DMC/DC/F.14/Comp.2772/2/2023/ 23rd November, 2023

**O R D E R**

The Delhi Medical Council through its Disciplinary Committee examined a complaint of Shri Anil Kumar, r/o- Qtr. NLo. 25, Type-II, Sector-III, Sadiq Nagar, New Delhi, alleging medical negligence on the part of the doctors of Max Super Specialty Hospital, Saket, New Delhi, in the treatment administered to the complainant’s wife Smt. Sangeeta, resulting in her death on 13.03.2019.

The Order of the Disciplinary Committee dated 31st October, 2023 is reproduced herein-below:-

The Disciplinary Committee of the Delhi Medical Council examined a complaint of Shri Anil Kumar, r/o- Qtr. NLo. 25, Type-II, Sector-III, Sadiq Nagar, New Delhi (referred hereinafter as the complainant), alleging medical negligence on the part of the doctors of Max Super Specialty Hospital, Saket, New Delhi (referred hereinafter as the said Hospital), in the treatment administered to the complainant’s wife Smt. Sangeeta (referred hereinafter as the patient), resulting in her death on 13.03.2019.

The Disciplinary Committee perused the complaint, joint written statement of Dr. Pradeep Kumar Chowbey and Dr. Yogendra Tomar, written statement of Dr. Ashish Jain, Dr. Rahul Grover, Dr. Danish Ahmed and Dr. Roopa Salwan, copy of medical records of Super Specialty Hospital and other documents on record.

