ADDITIONAL BENCH

STATE CONSUMER DISPUTES REDRESSAL COMMISSION,
PUNJAB, CHANDIGARH.

First Appeal No.671 of 2022

Date of institution : 09.08.2022
Reserved on : 17.08.2026
Date of decision : 17.09.2026

1. Biala Orthopaedic & Multi Speciality Hospital, 54-A, Hukam Singh Road, Near Bhavans SL Public School, Amritsar through its Prop./Partner/Principle Officer.
2. Dr. Ravi Biala C/o Biala Orthopaedic & Multi Speciality Hospital, 54-A, Hukam Singh Road, Near Bhavans SL Public School, Amritsar.
3. Dr. R.K. Arora C/o Biala Orthopaedic & Multi Speciality Hospital, 54-A, Hukam Singh Road, Near Bhavans SL Public School, Amritsar.
4. Dr. Vikas Kakkar C/o Biala Orthopaedic & Multi Speciality Hospital, 54-A, Hukam Singh Road, Near Bhavans SL Public School, Amritsar.

…..Appellants/opposite parties No. 1 to 4

Versus

1. Mr. Kapil Mahajan S/o Sh. Vijay Mahajan R/o 85 Krishna Square I, Amritsar.

…Respondent No.1/complainant

2. National Insurance Co. Ltd., 93, District Shopping Complex, Amritsar through its Branch Manager.

3. National Insurance Co. Ltd., D-26, Court Road, Amritsar through its Branch Manager.
4. Oriental Insurance Co. Ltd., DO 1, Shree Dwarka Deesh Complex, Queens Road, Amritsar through its Branch Manager.

….Respondents No.2 to 3/Opposite parties No.5 to 7

First Appeal under Section 41 of the Consumer Protection Act, 2019 against the order dated 28.06.2022 passed by the District Consumer Disputes Redressal Commission, Amritsar in CC/272/2016

Quorum:-

Mr. H.P.S. Mahal, Presiding Judicial Member
Mrs. Kiran Sibal, Member

Present:-

For the appellant : Sh. Kartikeya Puri, Advocate
For respondent No.1 : Ms. Aditi Sharma proxy for
Sh. Subhash Chand, Advocate
For respondent No.2 &3 : Sh. Sandeep Suri, Advocate
For respondent No.4 : Sh. Arjun Kundra, Advocate

KIRAN SIBAL, MEMBER

The instant appeal has been filed by appellants/Opposite parties No.1 to 4 against the order dated 28.06.2022 passed by District Consumer Disputes Redressal Commission, Amritsar (in short, "District Commission"), whereby the complaint filed by complainant/respondent No.1 against opposite parties (in short 'OPs'), under the Consumer Protection Act, was allowed while granting the following relief:-

> **"13*.xxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxx***
>
> **xxxxxxxxxxx*. Opposite party No.1 failed to diagnose the infection in the wound of the complainant resulting complainant has to suffer huge mental and financial loss. The complainant spent approximately Rs.1,00,225/- on his treatment at Amandeep Hospital to remove the infection, hence, opposite parties No.1 to 4 are held liable to pay the said amount of Rs.1,00,225/- alongwith interest @7% p.a. from the date of filing of the complaint till its realization. Opposite parties No.1 to 4 are also liable to pay compensation of Rs.50,000/- and litigation expenses of Rs.50,000/- to the complainant. Xxxxxxxxxxxxxxx."***

2. It would be apposite to mention that hereinafter the parties will be referred, as have been arrayed before the District Commission.

3. Brief facts for the disposal of the appeal, as set out in the complaint, are that on 13.12.2015 the complainant suffered injuries due to fall from his bike and he was admitted to OP No.1/Hospital, where OP No.2 & 3 without any proper investigation and medical opinion, conducted the surgery on his leg. The complainant time and

again complained about pain in his leg but OPs No.2 & 3 ignored the same and asked the complainant that the pain was due to said surgical procedure. In the meanwhile, the limb of the complainant became bluish black and the same was brought to the notice of OPs No.2 &3, who after examining the same called OP No.4 for further treatment. However, OP No.4 showed his helplessness and did not advice any treatment. The complainant alleged that his leg was totally damaged due to the impending gangrene as the surgery was conducted in a haste and no vascular surgeon was consulted before the surgery. Thereafter, the complainant was discharged on 26.12.2015 without referring to any other medical center or conducting any further treatment, rather they advised that limb would be fine with the passage of the time and needs no further medical treatment. The condition of the complainant was becoming bad to worse and his attendants immediately took him to Amandeep Hospital, Amritsar, where he underwent multiple surgeries to save his life and limb and had to remain hospitalized for a long period. The complainant alleged that the life and limb of the complainant was saved to certain extent but he became bed ridden and crippled, moreover, he had to spend Rs.7 lacs on his treatment. Alleging medical negligence on the part of the OPs, the complainant filed consumer complaint before the District Commission and sought directions against the OPs to pay Rs.7 lacs along with interest @12% p.a. and further to pay Rs.12 lacs as compensation and adequate cost of the litigation.

