

**STATE CONSUMER DISPUTES REDRESSAL COMMISSION
CIRCUIT BENCH AMRAVATI
FIRST APPEAL NO. SC/CB3/27/A/86/2020**

Dr Sau Manjushree Murli Boob
PRESENT ADDRESS - Amravati, MAHARASHTRA.

.....Appellant(s)

Versus

Aryan Vijay Ambore through Natural Guardian and next friend Sau Lalita Gunwantreao Gadling
PRESENT ADDRESS - Amravati, MAHARASHTRA.

.....Respondent(s)

BEFORE:

**HON'BLE MS. SMT K. S. KAPSE , PRESIDING MEMBER
HON'BLE MS. SMT S. D. WANDHARE , MEMBER**

FOR THE APPELLANT:

ADV. SATISH R. SARDA FOR THE APPELLANT.

FOR THE RESPONDENT:

SAU. LALITA GUNWANTRAO GADLING, NATURAL GUARDIAN AND NEXT FRIEND
OF RESPONDENT/ORIGINAL COMPLAINANT IN PERSON.

DATED: 26/09/2025

ORDER

(Delivered on 26/09/2025)

Per Mrs Kalyani Kapse, Hon'ble Presiding Member

1. The Applicant namely Dr. Manjushri Murli Boob, Amravati has preferred the present appeal against Aryan Vijay Ambhore, through Natural Guardian and Next Friend Sau. Lalita Gunwantrao Gadling under section 15 of Consumer Protection Act, 1986 (For the sake of brevity "The Act") and thereby challenging Order/Judgement dated 06/02/2020 passed by the learned District Consumer Dispute Redressal Forum, Amravati in Complaint Case No. CC/2013/48 by which complaint filed by the Complainant was partly allowed.

2. Short facts leading to the filing of the Appeal are as follows. (Parties are herein after referred as per their original nomenclature for better appreciation) The

case of the Complainant is that the deceased mother of the complainant namely Samiksha got examined herself from the opponent in connection with her pregnancy and delivery on 23/04/2011.

3. The deceased Samiksha came to the hospital of opponent with labour pain and delivered male child i.e. the Complainant in the evening at 9:00 P.M. on 23/04/2011. On the request of the deceased Samiksha and also after verifying that all the parameters were normal, the deceased was discharged on 26/04/2011. On 02/05/2011 the deceased Samiksha came to the hospital of opponent in the morning at about 5:00 AM with complaint of pain in the abdomen and was examined and advised Sonography and X-ray to which the deceased refused and hence was advised to go to the PDMC Hospital for treatment free of cost. The deceased Samiksha died on the same day in the evening at PDMC Hospital.

4. The complaint made to the police by Nilesh Gadling, the maternal uncle of the complainant against the opponent. The police made the inquiry and seized the documents of treatment given in the hospital of the opponent as well as in the PDMC & Hospital. The Medical Board headed the Civil Surgeon gave its report to the Police Station Gadge Nagar giving opinion about the cause of death of Samiksha, as "Rupture of Urinary Bladder due to Massage etc." on 07/07/2011.

5. Notice was issued by to the opponent. Reply was filed by the Opponent. The complainant filed the complaint before the District Consumer Forum, Amravati along with application for condonation of delay vide CC/48/2013. The District Consumer Forum dismissed the application for condonation of delay. The Complainant filed appeal before the State Consumer Dispute Redressal Commission, vide First Appeal No. FA/13/249 was allowed and delay was condoned.

6. Opponent received Notice and appeared before the learned DCDR Forum, Amravati. Opponent by taking general denials and defences resisted the Complaint by filing Written Version (W.S.) and submitted that the deceased mother of the complainant namely Samiksha got examined herself from the opponent in connection with her pregnancy and delivery on 20/04/2011. The deceased Samiksha

came to the hospital of opponent with labour pain and delivered male child i.e. the complainant in the evening at 9:00 P.M. on 23/04/2011.