The following were heard in person :-

1) Shri Anil Kumar Complainant

2) Shri Ramesh Kumar Friend of the complainant

3) Dr. Pradeep Kumar Chowbey Chairman, NAMBS, Max Super Specialty Hospital

4) Dr. Ashish Jain Consultant Respiratory Medicine, Max Super Specialty Hospital

5) Dr. Rahul Grover Consultant Nephrology, Max Super Specialty Hospital

6) Dr. Danish Ahmed Psychiatrist, Max Super Specialty Hospital

7) Dr. Roopa Salwan Consultant, Max Super Specialty Hospital

8) Dr. Yogendra Tomar Medical Superintendent, Max Super Specialty Hospital

The complainant Shri Anil Kumar alleged that the patient Smt. Sangeeta was a SLE patient and was undergoing treatment Max Super Specialty Hospital. Her treatment was going on under the supervision of Dr. Rahul Grover, Nephrologist. During the course of treatment, she was given steroids from time to time. Due to steroids, she gained weight and since last one and half year, she was on wheel chair, but was very active in work and other matters. During the follow-up visits on 19th September, 2018 and 14th February, 2019, she was advised by Dr. Rahul Grover to go for bariatric surgery and to contact MAMS team for opinion on bariatric surgery and apprised that it will not only resolve her obesity problem but also improve overall health. On the advice of Dr. Rahul Grover, they went to Dr. Pradeep Chowbey, Chairman, Max Institute of Minimal Access, Metabolic and Bariatric Surgery, Chairman-Surgery and Allied Surgical Specialties, Executive Vice Chairman-Max Healthcare at Max Super Specialty Hospital Bariatric Surgery Department on 15th February, 2019, for taking advice from them. They did BMI evaluation on that day. During the visit, Dr. Pradeep Chowbey and his team assured them that bariatric surgery will be very beneficial for her and she should go for the surgery as early as possible and they showed them a small film on the bariatric surgery procedure to convince them about its benefits and it was also assured that this surgery has no risk involved. Keeping the trust on wordings of the doctors, they planned for the surgery, hoping that after surgery, overall health will gradually improve and was also given the date for surgery 07th March, 2019 and to admit on 06th March, 2019. They were advised for pre-operative tests and as such PFT, ABG, Chest x-ray (P/A) were done and after review of reports by Dr. Ashish Jain, Senior Consultant, Respiratory Medicine, he (Dr. Ashish Jain) mentioned that the patient can be taken up for the surgery with mild risk of post-op respiratory complications. Heart clearance was also given on 27th February, 2019 by Dr. Roopa Salwan after stress echo done. Thereafter, they were called for the surgery and admitted his (the complainant) wife Smt. Sangeeta (the patient) on 06th March, 2019 and the surgery was done by Dr. Pradeep Chowbey and his team on 07th March, 2019 and after recovery, she was shifted to Room No. 2510 (East Wing). On Saturday 09th March, 2019 at evening, she was okay, though, the pain was there and her oxygen level was low, even though, she was given artificial oxygen. The doctor told no need to worry, everything will be fine and some casual treatments were given to her like steam, pain killers etc. Again, on Sunday 10th March, 2019 at around 04:30 p.m. after drinking custard (given by the hospital), she felt acute pain, the doctors gave pain killers and treated her but pain was there. She was feeling suffocated and could not sleep whole night, it was informed by him (the complainant) to nurse to call the doctor, but no doctor was there and the doctor was being consulted by the nurse via phone only about her condition, they took it casually and did not give proper treatment. Suddenly, due to non-treatment whole night on 10th March, 2019, her condition deteriorated further and around 08:30 a.m. on 11th March, 2019, her blood pressure went down to zero and sugar went down to 33 when the nurse came to see the patient, she fainted and the doctors came only after that to see her and took her to recovery room. After some time in recovery room, they put her unconscious on ventilator in liver ICU 05th Floor at West Block of the same hospital i.e. Max Super Specialty