4. Upon notice, OPs No.1 to 4 appeared and filed their joint written reply, wherein they raised certain preliminary objections, which

are not required to be reproduced here for the sake of brevity. On merits, OPs No.1 to 4 stated that the complainant was brought to OP No.1/hospital on 13.12.2015 by his relative with the complaint of severe pain in right knee & lower limb due to injuries sustained by him while falling from his bike. OP No.2, who was present at that time in the hospital examined the complainant thoroughly and found that his right lower limb was having tenderness, swelling, crepitus as well as abnormal deformity in right knee and proximal tibia fibula. After the x-ray examination and as per condition of the patient, the surgery was planned for release of compartment syndrome which occurred due to oedema of right limb, and to fix proximal tibial plateau fracture of right lower limb. Accordingly, a call was sent to OP No.3, senior orthopedic surgeon of the city and professor of orthopedics, who came to hospital and surgery was performed by OP No.3 assisted by OP No.2. The procedure was closed after aseptic dressing. However, during examination, no active dorsiflexion of toes was achieved and sensation of right foot was impaired. Thus, watch for circulation of toes for any change in colour of right toes was instructed. Patient and his attendants were explained prognosis of the operated limb at that stage as well. The stay of the patient in the hospital was uneventful wherein the recovery of the patient was as expected according to the guarded prognosis as seen pre-operatively as per nature of injury. The movement in right foot and right ankle was impaired due to nerve injury, which was to be dealt subsequently after healing of fracture injury. Even during hospitalization of the patient, consultation of Dr. Vikas Kakkar/OP No.4 was taken for viability of plastic surgery of

operated limb, who also did not find any evidence of vascular impairment in the injured limb. At repeated intervals, the dressing of operative wound was changed with aseptic dressings with debridement of the necrosed margins. The patient was discharged on 26.12.2015 after both the doctor examined the operative wounds, whose healing was found to be satisfactory. As the time of discharge, the patient was advised strict bed rest and non-bearing of weight on the operated limb till further orders; and was further advised nerve conduction studies of the injured right limb; with daily dressing with betadine and was advised to come for follow up after 10 days with further advise to consult plastic surgeon for skin grafting on fasciotomy wound. Further management of the patient for his neurological deficit of the right ankle and foot as well as for his plastic surgery to cover fasciotomy wound was to be considered only after assessing the progress of healing of the operative wounds and of the fracture injury. But the patient did not come for further follow up and never approached the OPs again for further treatment. The OPs stated that as per record produced by the complainant, he landed in Amandeep Hospital on 28.12.2015 i.e. after three days of discharge from OP No.1/hospital with one of the chief complaints “Pt unable to bear weight and walk properly” meaning thereby that he was working against the restrictions at the time of discharge i.e. ‘strict bed rest and not weight bearing till further orders’, meaning thereby the condition of the patient, if deteriorated, must be due to non-compliance of the directions issued to him by them. Further as per record of said hospital, distal pulses in the operated limb were present, meaning

thereby there was no indication of vascular injury there as well during the hospitalization upto 21.01.2016. There was no medical negligence on the part of OPs No.1 to 4. After denying the other averments made in the complaint, they prayed for dismissal of the complaint.

5. In reply to complaint, OP No.5 also raised certain preliminary objections, which are not required to be reproduced here for the sake of brevity. On merits, OP No.5 stated that the plea raised by the complainant are vague and without any basis just to defeat the right of the OPs and even the complainant has not placed on record any cogent and convincing material in order to substantiate the alleged pleas. After denying the other averments made in the complaint, OP No.5 prayed for dismissal of the complaint.

