

**ODISHA HUMAN RIGHTS COMMISSION
TOSHALI BHAWAN (2ND FLOOR),
SATYA NAGAR, BHUBANESWAR-7**

O.H.R.C. CASE NO. 3691 of 2012

Parsuram Sahoo

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.... Petitioner

9th October 2015

ORDER

The petitioner has approached this Commission for monetary compensation because of the alleged negligence of the doctors of the O&G Department of District Headquarters Hospital, Puri in proper treatment of his daughter-in-law Sarojini Sahoo, who was admitted into the said District Headquarters Hospital on 31.10.2012 for her delivery. It is alleged that because of the faulty treatment and negligence while performing surgery of post-operative period, the petitioner had to spend huge sum of money to save the life of his daughter-in-law.

The admitted facts of the case is that Sarojini Sahoo, the daughter-in-law of the petitioner was admitted into the District Headquarters Hospital, Puri on 31.10.2012 for delivery and on that day, a baby girl was born through caesarean section. As per the advice of the doctor, the baby was referred to SCB Medical College & Hospital, Cuttack. Thus, the baby and the mother were taken to SCB Medical College & Hospital, Cuttack in a government ambulance on 06.11.2012. The treating doctors after examining the baby, found her condition satisfactory and advised the son of the petitioner and the mother of the baby to come after two weeks. They also advised that since the condition of the mother is not good, she should be treated in the District Headquarters Hospital, Puri. Accordingly, the patient Sarojini and her baby girl returned back to Puri and got re-admitted in the Gynecology Ward on

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06.11.2012 and was allotted bed no.261 and while being treated in the District Headquarters Hospital, Puri, the patient complained of severe pain in her abdomen for which Bharat, the husband of the patient and the son of the petitioner contacted Dr. Radhanath Tosh, Sr. Specialist in O&G attached to the District Headquarters Hospital, Puri and reported about the ailment of Sarojini but Dr. Tosh without providing any treatment said that government hospital is not a nursing home and if they desire, they may stay in the government hospital or else can proceed elsewhere, which inflicted great mental torture to the patient as well as to her attendants. When the pain become unbearable, on 11.11.2012, Dr. Tosh examined the wound for dressing and found that there was severe infection causing "burst abdomen" and the patient should be taken to Cuttack. When the husband of the patient expressed his inability because of his poor financial condition, Dr. Tosh called the ambulance and after discussing with the driver, forced Bharat to remove his wife to Cuttack and while they were proceeding to Cuttack, enroute the driver advised Bharat to get his wife admitted in Sparsh Hospital, Bhubaneswar, without going to Cuttack and, accordingly, the driver of the ambulance got Sarojini admitted in Sparsh Hospital, Bhubaneswar. On getting the said information, the petitioner arrived at Sparsh Hospital on 12.11.2012 and finding the condition of her daughter-in-law very serious and after hearing the entire episode, requested the doctors in the Sparsh Hospital to discharge the patient so that he can take his daughter-in-law to another hospital. The doctors of Sparsh Hospital taking pity on the petitioner, returned the fees, which they had collected towards treatment of the patient and, accordingly, the petitioner brought his daughter-in-law to Hi-tech Hospital, Bhubaneswar and got his daughter-in-law admitted there, where another surgery was performed and the petitioner was to spent one