Hospital, Saket, New Delhi. They kept her in ICU till 13th March, 2019 and she was declared dead at 10:40 p.m. on 13th March, 2019. It was shocking, as they never thought that a planned surgery where no risk was involved could cause death. It is pertinent to mention that the patient was a CGHS beneficiary and in Death Summary dated 13th March, 2019, the copy given to them and one sent for claim to the patient’s office is at variance e.g. in the summary given to the complainant, they mentioned she was given one unit of blood and in Death Summary submitted to the patient’s office for claim, they mentioned five unit of blood was given to her. They feel death happened due to negligence during operation and casual attitude post-surgery.

He further alleged that bariatric surgery is a very simple surgery; it can cause fatality in case of negligence and there is no doubt that negligence happened in case of his wife (the patient), otherwise, how the patient died after the surgery? The surgery done on 07th March, 2019 and after that she did not recover properly. Their surgery was a planned surgery and they never informed of any risk involved in it during pre-operative tests. The doctor should have kept the patient in ICU till she recovers fully, that also was not done. After the surgery, when the patient complaint about unbearable pain on 09th March, 2019, echo, ABG and venous doppler legs were done on 10th March, 2019. As per reports, no irregularity was found, it seems things were okay as informed by doctor then why situation got worst on 10th March, 2019 night again which caused death of the patient. It clearly shows that their surgery failed due to negligence. Her treatment was going on only in this hospital and even when they knew the patient’s condition, she should be given proper attention and proper evaluation, should be done before or after the surgery. Even no ultrasound/CT scan of abdomen were done during pre-operative procedure or after the operation. When the patient was crying due to pain and suffocation on 10th March, 2019 night, no doctor came to see her. She was feeling uncomfortable whole night, he went so many times to the nurse to ask her, to call the doctor but no doctor came, CCTV footage can be seen. If she would have been shifted to ICU in night, she might be alive. After her condition further deteriorated, her blood pressure and sugar went very low, a team of the doctors came and after giving the patient some preliminary treatment, they took her to the recovery room and after recovery room, they brought the patient to ICU unconscious on 11th March, 2019. The doctors never informed what they have done, even told that they are taking the patient to ICU, she is fine. All the facts can be seen in CCTV footage of the hospital. The complainant has not been informed what they did in recovery room, she was totally conscious when they took her to recovery room. The complainant feels most probably what they did wrong during surgery on 07th March, 2019 to rectify that they did the surgery again on 11th March, 2019 without informing the complainant and which led to the condition that caused her death. When they (doctors) allowed him to meet the patient around 10:55 a.m. on 11th March, 2019, he felt that the patient is no more, as she was totally unconscious on ventilator. They saw blood spots (like vomited blood) on her clothes. They were called by the team of doctor (name of the head), he (the complainant) was there alongwith his father, brother-in-law and brother. It was just an eye wash meeting. During the course of discussion when he raised the question of vomit blood, they told no, it was spot of betadine while they can see that it was vomit blood in Death Summary. Nobody can believe that bariatric surgery can cause death, unless something negligence is done during the surgery, it is a very simple surgery. He (the complainant) feels that the surgery procedure failed due to negligence otherwise, if all tests were okay, no other reason can be determined. They are still in shock and hoping that the Delhi Medical Council which is controlling authority, will do justice and stringent action will be taken against the culprits.

