DMC/DC/F.14/Comp.3049/2/2023/ 16th May, 2023

**O R D E R**

The Delhi Medical Council through its Disciplinary examined a complaint of Shri Laxman Saini, r/o, B-275, Gali No.1, Baba Colony, Burari, Delhi-110084, forwarded by the Akhil Bharat Hindu Mahasabha, alleging medical negligence on the part of Dr. Niharika and Medlife Hospital, Khasra No.346, Main Road, Lal Dora, Burari, Dellhi-110084, in the treatment administered to the complainant at Medlife Hospital.

The Order of the Disciplinary Committee dated 02nd May, 2023 is reproduced herein-below :-

The Disciplinary Committee of the Delhi Medical Council examined a complaint of Shri Laxman Saini, r/o, B-275, Gali No.1, Baba Colony, Burari, Delhi-110084 (referred hereinafter as the complainant), forwarded by the Akhil Bharat Hindu Mahasabha, alleging medical negligence on the part of Dr. Niharika and Medlife Hospital, Khasra No.346, Main Road, Lal Dora, Burari, Dellhi-110084, in the treatment administered to the complainant at Medlife Hospital (referred hereinafter as the said Hospital).

The Disciplinary Committee perused the complaint, written statement of Dr. Niharika of Medlife Hospital, copy of medical records of Medlife Hospital and other documents on records.

The following wereheard :-

1) Shri Laxman Saini Complainant

2) Smt Lajja Devi Wife of the complainant

3) Dr. Niharika Ophthalmologist, Medlife Hospital

3) ShriRamniwas Rana Director, Medlife Hospital

4) Shri Sanjay Admin. Medlife Hospital

Dr. Niharika participated in the proceedings of the Disciplinary Committee through video conferencing.

The complainant alleged that on 16.01.2020 for complaints of watering eyes in right eye for 2-3 days duration he consulted Dr. Niharika at Medlife Hospital. After examination of his eye Dr. Niharika diagnosed him to be suffering from cataract in right eye and advised surgery. On 18th January, 2020, he underwent cataract surgery at Medlife Hospital. Thereafter, he was diagnosed with advice to follow up for bandage removal on next day on 19th January, 2020; when the bandage was removed, he experienced black shadow and no vision in right eye. Dr. Niharika told him that the same was due to capsular opacification and prescribed medication for twenty days and further assured him that the same will clear and vision will improve. Since there was no improvement in his vision, he again consulted Dr. Niharika on 11th February, 2020. On 11th February, 2020 he underwent Nd-Yag capsulotomy but he continued to experience black stars in front of right eye. Dr. Niharika then gave him Bromea eye drop, to administer for one week. Since it was of expired date, he did not use the eye drops. He, thereafter visited Arihant Hospital on 17th February, 2020 where he was informed that second operation for his vision problem could not be done (because the surgery on 18th January, 2020 was not properly done) as the risk of vision lost was very high. On 18th February, 2020 he again consulted Dr. Niharika who told him that the eye drop prescribed by her can be used for two months even after expiry date. She then referred her to a doctor in Guru Nanak Eye Hospital, Delhi. He consulted Guru Nanak Eye Hospital on 19th February, 2020, where he was told that surgery of removing the posterior capsule of right eye can result in permanent loss of vision. Thereafter he consulted other hospital who also gave poor prognosis for his right eye. It is therefore requested that strict action be taken against Dr. Niharika and Medlife Hospital for their act of medical negligence.

Dr. Niharika Ophthalmologist, Medlife Hospital in her written statement averred that the complainant Shri Laxman Saini came to ophthalmology OPD of Medlife Hospital for eye check-up. After thorough examination of the complainant including vision, slip lamp and dilated fundus examination, the complainant was diagnosed as bilateral SIMC with PSC. The complainant was advised right eye cataract surgery under LA. The complainant told her that the complainant was advised the surgery earlier also by other doctor, so the complainant was convinced and gave his consent for the surgery. The complainant was taken up for the surgery after pre-operative medications and local anaesthetic was given. All the surgical steps were done smoothly and opaque lens was removed. Irrigation and aspiration were done, following which, calcification of posterior capsule involving periphery and central area was observed. Foldable PCIOl was implanted. The surgery was uneventful and all steps were done under all aseptic precautions. She explained the complainant and his wife about capsular opacification. She told the complainant that right eye Nd-Yag capsulotomy have to be done for him and then the central are will be clear and his vision will improve. After the cataract surgery, on next day follow-up, the complainant visited her with a complaint of black shadow in front. She gain explained the complainant about capsular opacification and avised that right eye Nd-Yag capsulotomy is required and then the central area will be clear and his vision will improve. The complainant was never charged for OPD during his follow-up visit, even for Nd-Yag capsulotomy, the complainant was not charged any money, considering the financial constraints of the complainant. The complainant’s vision improved post-operatively, but the complainant was never satisfied and happy with results. She explained the complainant that they cannot remove capsule, as PCIOl have to be placed on it, otherwise it will fall inside of eye cavity. She always acted in the best interest of the complainant and took appointment from Dr. Punita Sodhi, Professor in Guru Nanak Eye Hospital and referred him for opinion. She (Dr. Punita Sodhi) examined the complainant and confirmed the earlier treatment and findings. She (Dr. Punita Sodhi) also advised him the surgery of left eye. Even then, the complainant was not convinced and got his friends and the relatives many times and threatened of being in contact with political people. She(Dr. Niharika) treated the complainant diligently, prudently as per accepted medical stands and as per the clinical findings of the complainant.