7. On the request of the deceased Samiksha and also after verifying that all the parameters were normal, the deceased was discharged on 26/04/2011. In view of the fact that all the vital parameters, like the blood pressure, pulse rate, temperature, bladder and bowel etc. of the deceased Samiksha were normal and her condition was absolutely good and she was hale and hearty.

8. Opponent further contended that Opponent was not at all negligent and she was not responsible for the injury or rupture of the urinary bladder of the patient Samiksha which must have ruptured 24 hours prior to her death. The complaint made by the complainant, is absolutely false, mala fide and vexatious and it is liable to be dismissed with compensatory costs.

9. Thereafter Complainant filed the Rejoinder and specifically submitted that one of the major symptoms of this deadly disease in case of female given birth to child is foul smelling, vaginal discharge and pain in vagina. It is the specific contention of the complainant that even at the time of her discharge from the hospital of the opponent after delivery, she was having severe pain in the vagina and she had pointed out this to the opponent, however in spite of this the opponent did not care for the same. Had the opponent would have not neglected the deceased and had taken proper care of her she would not be infected with Septicemia and even if she is infected.

10. The learned District Consumer Disputes Redressal Forum, Amravati thereafter recorded the evidence led by the Complainant as well as Opposite party. The learned District Consumer Disputes Redressal Forum, Amravati also went through the documents filed by both the parties as well as written notes of arguments.

11. After appreciating the oral and documentary evidence the learned District Consumer Disputes Redressal Forum, Amravati has partly allowed Complaint No. CC/2013/48, by which the District Forum directed the original opponent to pay the

compensation of Rs.5,00,000/-(Rupees Five Lacs only) together with the interest thereon @ 9% p.a. from the date of order till payment and the costs of proceeding for Rs. 10,000/- on account of the death of the mother of the original complainant due the alleged deficiency in service and alleged medical negligence of the original opponent.

12. Aggrieved by this Judgment and order dated 06/02/2020 passed by the District Consumer Forum, Appellant/Original Opposite Party is constrained to file the present appeal on the ground that the impugned Judgement and order is absolutely erroneous and contrary to the record and the principles of natural justice and is liable to be quashed and set aside.

13. We have heard Mr. Satish R. Sarda, learned advocate for the Appellant/ Opposite Party and Sau.Lalita Gunwantrao Gadling, Natural Guardian and Next Friend of Respondent/Original Complainant in Person.

14. We have carefully gone through the documents and papers which are placed on the record along with the written notes of arguments filed by both the parties. On the basis of the facts stated above following points arises for our determination with our findings recorded against the same as under-

Sr. No.	Points for determination	Findings
01	Whether the impugned order dated 06/02/2020 passed by the learned District Consumer Dispute Redressal Forum, Amravati in Complaint case No. CC/2013/48 suffers from any infirmity or illegality and needs any interference?	In the Affirmative
02	What Order?	As per the final order

REASONS

15. **As to Points No. 1 and 2-** The Complainant in his complaint alleged that at the time of discharge from the hospital, deceased Samiksha was having pain near the perineum and that the said fact was allegedly brought to the notice of the appellant but the opponent allegedly paid no heed to it and told that the pain would recede automatically. The complainant further alleged that even after her discharge, the deceased Samiksha was having pain near the perineum and as the said pain became unbearable, deceased Samiksha came to the hospital of the opponent at about 5:00 AM in the morning on 02/05/2011 and that after examination, the deceased Samiksha was admitted in the hospital by the opponent and the deceased was given the medicines and though her condition was deteriorating, but the opponent allegedly did not examine the deceased and told that the deceased will have to be operated upon and advised the deceased to go to Dr. Panjabrao Deshmukh Hospital and hence the deceased Samiksha was taken to the Dr. P.D.M.C. Hospital where she was admitted as an indoor patient but she died on the same day at about 4:00 PM in the evening and after her death the postmortem was done.