Dr. Pradeep Kumar Chowbey Chairman, NAMBS and Dr. Yogendra Tomar, Max Super Specialty Hospital in their joint written statement averred that the complainant Shri Anil Kumar has not apprised the Hon’ble Delhi Medical Council of the true facts, which has resulted into issuance of this notice. In this regard, they wishe to draw the kind attention to the following true facts to the best of their knowledge and as per records available with them. The patient Sangeeta was undergoing treatment of systematic lupus irythematosos (AIHA, ITP, Nephrits, Hepatitis, Neuro Psychiatric) with history of hypothyroidism and post-polio residual paresis and post-operative history of cholecystectomy and haemorrhoidectomy. As a part of the treatment of SLE, the patient was given steroids for the very short period i.e. from August, 2014 to February, 2015 and not from time-to-time, as alleged by the complainant. It is pertinent to mention that the patient was having reduced mobility and sedentary lifestyle due to post-polio residual paresis and was having comorbid condition of neuro psychiatric (anxiety and depression) and had gained weight gradually over the period of time. As the weight of the patient was continuously increasing (99 kg on 19.09.2018 and 106 kg on 14.02.2019), she was appropriately advised for weight control and to take opinion from minimal access, metabolic and bariatric surgery (MAMBS) for bariatric surgery. The patient had approached to Minimal Access, Metabolic and Bariatric Surgery (MAMBS) Department of the Hospital on 15th February, 2019 for bariatric surgery. This institute is nationally and internationally accredited/certified centre of excellence in this subcontinent. It is pertinent to mention that the patient was having history of hypothyroidism, depression, poliomyelitis and SLE bariatric surgery is the only available option for such patients for weight loss, resolution and control of comorbid diseases and, therefore, the patient was advised for bariatric surgery. It is denied that Dr. Pradeep Chowbey had assured the patient and her attendants that there is no risk involved in the surgery. To the contrary, all related issues were duly discussed with the patient and her attendants during the OPD visit dated 15th February, 2019, which is evident from the OPD prescription dated 15th February, 2019. Bariatric surgery was conducted only after taking necessary Informed Consent of the husband of the patient (the complainant), which categorically mentions the risks involved in the surgery. The patient was admitted on 06th March, 2019 as a case of morbid obesity (BMI-43.7) with co-morbidities as obstructive sleep apnoea, hypothyroidism, depression poliomyelitis and systemic lupus erythematosus (SLE) (in remission). The patient was thoroughly evaluated through tests and independent consultations from all concerned specialist (pulmonologist, cardiologist and psychiatrist), were held in view of the aforesaid co-morbidities. The patient was optimized for her respiratory status and it is only after the patient was cleared for the surgery, bariatric surgery (Lap RYCB/Sleeve Gastrectomy) was planned on 07th March, 2019. It is submitted that during the course of surgery, it was found that liver was contractor and nodular with irregular margins. Spleen enlarged and congested. Gastric varices were present. In view of the aforesaid findings, it was decided as per the Global Standard Medical Protocols to conduct Sleeve Gastrectomy instead of Lap RYGB in the best interest of the patient. The patient had remained stable in the immediate post operative period and tolerated liquid diet well for the first two days and continued to be treated in accordance with her recovery pattern. On 09th March, 2019, the patient had sudden onset left side chest pain with drop in SPO2 to 84%. Therefore, urgent cardiologist and pulmonologist reference was taken. The cardiologist examined the patient and ECG was done, which had shown sinus tachycardia. The cardiologist advised for Trop I, CKMB, NTPRBNP and D-Dimer, echo and chest x-ray and necessary medications were prescribed. The patient was immediately examined by the pulmonologist also, who advised for chest x-ray, ABG, Doppler lower limb, D-Dimer NTPRBNP to exclude the possibility of pulmonary embolism, which is one of the causes of morbidity/mortality. The attendants of the patient were duly explained about the condition of the patient; however, the patient and her attendants refused to undergo the echo, Doppler, ABG, and chest x-ray overnight. The patient was given the necessary treatment. The patient improved with high flow oxygen and remained comfortable overnight. Prescribed tests were carried out on the next day i.e. on 10th March, 2019. It is submitted that around 04:00 p.m. on 10th March, 2019, the patient complained of sudden chest pain on left side associated with shortness of breath as well as abdominal pain. The patient was immediately examined by the cardiologist. Upon examination, the patient was found conscious with no further complaint of chest pain, as the pain was automatically subsided within a short period of time. The Cardiologist advised for repeat Trop I and ECG to rule out the possibility of cardiac event. In view of complaint of abdominal pain, the patient was also examined by the treating team, who provided the symptomatic treatment (painkiller), as a result of which, the patient got relieved of abdominal pain. The patient was again examined by the treating team in the evening. The patient was found symptomatically better with no fresh complaints. As per test reports, it was found that there was rise in D-Dimer and NTPRBNP level, which were suggestive of pulmonary embolism and accordingly, necessary treatment and advice was given for the same. The patient was continued to be monitored. The patient had uneventful stay on 10th March, 2019. On morning of 11th March, 2019, the patient developed desaturation with hypoglycaemia (for which, correction was given), hypotension (Systolic Blood Pressure-70 mmHg) and vomiting. The patient was shifted to MAS recovery/HDU for further management. The patient was immediately managed by a team of anaesthesia, cardiologist and respiratory care. The patient was intubated, stabilized and shifted to the ICU for intensive management. The patient developed Type-I respiratory failure (ARDS) with septic shock (possible due to aspiration pneumonitis during episode of vomiting). This was followed by renal shutdown, for which, the patient underwent haemodialysis multiple times. The patient remained on high vasopressor support for refractory hypotension. The patient showed signs of liver failure (raised ammonia levels, refractory, hypoglycaemia and encephalopathy). Because of the metabolic acidosis, refractory septic shock and mutliorgan failure, the patient went into cardiorespiratory arrest on 13th March, 2019. CPR was done as per ACLS protocol but the patient could not be revived back. It is denied that the patient was brought dead on ventilator. The patient was alive till the day and time of her death, mentioned in the Death Summary, which is clearly evident from daily ICU charts and investigation reports. It is denied that the surgery was done wrongly, due to which, the patient lost her life. It is submitted that the surgery was uneventful, and the patient was comfortable after the surgery. It is further submitted that the patient undergoing the bariatric surgery, has high risk of pulmonary embolism. In this case, it was augmented by poliomyelitis because of reduced mobility. Other contributing factors in her case for pulmonary embolism, were anti-depressant medications/SLE/limited limb muscle contraction and limb movement. The family briefing was also done by the team of the doctors to discuss and explain all these facts to the close relative of the patient. It is submitted as per the hospital record, the patient received five unit of PRBC during her stay in the hospital. It is mistakenly mentioned as one unit of PRBC in the Death Summary. It is submitted that after the surgery, the patient is shifted to the recovery room which is equivalent to the ICU, having 1:1 ration of the nurse and the patient. When the patient becomes stable, he is shifted to ward, as done in the present case.