She further averred that the complainant has alleged in his complaint that he visited the Medlife Hospital for simple compliant of watering from right eye is wrong as stated, twisted the fact. The fact is that the complainant had a compliant of decreased vision from right eye. On examination, the complainant diagnosed as bilateral SIMC with psc. The complainant was advised right eye cataract surgery under LA. If the complainant had no problem, then why he agreed for the surgery. Thus, it is clear that the complainant has tried to conceal/twist the facts maliciously. The complainant has alleged in his complaint that on next day of the surgery on follow-up visit, his eye bandage was removed and that he completed black shadow, and that the doctor explained him about the capsular opacification. However, the complainant has concealed that he was advised that right eye Nd-Yagcapsulotomyh is required and then, the central area will be clear and his vision will improve. The true fact that is that the complainant was never charged for OPD during his follow-up visits, even for Nd-Yag capsulotomy, the complainant was not charged any money, considering the financial constraints of the complainant. The complainant has alleged in his complaint that on 11th February, 2020, he again visited the hospital and laser surgery was done, but he was unable to see and there black starts in front of right eye. The complainant has concealed that, Nd-Yag capsulotomy was done free of charge (considering the financial constraints of the complainant). The true fact is that the complainant’s vision improved post-operatively, but he was never satisfied and happy with results. She explained the complainant that they cannot remove capsule, as PCIOl have to be placed on it, otherwise it will fall inside of eye cavity. She always acted in the best interest of the complainant and took appointment from Dr. Punita Sodhi, Professor in Guru Nanank Eye Hospital and referred him for opinion. She (Dr. Punita Sodhi) examined the complainant and confirmed the earlier treatment and findings. She(Dr. Punita Sodhi) also advised him the surgery left eye. Even then, the complainant was not convinced and got his friends and the relatives many times and threatened of being in contact with political people. The allegation that the doctor gave eye drops from her bag which was found to be expired is wrong, patently false, malicious without any proof whatsoever and thus, vehemently denied. The true fact is that she never gave any eye drops to the complainant from her bag. The allegation that the doctors of Arihant Eye Hospital told that surgery of right eye cannot be done, as the condition of the eye is very bad, is wrong, patently false, malicious without any expert medical opinion or any proof whatsoever and thus, vehemently denied. The complainant has not provided written opinion by the doctors of Arihant Eye Hospital. The true fact is that the surgery was uneventful and there was not complication. The allegation that on 18th February, 2020, the complainant visited Medlife Hospital and showed the eye drops of expiry date and that Dr. Niharika told that even after expiry the medicine can be used for two months after expiry, and she advised to use the eye drops of expiry date, is wrong, patently false, malicious without any proof whatsoever and thus, vehemently denied. It cannot be believed that a doctor would advice to continue the use of expired eye drops. The true fact is that she never gave any eye drops to the complainant from his bag. The allegation that the complainant refused to use the expired eye drops and then the doctor referred the complainant to Dr. Punita Sodi, is wrong as stated, twisted the facts, without any proof whatsoever and thus, denied. The true fact is that she (Dr. Niharia) never gave any eye drops to the complainant from her bag. She always acted in the best interest of the complainant and took appointment from Dr. Punita Sodi and referred him for opinion. She (Dr. Punita Sodhi) examined the complainant the earlier treatment and findings. The allegation that Dr. Punita Sodhi told that surgery removing the posterior capsule of right eye can result in permanent loss of vision, is wrong as stated, twisted the facts, without any proof whatsoever and thus, denied. The complainant further stated that his left eye is normal; thus, it clear that he can seen from eye. He is not visually impaired. She performed the procedure and treated the complainant post-operatively using requisite reasonable knowledge, skills, and with due care at all stages and thus, neither any medical negligence nor any deficiency in the treatment can be attributed to her in the treatment of the complainant.