6. In reply to complaint, OP No.6 stated that the complainant had already got a Mediclaim insurance policy from National Insurance Co. vide policy No.8500000169, wherein the complainant was issued card No.061529579 and the said policy was in operation at the time of alleged treatment. The complainant has neither disclosed about the said fact not placed on record the details of reimbursement to him by the insurance company. There was not an iota of evidence to show that there was any negligence or deficiency in service at the end of OP No.2 during the course of treatment of the complainant. Moreover, the present complaint was filed in collusion with OPs No.1 to 4. Further stated that OP No.2 had violated the basic terms and conditions of the policy and hence no liability can be fastened against OP No.6. After

denying the other averments made in the complaint, OP No.6 prayed for dismissal of the complaint qua it.

7. In reply to complaint, OP No.7 has stated on the similar lines as stated by OP No.6 and prayed for dismissal of the complaint qua it.

8. The parties led evidence before the District Commission in support of their respective contentions and the District Commission after going through the record and hearing learned counsel for the parties, partly allowed the complaint of the complainant, vide impugned order as above. Aggrieved with the same this appeal has been filed by the appellants/OP No.1 to 4

9. We have heard learned counsel for the parties and have also gone through the written arguments as well as record on the file.

10. The learned counsel for the appellants/OPs No. 1 to 4 has vehemently contended that the District Commission has ignored the fact that respondent No.1/complainant was brought to their hospital with the complaint of severe pain in right knee and right lower limb since injury. The situation was so severe as there was an abnormal swelling in the right knee and right foreleg and the injury sustained by him was grave in nature. The District Commission has further failed to acknowledge the fact that OP No.2 Dr. Ravi Biala thoroughly examined the complainant and as soon as the diagnosis was made, an immediate investigation concerning x-ray examination of the injured limb as well as requisite blood investigation were advised and treatment was started so as to treat the patient in the best possible

way and by abiding with all the standard protocols. The wound was washed with normal saline and only skin sutures were applied to cover implant with skin. The fasciotomy wound was left open and Aseptic dressing was done while closing the surgery. Thereafter, in the post operative period, the patient was monitored at regular intervals. The District Commission erred while holding that the infection was not diagnosed by OP No.1. However, it is due to the regular monitoring, the patient was taken in the operation theatre on 15.12.2015 for a relook of surgical wound and repeated dressing was done by the entire surgical team including Dr. R.K.Arora, Dr. Ravi Biala as well as Dr. Kuljeet Singh. During the examination no active dorsiflexion of toes was achieved and sensation of right foot was impaired. The District Commission has overlooked the fact that at the time of the discharge, the patient was advised strict bed rest and not to put weight on the operated limb and was further advised nerve conduction studies of the injured limb with daily dressing with betadine and follow up after ten days. But despite the poor prognosis status of the limb, the patient did not turn up for the follow up. There was no negligence or deficiency in service on the part of the OPs/treating doctors. The learned counsel further argued on the similar lines as stated in the written reply and prayed for acceptance of the present appeal.

11. On the other hand, the learned counsel for respondent No.1/complainant has argued that OPs No.2 & 3 without any proper investigation conducted the surgery on the complainant leg and after the surgery he felt immense pain, which was ignored by the appellants and limb became bluish. The leg of complainant was totally damaged

due to the impending gangrene as the surgery was conducted in the haste and no vascular surgeon was consulted before the surgery. Thereafter, the complainant was discharged on 26.12.2015 without referring to any other medical center or conducting any further treatment, rather they advised that limb would be fine with the passage of the time and needs no further medical treatment. The learned counsel further argued that the treatment card of Amandeep Hospital clearly established that the complainant underwent multiple surgeries. As such, if the complainant was discharged in satisfactory condition and was advised to follow up after 10 days as per discharge summary, then what was the need of immediate multiple surgeries to be conducted. Moreover, in the second discharge card dated 12.02.2016 it is clearly mentioned that O/C/O vascular injury, which was not treated by appellants and the same led to impending gangrene and was being denied by them without any cogent evidence. The District Commission has rightly held the appellants negligent in providing treatment to the complainant. The learned counsel further argued on the similar lines as stated in the complaint and prayed for dismissal of the present appeal.

12. The learned counsel for respondents No.2&3/OPs No.5 & 6 has argued that the complainant has miserably failed to place on record any cogent and convincing material/evidence duly supported with the medical and expert evidence, in order to prove and substantiate the please as alleged in the complaint. Even no case has been made out against respondents No.2&3. The learned counsel

further argued on the similar lines as stated in their written reply and prayed for dismissal of appeal qua them.