Dr. Ashish Jain, Consultant Respiratory Medicine, Max Super Specialty Hospital in his written statement averred that he examined the patient Smt. Sangeeta in his OPD on 15th February, 2019, with complains of SLE and AVN of hip in the past. Her active issues were hypothyroidism and morbid obesity. The patient was planned for bariatric surgery for the same. He requested for PFT with bronchodilator study, x-ray chest PA and ABG as a part of evaluation. He reviewed the reports again on 28th February, 2019 (without the patient) and cleared her for the surgery with mild risk of post-op respiratory complications in view of obesity related moderate restrictive ventilator defect. He saw the patient again on 07th March, 2019, after the surgery, for acute desaturation, wherein he optimized the nebulization therapy, applied BiPAP, after which, the patient settled clinically. He was called in again on 09th February, 2019 for another event of acute onset breathlessness, desaturation and left sided pleuritic chest pain. She was investigated for the possibility of pulmonary embolism and low molecular weight heparin started in view of clinical suspicion. He was requested to see her again on 11th March, 2019 for desaturation, hypoglycemia and hypotension and ICU transfer for better monitoring and care was advised.

Dr. Roopa Salwan, Consultant, Max Super Specialty Hospital in her written statement averred that the patient Smt. Sangeeta was seen firstly by her on 26th February, 2019. The patient was a known case of S.L.E. (Systemic Lupus Erythematosus), morbid obesity, hypothyroid, hypertensive on cardivas for three years with history of A.V.N. in 2015, seen for clearance for bariatric surgery. Dobutamine stress echo was advised. Baseline echo-normal LV function, dobutamine stress ECHO till 120 bpm negative for RMI. On basis of this, the patient was cleared for the surgery. Post-operative, on 10th March, 2019, the patient was seen by the consultant on call for the complaint of chest pain, shortness of breath, and decrease in situation i.e. 82 to 84%, observed that improved with oxygen. The patient was given Aspirin, Atorvastatin and low molecular weight Heparin and blood tests were sent. Laboratory showed elevated D-Dimer (2276 ng/ml), Troponin I (0.02 ng/ml), NTProBNP 329. On 11th March, 2019, the patient was seen in morning, she was in pulse less state with blood sugar 30 gm/dl. Femoral venous line taken, IV fluids, antibiotics, inotropes were started to stabilize the patient. The patient was then shifted to medical ICU. Echo showed mild apical segment hypokinetic, EF 35-40%, Trace TR, suggestive of stress related cardiomyopathy, ECG showed sinus tachycardia, no significant ST changes, QTc 464 msec.

Dr. Danish Ahmed, Consultant Psychiatrist, Max Super Specialty Hospital, Saket, New Delhi in his written statement averred that the patient Smt. Sangeeta was seen on 06th March 2019 at around 07:00 p.m. On clarifying history from the patient, it was gathered that she was on Escitalopram 20 mg, Duloxetine 30 mg and Ativan 1mg for her symptoms of mixed anxiety and depression. The patient stated that she experienced weight gain since start of Duloxetine and it was planned with the patient to stop Duloxetine and restarted her only on Escitalopram in gradual hiking doses. All medications were withheld on day of the surgery, as she had to be kept nil per mouth and were to be restarted after being allowed orally. At the time of interview, the patient was conscious, oriented, calm, cooperative and cheerful with no active psychopathology and had intact judgment and insinght.

Dr. Rahul Grover, Senior Consultant Nephrology, Max Super Specialty Hospital, Saket, New Delhi in his written statement averred that the patient Smt. Sangeeta, was a case of S.L.E. (Systemic Lupus Erythematosus), Thrombocytopenia, Nephritis, Hepatitis and Neuropsychiatry in remission. She had received steroids only from August 2014 to February 2015 in tapering doses. She was not given any steroids subsequently. She had gained significant weight over years (while she was off steroids) and developed morbid obesity. She was appropriately referred for opinion for bariatric surgery.