16. The complainant further alleged that during the normal delivery, the deceased Samiksha had allegedly suffered injury near the Vagina due to which she developed septic and due to the alleged injury and the septic, she died and that the opponent had acted carelessly and negligently and the mother of the complainant deceased Samiksha died due to the deficiency in service on the part of the opponent.

17. We have observed that That, in written statement, the opponent besides denying the claim of the complainant made additional submissions as under that the opponent holds the educational qualification of M.B.B.S., M.D. (Obstetrician & Gynaecology), D.N.B. (Diplomate of National Board), F.I.C.M.C.H. and F.I.C.O.G. and is an experienced Gynaecologist. During the last 29 years, no patient except the complainant, has ever made any allegations of negligence or carelessness on the part of the opponent in discharge of her duty as a Gynaecologist. The complaint or

allegations are absolutely baseless, mala fide and false.

18. For the first time the patient Samiksha had come to the hospital of the opponent on 22/04/ 011 for the purpose of delivery she was admitted in the hospital and 23/04/2011 she delivered male child. The delivery was absolutely normal and there wear no complication whatsoever. As it was the first delivery of the patient and that too a normal delivery, episiotomy was done and perineum was properly structured.

19. That, two days later i.e. on 26/04/2011 at about 12 noon, the patient Samiksha and her mother requested for discharge as she was completely okay and normal and without any complaint whatsoever. The baby of the patient Samiksha was also absolutely okay and normal since the time of his birth. In view of the request made by the patient and her mother, the opponent again examined the patient. All the vitals of the patient like blood pressure, pulse rate, body temperature, bladder and bowels, were found normal. Similarly, the patient Samiksha was passing the urine and the motion regularly. There was no distention of the abdomen. The uterus of the patient was well contracted. In view of such okay, normal and good condition of the patient, the opponent discharged the patient Samiksha.

20. Learned Advocate for the Opponent draws our attention towards if the patient Samiksha would have any complication or abnormality or her blood pressure or pulse rate or body temperature would not have been normal then the patient would not have been discharged from the hospital and would have been given the necessary treatment after investigations. However, as all the parameters were normal, the patient was discharged. It is submitted that as per the routine and regular practice of the opponent, the opponent had maintained the record of every inspection of the patient since the time she was admitted in the hospital on 23/04/2011 till she was discharged on 26/04/2011 and the inspection notes were recorded in the bed head ticket. The opponent has placing on record, the bed head ticket, which is self explanatory.

21. It is submitted that after the patient Samiksha was discharged on 26/04/2011, she again came back to the hospital of the opponent for the first time in

the morning on 02/05/2011 and was complaining about pain and distention in abdomen. The opponent clinically examined the patient but on clinical examination the exact cause of pain and distention of abdomen could not be ascertained. For the immediate relief from the pain, the opponent administered the injection and intravenous saline and advised the patient not to take anything orally. The opponent had also advised the patient for X-ray and ultra sound sonography of the abdomen through any Radiologist to ascertain the exact cause of the pain and distension in the abdomen.

22. However, the patient Samiksha and her mother were reluctant for getting the x-ray and ultra sound sonography done from any private Radiologist. Hence for necessary investigation and treatment if any the opponent advised the patient Samiksha to go to the Dr. Panjabrao Deshmukh Medical College and Hospital Amravati, where multi speciality diagnosis was available at no costs. The patient Samiksha and her mother agreed for the same and accordingly the patient Samiksha herself went back for her treatment in the Dr. Panjabrao Deshmukh Medical College & Hospital Amravati. It is submitted that at that time, the patient was in a walking condition and she had herself walked out of the hospital of the opponent without any support.