13. The learned counsel for respondent No.4/OP No.7 has argued that Oriental Insurance Co. Ltd., has issued 'professional indemnity-Doctors Policy Schedule' to Dr. Vikas Kakkar (Appellant/OP No.4) bearing policy No.272200/48/2016/13681, whereas it never issued any insurance policy to appellants No.1 to 3/OPs No.1 to 3. Further submitted that mere providing coverage to the appellant No.4 does not ipso facto binds the insurance company to cover all the risks of the insured. The insured had to submit his claim to the insurance company and then it will examine the said claim in accordance with the procedure/law/terms and conditions to ascertain whether it is payable or not. The learned counsel further argued that appellant No.4/OP No.4 had no role to play in the alleged incident of medical negligence, he was neither negligent nor deficient in performing his duty. There is no documentary evidence on the entire file to prove his negligence, if any. The learned counsel further argued on the similar lines as stated in the written reply and prayed for dismissal of the appeal qua respondent No.4/OP No.7.

14. We have given thoughtful consideration to the contentions raised by the learned counsel for the parties and have gone through the record of the case file.

15. The main grievance of the appellants/OP No. 1 to 4 is that the District Commission has failed to appreciate the fact that the treatment in question was performed in OP No.1/hospital on standard

scientific lines as per condition of the patient by fully competent, qualified and well trained/experienced doctors and para medical staff of the hospital. Further submits that during the stay of the patient in OP No.1-Hospital, special care was taken for vascular status of the injured limb, and till the patient was discharged, his toe circulation of right limb was patent and there was no vascular deficit in the injured limb upto the toe. On the other hand, the case of respondent No.1/complainant is that the appellants without any proper investigation, conducted the surgery on the leg of the complainant and after the surgery, he felt immense pain, which was ignored by the appellants and limb became bluish. Moreover, the leg of complainant was totally damaged due to the impending gangrene as the surgery was conducted in the haste and no vascular surgeon was consulted before the surgery and even the complainant was discharged on 26.12.2015 without referring to any other medical center or conducting any further treatment. To determine the said controversy between the parties, we have carefully perused the pleadings of the parties, evidence placed on record as well as the impugned order passed by the District Commission.

16. Now, the main question which arises for consideration in this appeal is whether respondent No.1/complainant has been able to establish, by cogent and convincing evidence, that appellants/OPs No.1 to 4 were negligent in the treatment provided to him and that the subsequent condition of his right lower limb was the result of any negligent act or omission on their part? From the perusal of discharge summary of appellant/OP No.1-Hospital (Ex.c-2) it is found that the complainant got admitted in the said hospital on 13.12.2015 with the

complaint of severe pain right knee & right lower limb, abnormal swelling right knee & right foreleg, right foot being numb and inability of dorsiflex right foot and right ankle since injury. There was also complaint of abnormal deformity right lower limb and knee since injury. Further from the perusal of case report file, placed on record by the appellants as Ex.OP1-4/2, reveals that the diagnosis at that time was '*limb with fracture Proximal Tibia right compartment syndrome with right foot drop, post tibial nerve injury and neurapraxia'*. After the reports of X-ray investigations as well as blood test reports, surgery was conducted on the same day by Dr. R.K. Arora as chief surgeon, assisted by Dr. Ravi Biala and Anaesthetist, Dr. Kuljeet Singh using *'Electro cautery & C-arm imaging intensifier, Double Incision Fasciotomy and Decompression of all the four compartments of led and proximal tibial fracture was fixed with small DCP plate and screws on medial side and locking plate on lateral side'*. It has been also mentioned in the said medical record of the hospital that on 15.12.2015, the complainant was taken in the operation theatre for relook of surgical wounds and dressing again by the whole surgical team and after thorough painting and draping, surgical wound was opened and all tissues were inspected. Deep muscles of lateral and posterior compartments were found to be not looking healthy. However, distal pulses of the right lower limb were found to be palpable. During examination, no active dorsiflexion of toes was achieved and sensation of right foot was impaired. The patient was shifted to recovery room with instructions i.e. watch for circulation of toes for any change in colour of right toe and patient/attendants were