lakh thirty-five thousand rupees by mortgaging his homestead land and cultivable lands. The petitioner alleges that on 19.11.2012, he had met the Chief District Medical Officer, Puri but the said CDMO adopted dilatory tactics for which the petitioner was forced to bring his daughter-in-law to his house on 29.11.2012. Under the circumstances, the petitioner claiming to be a poverty stricken man, who ekes out his living as a daily labourer, has approached this Commission for appropriate compensation for the financial loss he incurred due to the careless and negligent treatment of his daughter-in-law, especially in the hands of Dr. R.N.Tosh, Sr. Specialist in O&G attached to the District Headquarters Hospital, Puri. The petitioner again on 24.05.2013 approached this Commission and while reiterating his earlier allegations, further raised the point that though his new born grand-daughter was not having jaundice but on 06.11.2012, doctor of the District Headquarters Hospital, Puri referred the case to the SCB Medical College & Hospital, Cuttack thereby putting him and the patient as well as the baby to great hardship for which the condition of his daughter-in-law deteriorated leading to "burst abdomen". He also alleges interpolations in the discharge certificate, which was issued on 06.11.2012 and the unholy nexus between Dr. Tosh and the ambulance driver for which instead of his daughter-in-law being taken to SCB Medical College & Hospital, Cuttack, was dropped at he Sparsh Hospital, Bhubaneswar. Accordingly, the petitioner prays for a full-fledged inquiry into the matter and payment of compensation to him for the financial loss incurred by him.

The CDMO, Puri was asked to enquire into the matter and furnish a report. In his report, the CDMO, Puri states that Smt. Sarojini Sahoo, wife of Bharat Chandra Sahoo of Kuapada under Brahmagiri Police Station limits in the district of Puri was

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admitted into the O&G Ward of District Headquarters Hospital, Puri on 31.10.2012 at 9.40 AM vide Indoor Patient Department No.21394 dated 31.10.2012. Dr. Radhanath Tosh, Sr. Specialist in O&G was treating the patient and he performed the LSCS on 31.10.2012 and a living female child was delivered. The baby of the patient was referred to SCB Medical College & Hospital, Cuttack from SNCU of the District Headquarters Hospital, Puri and, accordingly, on the 7th post-operative day i.e. on 6th November, 2012 the patient along with her kid left for SCB Medical College & Hospital, Cuttack. In the circumstances, stitches could not be removed from the wound of the patient. On 06.11.2012 at 9.10 PM again Sarojini Sahoo was admitted to District Headquarters Hospital, Puri vide Indoor Registration No.22030 dated 06.11.2012. As the patient travelled 200 kms. to and fro, she was under the treatment of the O&G Specialist upto 10.11.2012. On 11.11.2012, Dr. S.B.Patnaik, Gynaecologist on Call, treated the patient at 4.30 PM and for recovery of wound dehiscence, he referred the patient to SCB Medical College & Hospital, Cuttack for better management. The CDMO, Puri had enclosed the report of Dr. R.N.Tosh, O&G Specialist as well as the written statement of the ambulance driver and the inquiry report of the ADMO (Med/TB), Puri.

Dr. Radhanath Tosh denied the allegation of the husband of the patient that when he examined the patient, she was not complaining of pain and he never advised to take his wife to a nursing home. He also denied the fact that when the wound was examined by removing the dressing, Bharat, the husband of the patient was not present and he never advised Bharat that because of the severe infection in the abdomen of the patient, she should be immediately removed to Cuttack and denies to have referred the patient to Cuttack and also denies to have any

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discussion with the driver of the ambulance vehicle. His specific plea is that, he was not present and did not refer the patient to SCB Medical College & Hospital, Cuttack.

The ambulance driver, Shri Akhay Kumar Das, who had removed the patient in the ambulance bearing registration no.OR-13E-4704 at 5.30 PM denies to have any discussion with Dr. Radhanath Tosh. He also denies to have taken the wife of Bharat to Sparsh Hospital. He specifically states that he had dropped the patient in the delivery casualty of SCB Medical College & Hospital, Cuttack as per the referral slip and the allegations made against him are totally false. The ADMO (Med/TB), Puri in his report states that the allegations made by Parsuram Sahoo about the negligence in the treatment of his daughter-in-law to be completely imaginary and baseless. He also further mentioned in his inquiry report that on verification of the written statement of the driver and the log book of the vehicle, the patient was taken to SCB Medical College & Hospital, Cuttack and dropped there.