23. From the record it is transpired that Complainant filed report with Police station Gadge Nagar. in view of the police complaint made by the said Lalita Gadling, the investigation was made by the police department. The opponent received a questionnaire from the office of Commissioner of Police, seeking detailed information in respect of the treatment given by the opponent. The opponent answered all the questions asked by the office of the Commissioner of Police. The police referred the matter to the Medical Board at General Hospital Amravati seeking its opinion about the probable cause of the death of patient Samiksha.

24. The Medical Board comprising of the Civil Surgeon and other expert Gynaecologist of the General Hospital verified all necessary and relevant facts and documents including the record of the hospital of the opponent, the record of the Dr. Panjabrao Deshmukh Medical College & Hospital Amravati and the postmortem

report. The Medical Board had also called the opponent for the purposes of inquiry and questioned her. After due inquiry, the Medical Board gave its report to the Police Station Gadge Nagar on 07/07/2011 vide जा.क्र./सारुअ/चौकशी अहवाल /१५५९५/ २०११.

25. In its report the Medical Board gave a specific finding that there was no negligence on the part of the opponent in the death of the patient Samiksha. The copy of the inquiry report given by the Medical Board of the District General Hospital to the Police Station Gadge Nagar, was obtained by the opponent from the Medical Board. The copy of the report of Medical Board is filed on record, which is self explanatory. That it appears that after the patient Samiksha was discharged from the hospital of the opponent, as per the practice prevalent in India, massage to the abdomen must have been given to the patient Samiksha at her home and there is a possibility that the massage might have been given with full urinary bladder resulting into injury to or rupture of the urinary bladder. The opponent was not at all negligent and she was not responsible for the injury or rupture of the urinary bladder of the patient due to massage.

26. It is observed that as per the report of the Medical Board, the urinary bladder of the patient Samiksha must have ruptured 24 hours prior to her death. That at the time of postmortem, the urinary bladder was found empty with perforation and all urine was found in the peritoneal cavity i.e. the abdomen and the quantity of the urine i.e. clear and yellowish, fluid in the peritoneal cavity was about two liters only which must have been produced within a day in as much as the deceased was given two saline bottles i.e. 1 Litre of fluid in the hospital of opponent on 02/05/2011 and was again given such fluid in PDMC Hospital and till the earlier day i.e. till evening of 01/05/2011, the deceased was taking her food with water and fluid.

27. We find much force in the contention of the opponent that if there would have been perforation to the urinary bladder either during normal pregnancy i.e. 23/04/2011 or up to 26/04/2011 when the deceased was discharged from the hospital of opponent, then the quantity of the urine or fluid in the peritoneum would

have been much more than only two litres in as much as the deceased was taking her meals and consequently also water and fluids at least till 01/05/2011.

28. It is pertinent to mention here that the probable cause of death of deceased as per postmortem report was due to septicaemia, which was caused due to rupture or perforation in bladder and thus the deceased developed septicaemia after there was rupture or perforation of bladder.

29. The learned District Forum erred in not taking into consideration the subsequent addition of the word "old" in the column for giving opinion as to the probable cause of the death in the postmortem report, even though by the necked eye it is clear that while the other contents of the said column or the entire contents of the postmortem report are in a different handwriting, the word "old" is in different handwriting which shows that the relatives of the complainant must have got added the said word "old" in the postmortem report, after the postmortem report was prepared or it was submitted to the police.

30. Learned advocate of the opponent explained the concept of Septicaemia as per the Medical Jurisprudence that, if a person develop septicaemia i.e. infection in the body then it also results into high fever and admittedly till 01/05/2011, the deceased was not having any fever whatsoever and even in the complaint, the complainant merely says that the deceased was having pain in abdomen and does not say that the deceased was having any fever till 01/05/2011.

31. Sepsis after delivery may arise due to many factors viz poor hygiene, infection from outside the hospital, lack of post-natal care, patient's own condition (anemia, diabetes, etc.). The complainant must prove that the sepsis was a direct result of doctor's negligence (e.g., use of unsterile instruments, failure to give antibiotics when clearly indicated, failure to attend promptly when symptoms appeared).