explained prognosis of operated limb. It has also been established from the medical record i.e. case report file that at repeated intervals, the dressing of operative would was changed with aseptic dressing with debridement of the necrosed margins and patient was discharged on 26.12.2015 by the treating doctors after examining the operative wounds, whose healing was found to be satisfactory. The complainant was also advised strict bed rest and non bearing of weight on the operated limb till further orders; and was further advised nerve conduction studies of the injured right lower limb; with daily dressing with betadine; and was advised to come for follow up after ten days with further advice to consult plastic surgeon for skin grafting on fasciotomy wound. However, after the said discharge, the complainant again felt some complication and was brought to Amandeep Hospital for further treatment. The perusal of Ex.C-5 i.e. discharge summary of Amandeep Hospital, shows that the complainant was admitted in the Amandeep hospital on 28.12.2015 with the complaint of '*pain rt lower leg with anteriorly 2 long incision '6CM' each prestitched wound C/o 7*3 CM open would over anterior medial aspect of proximal leg with lateral incision margins necrosed with no active toe movement, patient unable to bear weight and walk properly*'. Under heading 'Final diagnosis' it has been mentioned '*Post Traumatic wound right Leg/O/C/O # U/E Tibia with implant in situ with established compartment syndrome status fasciotomy*'. Under heading 'Course in the hospital' it has been mentioned "*Pt. Admitted with diagnosis of post traumatic wound right leg/C # U/E Tibia with implant in situ with established compartment syndrome status fasciotomy, pt underwent*

multiple surgeries post OP, Pt. stay in HDU than shifted in ward. Now pt stable and be discharged'. The complainant was subsequently discharged on 21.01.2016 in a stable condition. He was however, again admitted in Amandeep Hospital on 12.02.2016 with the complaint of pain Rt. Lower leg, unable to bear weight and walk properly with status Ex-Fix apply. As per discharge summary dated 12.02.2016, Ex.C-6, the final diagnosis was "O/C/O Vascular Injury (Post Compartment Syndrome) Rt. Leg. The complainant again underwent surgery on 12.02.2016 at Amandeep Hospital and was discharged on the same day.

17. In the backdrop of above said facts and circumstances as well as medical record placed on record by the parties, it is not in dispute that respondent No.1/complainant sustained a serious injury to his right lower limb as a result of a fall from his bike on 13.12.2015. On admission, he was found to have tenderness, swelling and abnormal deformity around the right knee and proximal tibia-fibula. The appellants/OPs have specifically pleaded that, after clinical examination and X-ray, he was diagnosed with proximal tibial plateau fracture along with compartment syndrome due to oedema of the injured limb. The surgery was accordingly undertaken for release of the compartment syndrome and fixation of the fracture. Thus, the decision to operate was not shown to be arbitrary or without medical basis; rather, it was taken in the background of the serious traumatic injuries suffered by the complainant. The allegation of respondent No.1/complainant that the surgery was performed in haste and without proper investigation is also not substantiated by any independent

medical evidence. No expert opinion has been produced to establish that the diagnosis made by the treating doctors was incorrect or that the procedure adopted by them was contrary to the accepted medical practice. In a case alleging medical negligence, the mere fact that the patient subsequently developed complications cannot, by itself, be treated as proof of negligence. It is necessary to establish that the treating doctors failed to exercise the reasonable degree of care and skill expected of a medical professional in the given circumstances. The material placed on record further shows that the doctors did not ignore the condition of the limb after surgery. It was specifically noticed that there was no active dorsiflexion of the toes and that sensation in the right foot was impaired. The circulation of the toes was accordingly kept under observation and the complainant and his attendants were apprised of the guarded prognosis of the injured limb. OP No.4-Dr.Vikas Kakkar was also consulted during the hospitalization by the appellants regarding the viability of the limb, and no evidence of vascular impairment was found at that stage. The operative wound was thereafter attended to at repeated intervals by aseptic dressing and debridement of the necrosed margins. The subsequent allegation regarding vascular injury and impending gangrene also does not, in our considered view, establish negligence on the part of the appellants/OPs. The respondent/complainant has not placed on record any expert or other reliable medical evidence demonstrating that a vascular injury was caused during the surgery or that the same existed but was negligently overlooked by the treating doctors. Therefore, the mere subsequent development of discolouration or necrotic changes in