Perused the photo copy of the bed-head ticket of Smt. Sarojini Sahoo, who was admitted into the District Headquarters Hospital, Puri on 31.10.2012 at 9.40 AM maintained upto 05.11.2012, which shows that Bharat Chandra Sahoo gave an endorsement in the bed-head ticket of his wife that he received the discharge certificate at 9.45 AM on 06.11.2012. Perused the photo copy of the bed-head ticket of the patient Sarojini Sahoo, who was again admitted into the District Headquarters Hospital, Puri on 06.11.2012 at 9.10 PM and i.e. 11.11.2012 that was maintained till 4.30 PM of 11.11.2012. On that day, the patient was referred to SCB Medical College & Hospital, Cuttack and the referral slip was received by the son of the petitioner, Bharat Chandra Sahoo on 11.11.2012 at 5.18 PM. Perused the discharge certificate of SCB Medical College & Hospital, Cuttack in respect of the baby of the

Sarojini Sahoo which shows that the baby was admitted on 06.11.2012 in the new born ward of 2nd unit and she was discharged on 07.11.2012 by Prof. Dr.S.N.Parida.

The Commission after having all those materials on record, directed the Director of Investigation of the Commission to get the matter enquired into by one of the Officers under his control and submit report. Accordingly, the Director of Investigation, directed Shri K.K.Padhi, the then Addl. SP attached to the Investigation Wing to enquire into the matter and submit his report. Mr. Padhy submitted his report but the Commission not being satisfied with the said report did not accept the same and requested the Director, Investigation to get the matter investigated afresh by any other Officer and, accordingly, Shri P.K. Tripathy, DSP, attached to the Investigation Wing was entrusted with the inquiry. Shri Tripathy conducted a detailed inquiry and furnished his report, wherein while admitting the pitiable condition of the patient and her attendants stated that the patient was treated several times at different hospitals and for “burst abdomen”, the patient was referred to the SCB Medical College & Hospital, Cuttack but ultimately the patient was admitted into the Hi-tech Hospital, Bhubaneswar for her better treatment by her father-in-law where she recovered from her illness. The report further specifically shows that the log book of the ambulance driver reveals that he had dropped the patient at the SCB Medical College & Hospital, Cuttack but why he violated the orders and dropped the patient at Sparsh Hospital, Bhubaneswar, the reason is best known to him. In his conclusion, the Deputy Superintendent of Police, Shri Tripathy is of the opinion that the petitioner probably, with a view to get compensation, filed this petition before the Commission, as he had spent lot of money in the Hi-tech Hospital and since he is a BPL Card holder, his prayer for compensation can be considered.

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After perusing the entire papers on record and after hearing the petitioner as well as the treating doctors in person and perusing their written responses, one fact becomes crystal clear that the patient was referred to SCB Medical College & Hospital, Cuttack on 11.11.2012 for better and specialized treatment i.e. in a referral hospital like SCB Medical College & Hospital, Cuttack for “burst abdomen”. But the patient was taken to Sparsh Hospital, Bhubaneswar by her husband Bharat Sahoo on the plea that the driver of the ambulance advised him to get his wife admitted into the Sparsh Hospital as the condition of his wife was serious. This explanation appears not convincing. If the petitioner was not satisfied with the treatment at the Sparsh Hospital, he could have on the next day i.e. on 12.11.2012 or even on 11.11.2012 instead of getting his daughter-in-law admitted into Hi-tech Medical College & Hospital, Bhubaneswar, could have removed his daughter-in-law to SCB Medical College & Hospital, Cuttack. The petitioner, who appears to be an innocent and poor person before the Commission, admitted and gave in writing that when he saw the condition of his daughter-in-law very precarious in Sparsh Hospital, he contacted his fellow villagers, one of whom advised that Hi-tech Hospital is a very good hospital, where one such burst abdomen case was properly handled and, accordingly, he being unaware of the things in the SCB Medical College & Hospital, Cuttack and since it is a big referral hospital, he found it convenient to admit his daughter-in-law to Hi-tech Medical College & Hospital, Bhubaneswar. Admittedly, Hi-tech Medical College & Hospital, Bhubaneswar is a private hospital. Having said all that, the fact remains unchallenged that Dr. R.N.Tosh, the Specialist in O&G attached to the District Headquarters Hospital, Puri in his written response to the Commission on 26.06.2015 has stated that on 31.10.2012, the patient Sarojini Sahoo was admitted to District