32. Though the opponent had on 03/01/2020 applied to the office of the Sub Divisional Magistrate. (S.D.M.) for supply of certified copies of the documents which were seized by the police and were forwarded to the S.D.M. along with the summary

report after the District Forum rejected the application for calling the said record from the office of the S.D.M., the copies were received by the opponent from the office of S.D.M. on 19/03/2020 after the record was retrieved in the office of the S.D.M.

33. We have carefully gone through the record and observed that admittedly there was a normal delivery of the mother of the complainant on 23/04/2011. At the time of discharge there was no complaint from the patient regarsing a pain in the abdomen since overnight. The said fact was disclosed by the patient herself to the opponent and the same was duly recorded in the treatment chart dated 02/05/2011, which was seized by the police during investigation and of which the copy was delivered by the office of S.D.M. to the opponent after the decision of the complaint by the District Forum and of which the copy filed on record in the appeal on 17/03/2022 at Document No.9.

34. After the patient was referred to the Dr. Panjabrao Deshmukh Memorial Medical Collage on 02/05/2011, she was examined by the by the Doctor at the said hospital and during inquiry by the Doctor, the patient herself told that she was having pain in the abdomen and vomiting since one day i.e. since 01/05/2011. This fact is revealed from the Document No.12 filed on record in the appeal on 17/03/2022.

35. After verifying all the documents including the report of the Medical Board, Treatment Charts, Statement of the witnesses and the report of the Investigation Officer, the S.D.M. passed the order under Section 147 of the Cr.P.C. on 01/01/2019 to the effect that no offence was committed and the death of the deceased was an accidental death. The copy of the order is filed on record of the appeal on 17/03/2022 at Document No.1.

36. That in view of the postmortem report as well as the report of Medical Board dated 07/07/2011, the death of deceased Samiksha cannot be attributed to the normal delivery or the alleged negligence.

37. After verifying the documents including the documents in respect of the treatment given by the opponent as well as the treatment given by The Panjabrao

Deshmukh Memorial Medical College to the deceased on 02/05/2011, the Medical Board had come to the conclusion that the rupture to the bladder occurred due to the massage on the abdomen of the deceased and the deceased died due to the septicaemia, which was caused due to the said rupture and the opponent cannot be blamed for the unfortunate death of the deceased.

38. We are of the view that the Learned District Forum has utter failed to take into consideration the report of the Medical Board which was obtained by the police on the basis of the treatment charts from the hospital of the opponent as well as the P.D.M.C. Hospital i.e. the documents which were seized by the police in view of the report lodged by the relatives of the deceased and to which there is a reference in the summary report under section 174 of Cr.P.C. which was submitted by the police to the S.D.M. and which was approved and accepted by the S.D.M.

39. We are of the considered view that, if the learned District Forum wanted to disagree with the report of the Medical Board, then in view of the judgment of the Hon'ble Supreme Court of India reported in **Martin F. D'Souza v/s Mohm. Ishfaq AIR 2009 Supreme Court 2049 Civil Appeal No. 3541 of 2020** the Judgment which was cited by the opponent, the District Forum should have called the report of any other Medical Board instead of giving mala fide and vexatious findings contrary to the record.

40. The treatment chart maintained by Dr. Panjabrao Deshmukh Memorial Medical College, of which the copy is placed on record of the instant appeal on 17/03/2022 at Document No.12, the deceased Samiksha was having pain in the abdomen since one day and there was retention of urine since one day prior to 02/05/2011 and the wound of episiotomy, which was done on 23/04/2011 at the time of normal pregnancy was found healthy by the Doctor who examined the deceased which means the wound had got healed up and hence there was no question of the deceased having septicaemia due to the stitches i.e. episiotomy.