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

1. It is observed that the patient Smt. Sangeeta, 51 years old female, was a known case of SLE, hypothyroidism, AVN, depression with polio. The patient was referred to Dr. Pradeep Kumar Chowbey and team for bariatric surgery on 14th February, 2019. She was investigated as per standard operating protocol and evaluated by the nephrologist, pulmonologist, psychiatrist, cardiologst and anaesthetist. The patient was taken-up for bariatric surgery on 07th March, 2019 after obtaining written consent, both for the surgery and anaesthesia. The surgery was uneventful. Post-operatively, on 10th March, 2019 at night, she developed respiratory distress and started complaint of pain abdomen. She was given supportive care to relive her symptoms and her vitals were monitored as per the records available. But the patient continued to deteriorate, and; hence, shifted to the ICU on 11th March, 2019 in morning. The patient was resuscitated in MICU as per standard ICU protocols but died on 13th March, 2019 at 10.40 p.m.
2. It is further observed that morbidly obese patients with comorbidities are taken-up for various bariatric surgical procedures. This patient was also taken-up for bariatric surgery as per the prevailing indications. Post-operatively, she was managed and monitored as per protocols.
3. As per the nursing progress notes, the patient’s vitals were monitored. However, subsequent deterioration in the conditions of the patient, was not properly documented in the hospital electronic healthcare records.

In light of the observations made hereinabove, it is the decision of the Disciplinary Committee that no medical negligence can be attributed the part of the doctors of Max Super Specialty Hospital, Saket, New Delhi, in the treatment administered to the complainant’s wife Smt. Sangeeta. However, the record keeping in this case left much to be desired; hence, the Medical Superintendent of Max Super Specialty Hospital, Saket, New Delhi is directed to issue necessary directions to all the doctors employed in the hospital with regard to proper documentation as part of good medical practices. Further, it is also directed that the steps be taken to improve the communication between the doctor and the patient’s attendant.

Complaint stands disposed.

 Sd/: Sd/: Sd/:

(Dr. Maneesh Singhal) (Dr. Satish Tyagi) (Dr. Subodh Kumar) Chairman, Delhi Medical Association, Expert Member,

Disciplinary Committee Member, Disciplinary Committee

 Disciplinary Committee

The Order of the Disciplinary Committee dated 31st October, 2023 was confirmed by the Delhi Medical Council in its meeting held on 06th November, 2023.

 By the Order & in the name of

 Delhi Medical Council

 (Dr. Girish Tyagi)

 Secretary

Copy to :-

1. Shri Anil Kumar, F-30, Gali No.14, Rajapuri, Uttam Nagar, New Delhi-110059.
2. Dr. Pradeep Kumar Chowbey, Through Medical Superintendent, Max Super Specialty Hospital, Saket, New Delhi-110017.
3. Dr. Ashish Jain, Through Medical Superintendent, Max Super Specialty Hospital, Saket, New Delhi-110017.
4. Dr. Rahul Grover, Through Medical Superintendent, Max Super Specialty Hospital, Saket, New Delhi-110017.
5. Dr. Danish Ahmed, Through Medical Superintendent, Max Super Specialty Hospital, Saket, New Delhi-110017.
6. Dr. Roopa Salwan, Through Medical Superintendent, Max Super Specialty Hospital, Saket, New Delhi-110017.
7. Medical Superintendent, Max Super Specialty Hospital, Saket, New Delhi.
8. Joint Director (Grievance), Office of the Additional Director, C.G.H.S. (HQ), CGHS Bhawan, Sector-13, R.K. Puram, New Delhi-110066-w.r.t. letter Misc. No./File No.6-120/CGHS/Gr. Cell/2019/1130-31 dated 14.10.2019-**for information**.
9. Under Secretary to the Government of India, Ministry of Environment, Forest and Climate Change, Indira Paryavaran Bhawan, Jorbagh Road, New Delhi-110003-w.r.t. letter No.A-65011/50/2013-P.II-**for information**.

 (Dr. Girish Tyagi)

 Secretary