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Headquarters Hospital, Puri by Dr. S.B.Patnaik and he (Dr.Tosh) performed surgery i.e. the cesarean section, as he was on GOC (Gynaecologist on Call) on that day. During operation, it was found that there was a cricket ball size fibroid in the uterus. After cesarean section and after delivery of a female living child, the patient was kept in the post-operative O&G Ward. As per the duty pattern, he including two other doctors were on duty on rotation basis and visited the ward of the patient Sarojini Sahoo till 06.11.2012 as on 06.11.2012, the baby appears to have developed jaundice, the case was referred to the SCB Medical College & Hospital, Cuttack on 06.11.2012 but on the same day on request, she was discharged. Accordingly, the mother of the baby returned back to District Headquarters Hospital, Puri on 06.11.2012 and the mother was again admitted. On 07.11.2012, Dr. S.B.Patnaik removed the alternative stitches of the patient Sarojini Sahoo. Her general condition was fair. The patient was examined daily by O&G Specialists, who were on duty till 11.11.2012. Since there was slight serosanguinous discharge from the wound of the patient, dressing was done regularly with administration of antibiotics. On 11.11.2012 afternoon, Dr. S.B. Patnaik, who was on duty, telephoned Dr. Tosh that the patient developed burst abdomen. So she was referred to SCB Medical College & Hospital, Cuttack for better treatment. According to Dr. Tosh, there was no negligence in the treatment of the patient Sarojini Sahoo in the District Headquarters Hospital, Puri and there was no complain by the patient and his attendants.

Dr. Suvendu Bikash Patnaik, O&G Specialist attached to the District Headquarters Hospital, Puri in his written response on 26.06.2015 stated that he had admitted the patient Sarojini Sahoo on 31.10.2012 at 9.40 AM into the labour room. It was a case of Primigravida with post dated pregnancy and she was

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advised for cesarean section. Accordingly, with the consent of the patient and her husband, Sarojini had undergone LSCS operation and the surgery was performed by Dr. R.N.Tosh, who was on GOC on duty and the patient delivered a living female baby at 12.36 PM on 31.10.2012. Post recovery was uneventful and the patient and the baby were being seen by the O&G Specialist on duty. Since the baby developed jaundice, on the advice of the Paediatric Specialist, she was referred to SCB Medical College & Hospital, Cuttack along with the baby with discharge on request on 06.11.2012. The patient and the baby returned back from Cuttack and were again admitted to O&G Ward. On 07.11.2012, he had gone to O&G Ward in round and removed her alternative stitches. Her general condition was fair and the wound was healthy. She was seen by the O&G Specialist on duty daily and dressing was done. On 11.11.2012 at 4.30 PM while he was on emergency duty, got call from the staff nurse on duty and attended her and found that there was "burst abdomen" and the intestine of the patient was protruding out with purulent discharge for which he immediately consulted Senior O&G Specialist, Dr. R.N.Tosh and as per his advise, referred her to SCB Medical College & Hospital, Cuttack after proper dressing with tight sterilized bandage of the wound for better management. The husband of the patient received the referral slip at 5.18 PM on 11.11.2012 for shifting his wife to SCB Medical College & Hospital, Cuttack. Dr. Patnaik denies the allegation of any negligence in the treatment of the patient Sarojini Sahoo. His plea is that for better treatment and to save the life of Sarojini, she was immediately referred to SCB Medical College & Hospital, Cuttack.

On going through the entire case record and examination of the bed-head ticket of the patient Sarojini Sahoo, District Headquarters Hospital, Puri, it seems something very

strange that a patient, who had undergone LSCS was treated in the District Headquarters Hospital, Puri from 31.10.2012 till 06.11.2012 and from 06.11.2012 night till 11.11.2012, when the patient was referred to the SCB Medical College & Hospital, Cuttack with burst abdomen.