41. The Original Complainant/Respondent not filed any citation to support its case. The Original Opposite Party/Appellant relied on the following Judgements to support her contentions. In **Martin F. D'Souza (Supra)**. It is held that A medical

practitioner is not liable to be held negligent simply because things went wrong from mischance or misadventure or through an error of Judgment in choosing one reasonable course of treatment in preference to another. He would be liable only where his conduct fell below that of the standards of a reasonably competent practitioner in his field. It is not enough to show that there is a body of competent professional opinion which considers that the decision of the accused professional was a wrong decision, provided there also exists a body of professional opinion, equally competent, which supports the decision as reasonable.

42. In Dr S.K.Jhunhunwala v/s Mrs. Dhanwanti Kumar and Anr. AIR 2018 (Supreme Court Civil Appeal No. 3971 of 2011) In this case it is held that Alleged negligent act on part of appellant-doctor in performing substituted surgery for removing gall bladder of complainant. It is clear case of grant of consent to doctor to perform substituted operation. No medical evidence to prove any specific kind of negligence on part of doctor except raising issue of 'non-giving of express consent'. Failure of complainant to prove that ailments allegedly suffered by her after discharge from hospital were due to faulty surgery performed by doctor. Order of National Commission holding doctor negligent in performing surgery and awarding compensation of Rs. 2 Lakhs Erroneous and set aside.

43. In Vinod Jain v/s Santokba Durlabhji Memorial Hospital and Anr. AIR 219 Supreme Court 1143 Civil Appeal No.20 Complainant alleging negligence on part of hospital and doctor treating his wife resulting into her death Prescription of oral administration of antibiotic instead of re-cannulating patient when her cannula stopped functioning does not constitute medical negligence and at best could be categorised as possible case of wrong diagnosis. Order of National Commission set aside.

44. In Dr Harish Kumar Khurana v/s Joginder Singh and Ors. AIR 2021 Supreme Court 469 Civil Appeal No. 738 of 2009. Held that in every case where the treatment is not successful or the patient dies during surgery, it cannot be automatically assumed that the medical professional was negligent. To indicate negligence there should be material available on record or else appropriate medical

evidence should be tendered. The negligence alleged should be so glaring, in which event the principle of *res ipsa loquitur* could be made applicable and not based on perception.

45. In **Chanda Rani Akhouri and Ors v/s M.A. Methusethupathi and Ors. AIR Online 2022SC 572** it is held that the Medical practitioner is not liable merely because things went wrong from mischance or misadventure or through error of judgment in choosing one reasonable course of treatment in preference to another Fact that patient could not be finally saved despite medically approved drugs being administered to him-Cannot by itself be considered to be case of post operative medical negligence.

46. In **Bombay Hospital and Research Centre v//s Asha Jaiswal and Ors. AIR 2022 Supreme Court 204 Civil Appeal No. 1658 of 2010** held that medical practitioner is not liable merely because things went wrong from mischance or misadventure or through error of judgment in choosing one reasonable course of treatment in preference to another Fact that patient could not be finally saved despite medically approved drugs being administered to him-Cannot by itself be considered to be case of post operative medical negligence.

47. The only issue which arises in the appeal in hand is that whether the finding of deficiency in service by way of medical negligence recorded by the learned District Consumer Commission is sustainable? That the occurrence of rupture of bladder of the deceased after normal delivery and after taking discharge from the hospital and the deceased died due to the septicaemia, which was caused due to the said rupture is the real question in controversy.

48. After carefully going through the evidence, medical records and expert opinion of the Medical Board, arguments advanced by both the parties and authorities cited above this Commission with its findings come to the conclusion that the Complainant has failed to prove any act of omission or commission on the part of the appellant which amounts to negligence. The copy of the report of Medical Board is filed on record, which is self explanatory. That it appears from the record of the Medical Board that after the patient Samiksha was discharged from the hospital

of the opponent, as per the practice prevalent in India, massage to the abdomen must have been given to the patient Samiksha at her home and there is a possibility that the massage might have been given with full urinary bladder resulting into injury to or rupture of the urinary bladder. The opponent was not at all negligent and she was not responsible for the injury or rupture of the urinary bladder of the patient due to massage.

