DMC/DC/F.14/Comp.2556/2/2022/ ­ 22nd March, 2022

**O R D E R**

The Delhi Medical Council through its Disciplinary Committee examined a complaint of Smt. Rekha r/o 387-G, Pocket-2, Mayur Vihar, Phase-1, New Delhi-110091, alleging medical negligence on part of Dr. Neeti Purkait of Holy Family Hospital, New Delhi-110025, in the treatment of the complainant and her baby.

The Order of the Disciplinary Committee dated 11th February, 2022 is reproduced herein-below:-

The Disciplinary Committee of the Delhi Medical Council examined a complaint of Smt. Rekha r/o 387-G, Pocket-2, Mayur Vihar, Phase-1, New Delhi-110091 (referred hereinafter as the complainant), alleging medical negligence on part of Dr. Neeti Purkait of Holy Family Hospital, New Delhi-110025 (referred hereinafter as the said Hospital), in the treatment of the complainant and her baby.

The Disciplinary Committee perused the complaint, written statement of Dr. Neeti Purkait, Radiologist, Holy Family Hospital and other documents on record.

The following were heard :-

1. Smt. Rekha Complainant
2. Dr. Neeti Purkait Consultant Radiologist, Holy Family Hospital

The complainant Smt. Rekha alleged that she was taken her pregnancy treatment in Holy Family Hospital, Okhla Road, New Delhi-110025. During this period, the doctor did ultrasound and the doctor provided them normal reports. As per the Holy Family Hospital, her ultrasound reports and pregnancy test and check-up baby growth was good and her related reported was Ok. She was admitted in Holy Family Hospital for the delivery on 29th May, 2018 and she got discharged from the hospital on 01st June, 2018 and she gave a birth to her daughter on 30th May, 2018 after the 13th days treatment in Holy Family Hospital and they were referred their baby in AIIMS and she (the baby) was discharged from the hospital on 13th June, 2018. It is pertinent to mention here that during her daughter’s treatment, the reports were (as provided by hospital) not match with level 2 ultrasound because her client’s daughter body parts not developing properly. During the level II ultrasound, the radiological doctor can be found out all the problems but the doctor not did. After the discharge, as mentioned above, she observed that the newborn daughter was not normal and facing lot of issue and later on, when her daughter was again tested, the report was abnormal. And also, AIIMS doctor had confirmed that the baby was abnormal. She took her daughter to AIIMS for the treatment, so that her newborn daughter could be normal as other children are born. It is important to mention here that the newborn daughter till date is alive as abnormal without oxygen. Further, she was under a shock when she approached AIIMS and they stated that the newborn daughter had certain issues with regard to kidney, heart, brain, spinal, right ear and food pipe. As of now, the newborn daughter needs a heart surgery within three to four months. Please taken strict action against the hospital and radiology doctor and give her justice.

