

Sd/: Sd/: Sd/:

(Dr. Raghav Aggarwal) (Dr. Vijay Zutshi ) (Dr. Abhinav Jain) Member Expert Member Expert Member

Executive Committee Executive Committee Executive Committee

The Order of the Executive Committee dated 28th October, 2021 was confirmed by the Delhi Medical Council in its meeting held on 02nd November, 2021.

By the Order & in the name of Delhi Medical Council

(Dr. Girish Tyagi)

Secretary

Copy to:

1. Shri Naveen Gupta r/o Z-87 Dayalsar Road Uttam Nagar New Delhi.
2. Dr. Meera Gupta, through Medical Superintendent, B.M. Gupta Nursing Home, H-11 to 15, Uttam Nagar, New Delhi-110059.
3. Medical Superintendent, B.M. Gupta Nursing Home, H-11 to 15, Uttam Nagar, New Delhi-110059.
4. SHO, Police Station, Bindapur, New Delhi-110059.(w.r.t No. 2125/SHO/Bindapur dated 14.10.2018)-for information.

(Dr. Girish Tyagi)

Secretary