49. We are of the considered view that the opponent cannot be blamed for the unfortunate death of the deceased. To substantiate the view it is pertinent to mention here the observations made by the Hon'ble Apex Court in the landmark Judgement In **Indian Medical Association Vs V. P. Shantha (1996 AIR 550 S.C.)** Service rendered to a patient by a medical practitioner (except where the doctor renders service free of charge to every patient or under a contract of personal service), by way of consultation, diagnosis, and treatment, both medicinal and surgical, would fall within the ambit of 'service' as defined in section 2(1)(o) of the Act. In the light of above Judgement Complainant's claim against the opponent Dr Manjushri Boob was admitted.

50. In **Dr. Suresh Gupta vs. Govt. of NCT of Delhi (2004)** the Hon'ble Supreme Court clarified that to prosecute a medical professional under Section 304A IPC, gross negligence or recklessness must be established. Simple lack of care or error of judgment does not constitute criminal negligence.

51. In Indian medical law, the seminal case of **Jacob Mathew v State of Punjab (2005) 6 SCC1** addressed medical negligence and the duty of care that physicians had to their patients. Important guidelines on the level of care that physicians should provide and the significance of informed consent in medical treatment were established in this case. The concept of negligence in tort law originated in English law, and Indian criminal and civil law also largely reference this corpus of work. Medical negligence, defined as when a patient passes away after receiving the incorrect treatment—possibly due to the doctor's or the hospital staff's negligence—was added to the tort law as a basic tort. Prior to now, medical carelessness was not considered a crime. The Supreme Court laid down guidelines

for prosecuting doctors for criminal negligence. The Court emphasized the need for a higher degree of negligence to hold a medical professional criminally liable, known as “gross negligence”.

52. In **Kusum Sharma & Ors. vs. Batra Hospital & Medical Research Centre & Ors. (2010)** the Supreme Court reiterated that medical professionals are liable only when their conduct falls below that of a reasonably competent practitioner. The judgment emphasized the importance of expert evidence in establishing medical negligence.

53. In the case of **Dr. Laxman Balkrishna Joshi v/s Trimbak Bapu Godbole & Anr. 1969 AIR 128, SCR (1) 206** Supreme Court held that a doctor has Certain aforesaid duties & breach of any of those duties can make him liable for medical negligence. It is very much necessary to understand the law of negligence. The burden of proof always lies on the Complainant. Complainant has to establish-

- i. That the doctor owed a duty of care
- ii. That there was a breach of that duty and
- iii. That the breach directly caused the injury (sepsis).

If any of these links are missing, negligence will not stand.

54. In the light of foregoing discussion it is seen that medical profession is noble profession. Any accusation against it needs minute observations and investigations substantiated by cogent evidences. Mere occurrence of an adverse event or complication is not negligence. For liability, it must be shown that the doctor did something which no reasonable doctor would have done, or failed to do something which every reasonable doctor would have done.

55. we are of the considered view that the learned District Commission, Amravati has erred in drawing adverse inference against the doctor sans cogent evidence accordingly the finding of negligence is unsustainable and liable to be set aside. Appellants prayer for imposing the cost on the Respondent/Original Complainant will not be considered. Hence we pass the following order-

//ORDER//

- i. The Appeal is hereby allowed.
- ii. The order dated 06/02/2020 passed by the learned District Consumer Dispute Redressal Forum, Amravati in Complaint Case No. CC/2013/48 is hereby set aside.
- iii. The Consumer Complaint stand dismissed.
- iv. No order as to cost.
- v. Copy be furnished to both the parties free of cost.

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SMT K. S. KAPSE
PRESIDING MEMBER

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SMT S. D. WANDHARE
MEMBER