On enquiryby the Disciplinary Committee as to why the medical records pertaining to the consent, OT notes, discharge summary have not been filed with the Delhi Medical Council, ShriRamniwas Rana, Director, MedlifeHospital stated that since after his discharge from the Medlife Hospital, the complainant wanted to take a second opinion; the original file pertaining to his treatment were handed over to the complainant, however, the complainant never returned the original records back to the Medlife Hospital. On being asked to provide acknowledgment of handing over the records to the complainant; no satisfactory explanation was forthcoming from ShriRamniwas Rana, Director, MedlifeHospital .

The complainantShri Laxman Saini vehemently refuted the assertion made by the Medical Superintendent regarding handing over the original medical records to him.

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

1. It is observed that that the complainant Shri Laxman Saini, 59 years male told to have cataract in right eye by Dr. Niharika. The vision recorded in right eye and left eye were 6/36 and 6/24, respectively. After due investigation, the right eye was operated upon for IOL surgery on 18th January, 2020. The recorded O.T. time was 35 minutes as per the OT list document. On post-operative check-up on 19th January, 2020, there was apparently, no improvement in vision. The reason for which was told to be opaque posterior capsule. The complainant underwent Yag laser capsulotomy on 11th February, 2020. However, the vision still did not improve. The complainant was last seen at the said Hospital on 18th February, 2020.

Subsequently, the complainant went to different doctors and institutions for check-up and treatment. The doctors consulted were from Arihant Eye Centre, Guru Nanak Eye Centre, Vision Eye Centre, Dr. Sapna Jain, Parmanand Hospital, Mogiram Lions Hospital and Khanna Eye Centre. On close scrutiny of the documents submitted, it was found that the vision recorded on 19th February, 2020 in right eye was 6/12, as recorded by Dr. Sapna Jain. Further, the vision recorded at Khanna Eye Centre on 09th March, 2020 in right eye was 6/12 with a correction of -3.0 D cylinder at 95 degree. Hence, it can be concluded that may the operated eye had a stormy post-operative course but with time, the operated eye regained a visual acuity of 6/12 with suitable optical correction and, hence, no surgical negligence can be made out in this case. However, there is glaring administrative lapse in the failure to provide any hospital records by the hospital administration.

1. It is observed that neither Dr. Niharika nor the said Hospital provided the medical records pertaining to the treatment administered to the complainant at Medlife Hospital. Further, in their submissions, they have claimed that post cataract surgery, in the follow-up, the complainant had requested all the medical records pertaining to his treatment for second opinion, hence, the same were handed over to the complainant in original. The complainant, thereafter, never returned the said records to the hospital.

It is noted that no acknowledgement of handing over of the original medical records to the complainant by the said Hospital or Dr. Niharika have been produced before the Disciplinary Committee. Further, the complainant vehemently denied that any such record was given to him or he asked for the same. It is also observed that even if the contention of Dr. Niharika in the hospital is to be given countenance, then, it was incumbent upon the hospital authorities to lodge a missing documents complaint with the Police, which also they have failed to do.

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. Niharika and Medlife Hospital,in the treatment administered to the complainant at MedlifeHospital. However, the said Hospital authorities are directed for future, to ensure the maintenance and preservation of the indoor medical records of the patient treated at their centre.

Complaint stands disposed.

Sd/: Sd/: Sd/:

(Dr. Maneesh Singhal) (Dr. Anil Kumar Yadav) (Dr. Satish Tyagi)

Chairman, Eminent Publicman, Delhi Medical AssociationDisciplinary Committee Member, Member,

Disciplinary Committee Disciplinary Committee

Sd/:

(Dr. B. Ghosh)

Expert Member,

Disciplinary Committee

The Order of the Executive Committee dated 02nd May, 2023 was confirmed by the Delhi Medical Council in its meeting held on 11th May, 2023.

By the Order & in the name of

Delhi Medical Council

(Dr. Girish Tyagi)

Secretary

Copy to :-

1. Shri Laxman Saini, r/o, B-275, Gali No.1, Baba Colony, Burari, Delhi-110084
2. Dr. Niharika, 57, Vivekanandpuri, Delhi- 110007
3. Medical Superintendent, Medlife Hospital, Khasra No.346, Main Road, Lal Dora, Burari, Delhi-110084
4. National Medical Commission, Pocket-14, Sector-8, Dwarka, New Delhi- 110077-w.r.t erstwhile Board of Governors in Supersession of Medical Council of India’s letter No.MCI-211(2)(Gen.)/2020-Ethics./110822 dated 22.07.2020-**for information.**

(Dr. Girish Tyagi)

Secretary