Medical Science has advanced to a great extent. New technologies have been discovered and in some cases patients going through cesarean section are being discharged from the hospital within 4 to 5 days and at best on the 6th or 7th day. But here is a case in which Sarojini Sahoo was treated till 11.11.2012 and Dr. R.N. Tosh, who is the O&G Specialist attached to the District Headquarters Hospital, Puri in his response dated 26.06.2015 states that on 07.11.2012 Dr. S.B.Patnaik removed the alternative stitches of the patient and the general condition of the patient was fair but she was examined daily and dressing of the wound was done regularly and when there was Serosanguinous discharge, she was given anti-biotics and ultimately as a burst abdomen, the patient was referred to SCB Medical College & Hospital, Cuttack for better management. Dr. Suvendu Bikash Patnaik, O&G Specialist, District Headquarters Hospital, Puri also in his written response dated 26.06.2015 admits that on 07.11.2012 while he was in round duty, removed the alternative stitches from the wound of Sarojini Sahoo. Removal of the alternative stitches and not all the stitches gives an indication that the wound had not been totally healed up. It is uncontroverted that the patient Sarojini Sahoo was admitted into District Headquarters Hospital, Puri on 31.10.2012 at 9.40 AM for her delivery. A female child was delivered through LSCS process at 12.36 PM on 31.10.2012. The female child was referred to SCB Medical College & Hospital, Cuttack as she developed jaundice. The mother and the baby again returned back to District

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Headquarters Hospital, Puri and the mother Sarojini Sahoo was readmitted into the District Headquarters Hospital, Puri on 06.11.2012 at 9.10 PM, which is evident from the photo copy of the bed-head ticket vide Regd. No.4638 dated 06.11.2012. The said bed-head ticket shows removal of alternate stitches on 07.11.2012 but the bed-head ticket completely remains silent as to what was the condition of the patient after removal of the alternate stitches on 07.11.2012 and also on 8th and 9th November, 2012. There is no corresponding entry have been made in the bed-head ticket on those dates rather the date 09.11.2012 scored through and date 10.11.2012 has been mentioned to show that the patient is doing well, dressing done. Only at 4.30 AM of 11.11.2012, it was found that the patient has wound dehiscence and intestine protruding. These entries in the bed-head ticket unerringly point to the fact that the patient was not being properly attended to after her readmission into the District Headquarters Hospital, Puri on the night of 06.11.2012 and that too after removal of the alternate stitches leading to burst abdomen.

Thus, without further delving into the matter, prima facie materials are there to show that Sarojini Sahoo had not received proper attention and medical care when she was readmitted into the District Headquarters Hospital, Puri and that to after the alternate stitches were removed on 07.11.2012, she was left unattended till 10.11.2012. The culpability of the doctors of the O&G Department attached to District Headquarters Hospital, Puri cannot be ruled out altogether.

Thus, taking into consideration the entire gamut of fact situation involved in this case, for the gross negligence on the part of the doctors of the O&G Department attached to District Headquarters Hospital, Puri for the pain and sufferings undergone by the patient Sarojini Sahoo and the trauma undergone by her

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entire family, the patient is entitled to be compensated by the State for the negligence of its instrumentalities.

The Commission, accordingly, recommends the Government in the Health & Family Welfare Department to pay monetary compensation of Rs.50,000/- (Rupees fifty thousand) under Section 18(a)(i) of the Protection of Human Rights Act, 1993 to the victim/patient Sarojini Sahoo, daughter-in-law of the petitioner Parsuram Sahoo. .

Copy of this order be sent to the Commissioner-cum-Secretary to the Government, Health & Family Welfare Department to arrange payment of the above monetary compensation amount of Rs.50,000/- to the victim/patient within eight weeks of receipt of this order and report compliance.

Put up on 14.12.2015 awaiting compliance report from the Health & Family Welfare Department.

JUSTICE B.K.MISRA
ACTING CHAIRPERSON

9th October 2015