the limb cannot automatically lead to the conclusion that there was a vascular injury attributable to the surgery or that the same resulted from negligence of the appellants/OPs. The complainant was discharged on 26.12.2015 only after the operative wounds were found to be healing satisfactorily. At the time of discharge, he was advised strict bed rest and non-weight bearing on the operated limb till further orders. He was also advised daily dressing, nerve conduction studies and follow-up after ten days, besides consultation with a plastic surgeon for skin grafting of the fasciotomy wound. Thus, the contention that the complainant was discharged without any further medical advice or plan for subsequent management is not borne out from the record. The respondent/complainant admittedly thereafter went to Amandeep Hospital on 28.12.2015 i.e. after three days from the date of discharge from OP No.1-Hospital. The appellants/OPs have pointed out that the records of Amandeep hospital mention that the complainant was unable to bear weight and walk properly, despite having been specifically advised strict bed rest and non-weight bearing. Although this circumstance by itself may not conclusively establish non-compliance, it does create a serious doubt about the allegation that the subsequent deterioration was necessarily attributable to the treatment given by the appellants/OPs. More importantly, there is no reliable medical evidence establishing a direct causal connection between the alleged negligence and the subsequent condition of the limb. The complainant has also relied upon the fact that due to vascular injury, which was not treated by appellants and the same led to impending gangrene, he had to

undergo further surgeries at Amandeep Hospital and incurred substantial expenditure towards his treatment. However, from the perusal of medical record of the Amandeep Hospital, we find that after taking treatment from the appellants and discharge on 26.12.2015, the complainant got admitted at Amandeep Hospital on 28.12.2015, but he was not diagnosed with any vascular injury at that point in time. He was diagnosed with the said vascular injury only on his subsequent 2nd admission at Amandeep Hospital i.e. on 12.02.2016. It is pertinent to mention here that subsequent treatment, diagnosis, complications or an unsatisfactory outcome of treatment cannot be treated as proof of negligence in the absence of supporting medical evidence. A treating doctor is required to exercise reasonable care and skill; the law does not impose an obligation upon a doctor to guarantee a particular result, particularly where the patient has suffered a serious traumatic injury with an already guarded prognosis. In the present case, the material on record shows that the respondent/complainant was examined on admission, the necessary investigations were carried out, surgery was undertaken for the diagnosed traumatic condition, the post-operative neurological status and circulation of the limb were monitored, specialist opinion was obtained, the wound was regularly attended to, and detailed advice was given at the time of discharge. There is no cogent evidence to demonstrate that the treatment adopted by appellants/OPs No.1 to 4 fell below the standard of reasonable medical practice or that any specific negligent act or omission on their part caused the alleged deterioration. It is also relevant that the burden of proving medical negligence rests upon the complainant. Such

negligence cannot be inferred merely from the fact that the treatment did not produce the desired result or that the patient subsequently required treatment elsewhere. Reliance has been placed on the judgment of Hon'ble National Commission in the case of '*Dr. Joseph George Vs. M.R. Vijayakumar*', R.P.2721 of 2008 decided on 13.10.2014, wherein the National Commission has reiterated the law laid down by the Hon'ble Apex Court in the case of '*C.P. Sreekumar (Dr) Vs. S. Ramanujam*, (2009) 7 SCC 130 and observed as under:-

> ***"….the onus to prove medical negligence lies largely on the claimant and this onus can be discharged by leading cogent evidence. A mere averment in a complaint which is denied by the other side can, by no stretch of imagination be said to be proved. It is the obligation of complainant, to provide the facta probanda as well as the facta probantia"***

In the absence of convincing expert or medical evidence showing breach of the accepted standard of care and a causal connection between such breach and the injury complained of, the appellants/OPs cannot be held liable merely on the basis of conjectures or subsequent complications. Accordingly, we are of the considered opinion that the respondent/complainant has failed to establish that appellants/OPs No.1 to 4 acted negligently or that the condition of his right lower limb was the result of any deficiency in the treatment provided by them. Hence, the finding of medical negligence against appellants/OPs No.1 to 4, by the District Commission vide impugned order, is not sustainable on the evidence available on record. The appeal, therefore, deserves to be allowed and the impugned order of the District Commission is liable to be set aside.

18. Sequel to our above discussion, we also allow the appeal of the appellants/OPs No. 1 to 4 and the impugned order of the District Commission is hereby set aside. Resultantly, the complaint filed by respondent No.1/complainant stands dismissed.

19. The appellants had deposited an amount of Rs.25,000/- at the time of filing the appeal with this Commission and further deposited an amount of Rs.97,037/- in compliance of order of this Commission. These amounts alongwith interest, which accrued thereon, if any, be remitted by the Registry to the appellants/OPs No.1 to 4 by way of demand draft/crossed cheque, after the expiry of 45 days from the date of receipt of certified copy of this order, in accordance with law.

20. The appeal could not be decided within the stipulated period due to heavy pendency of Court cases.

(H.P.S. MAHAL)
PRESIDING JUDICIAL MEMBER

(KIRAN SIBAL)
MEMBER

September 17, 2026
(Dv)