Dr. Neeti Purkait, Radiologist, Holy Family Hospital in her written statement averred that she had done level-II scan of the complainant Smt. Rekha at 19-20 weeks. She had spent sufficient time for the scan and had done the procedure without any distraction. There was no deliberate negligence, carelessness or inattentiveness on her part. Moreover, proper guidelines for scanning were followed by her. The fetus looked normal at the time of scanning and liquor was adequate. As mentioned in the ultrasound report, fetal echocardiography was not done. Any subtle abnormalities which she has not been able to appreciate she might have missed them but to the best of her knowledge, she did not miss them when she did scan at 19-20 weeks. The maternal anatomy and fetal position allowed thorough ultrasound most of the times. Fetal kidneys were indentified at 19-20 weeks and they appeared normal. Not all fetal cardiac anomalies can be picked-up at 19-20 weeks. Some fetal anomalies appear late in pregnancy. As mentioned earlier, fetal echo was not done. In the system examination of fetal auricles by Colour Doppler ultrasound, although detection rate of ears is affected by placental amniotic fluid, the most important factor influencing the detection rate is fetal position. In the second trimester, change in fetal movements is relatively large and fetal position is unfixed. Hence, their bilateral external ears cannot be detected at a time. Feotal MRI can help to better assess the ears and potential associated malformations. The dysmorphic features of fetus can be appreciated at level-II depending upon how grotesque they are. A routine 3D or 4D ultrasound at level-II scan is done if the ultrasonologist suspects that it would help. Due to time constraint, it is not being done in every case. The other abnormalities mentioned in the syndrome were not appreciated at this stage of scan. A person who is not a dedicate fetal medicine ultrasonologist but who does ultrasound routinely with reasonable care may miss this abnormality because of its rarety. Despite the ability of those experienced in ultrasonography, it is important to note that not all fetal genetic syndromes can be identified prenatally and even common syndromes often have no associated ultrasound findings. A normal ultrasound does not eliminate the possibility of a fetal genetic syndrome. Ultrasound does not replace invasive testing for definitive diagnosis of genetic syndromes. At present, invasive prenatal diagnosis continues to be gold standard for pregnancies at increased risk for chromosomal anomaly or other genetic disease with chronic villus sampling being the procedure of choice for the first trimester whereas mild trimester amniocentesis continues to be the most common form of invasive procedure for prenatal diagnosis. She performed ultrasound of the complainant with utmost care and to the best of her ability. She could not appreciate any abnormality because they were not visible at that time; maybe they were too small to appreciate and the conditions were care. She was neither careless nor negligent at all. She performed her duty with utmost sincerity and dedication. It is a fact that she is a human being and medicine is a vast subject with no end to knowledge which may be obtained. She can never claim to have seen or heard everything which causes disease. She can understand the pain and agony of the parents but she is extremely sorry that being in this profession, this has heaped insults on her from the very people she cares for as a doctor. She is pretty sure that the Delhi Medical Council would not only understand but appreciate her limitations and would certainly do justice to her and her profession. The patient cannot always be right in blaming doctors for misfortunes brought about by nature. Also medicine is a vast science which can never be learnt full by any mortal being. The Hon’ble Supreme Court of India, National Commission and State Commissions have held in most of the cases that a doctor cannot be held accountable, if she has performed her duty to the best of her ability and her conduct did not fall below the standard competent practitioner of her field. She is citing only one relevant judgement for the kind perusal of the Delhi Medical Council before the Delhi Medical Council conclude whether there was any medical negligence or not on her part in this case. In the case of Sandeep Sarkar V/s EKO XRAY CLINIL & Ors, the Hon’ble West Bengal State Consumer Disputes Redressal Commsion, Kolkata held that if a doctor discharges duties with reasonable skill and care, not answerable even if the treatment has untoward results.

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

1. It is noted that the complainant Smt. Rekha, 29 years female, had her level II ultrasound done at 19 weeks 3 days pregnancy on 13th January, 2018 at the said Hospital which was reported to be normal by Dr. Neeti Pukrait, Radiologist. Subsequently two other ultrasound examinations done on 21st April, 2018 at 32-33 weeks pregnancy and at 35 weeks pregnancy on 08th May, 2018 at Holy Family Hospital also did not show any gross abnormality except polyhydramnious, which were reported by Dr. Amit Kumar Singh. However, the fetus was delivered on 30h May, 2018 and subsequently referred to All India Institute of Medical Sciences where the baby was diagnosed to be suffering from Kabuki Syndrome with abnormalities like dysmorphic facies, right ectopic kidney, VSD and few other minor abnormalities.
2. On perusing the aforementioned ultrasound films and reports, it is noted that level-II ultrasound examination was conducted on 13th January, 2018 by Dr. Neeti Pukrait who is a holder of post-graduate medical qualification in the field of radio-diagnosis with sufficient experience also. Kabuki syndrome is a very rare syndrome and in this patient, these abnormalities could have been missed at level II examination, inspite of all care and precautions.

In light of the observations made herein-above, it is the decision of the Disciplinary Committee that no medical negligence can be attributed on the part of Dr. Neeti Purkait of Holy Family Hospital in the treatment of the complainant and her baby.

Complaint stands disposed.

Sd/- Sd/- Sd/-

(Dr. Maneesh Singhal) (Shri Bharat Gupta) (Dr. Abhinav Jain)

Chairman, Legal Expert, Expert Member,

Disciplinary Committee Member, Disciplinary Committee

Disciplinary Committee

The Order of the Disciplinary Committee dated 11th February, 2022 was confirmed by the Delhi Medical Council in its meeting held on 24th February, 2022.

By the Order & in the name of

Delhi Medical Council

(Dr. Girish Tyagi)

Secretary

Copy to :-

1. Smt. Rekha r/o 387-G, Pocket-2, Mayur Vihar, Phase-1, New Delhi-110091.
2. Dr. Neeti Purkait, Through Medical Superintenent, Holy Family Hospital, New Delhi-110025.

(Dr. Girish Tyagi)

Secretary