

Medical Negligence Sector

S. NO.	LINK	FACT OF THE CASES	CITATION	FORUM	CASE NO.	DATE OF JUDGEMENT	JUDGEMENT WITH THEME
1.	http://164.100.72.12/ncdrcprep/judgement/00140515112154746RP293812.htm	<p>This is a proved case of medical negligence. To ascertain the gravity of medical negligence, we have perused the evidence on file and find that it is an unfortunate medical mishap. On 25.12.2008, the OP-1, Dr. Bhavik Shah, a Surgeon with OP-2 Dr. Rajesh Agrawal, Anesthetist, performed Circumcision operation of the complainant's child, Neel, aged about 2½ years. Post operatively, the child did not regain consciousness, who was taken to OT and thereafter shifted by car to SAL Hospital for emergency treatment in P.I.C.U. Later, child was shifted to Sterling Hospital, on 27.12.2008., who was retained there for 2 months 6 days and discharged on 6.3.2009. Thereafter, till date, the child has not recovered completely and is still in vegetative form.</p> <p>Considering the sequence of the events in this case, it is gross negligence, due to which a child of 2½ years has to survive in vegetative form, throughout his lifespan. We have given thoughtful consideration to this case, as to whether the complainant deserves the enhancement of compensation? As per the submissions of counsel for the complainant, the child is at present 7 years old, and is still in vegetative form. We have perused several recent photographs of child produced by the Counsel for the complainant, which clearly show the precarious condition of Neel.</p>	<p>SHILABEN ASHWIN KUMAR RANA(Complainant/Petitioner) Versus DR. BHAVIN K. SHAH & Dr. RAJESH AGRAWAL . (Respondents)</p> <p>DR. BHAVIN K. SHAH & Dr. RAJESH AGRAWAL (Appellant/Petitioner) Versus SHILABEN ASHWIN KUMAR RANA (Respondent)</p> <p>SHILABEN ASHWIN KUMAR RANA (Petitioner/Complainant) Versus DR. BHAVIN K. SHAH & Dr. RAJESH AGRAWAL. (Respondents)</p>	<p>DISTRICT FORUM Nadiad</p> <p>SCDRC Gujarat</p> <p>NCDRC</p>	<p>Complaint no. CC/130/2009</p> <p>First Appeal No. 242 of 2011 and 923 of 2011</p> <p>Revision petition no.2938 of 2012</p>	<p>21.02.2011</p> <p>12.05.2014</p>	<p>The District Forum, Nadiad partly allowed the complaint no. CC/130/2009 and directed the OPs to pay Rs.5,00,000/- to the Complainant, with the interest of 9% p.a., from the date of complaint, till realization and Rs.25,000/- towards mental agony and the expenses.</p> <p>Both the appeals were dismissed, and State Commission has passed the modified order holding that, "The OPs shall pay Rs.5, 00,000/- and Rs.10, 000/- as costs to be paid to complainant, jointly and severally.</p> <p>Did not agree with the State Commission which modified the order of District Forum and reduced the quantum of an award to the complainant. The parents of Neel have to suffer lifelong mental agony, due to negligence of the two doctors. it is gross negligence, due to which a child of 2½ years has to survive in vegetative form, throughout his lifespan. Therefore, the Complainant certainly deserves for enhanced compensation. Set aside the order passed by the State Commission and partly allowed this revision</p>

							petition, with following order: The OPs were directed to pay a sum of Rs.10, 000, 00/- with interest @ 6% pa from the date of filing the complaint, along with Rs.30, 000/- towards cost of litigation within 90 days from the date of receipt of this order, otherwise it will carry interest @ 9% pa till its realization to the complainant, jointly and severally. Out of this awarded amount, Rs.5,00,000/- be paid to the complainant and remaining amount be kept in Fixed Deposit (FDR) of State Bank of India (SBI), which will be utilized for Neel's welfare and he will be able to withdraw it, after attaining the age of majority.
2.	http://164.100.72.12/ncdrcprep/judgement/00140528140818579RP290813.htm	Facts in brief: On 05.05.2009, the Petitioner Akhilesh Jain took his son, about 7 months age to ENT Specialist, Dr. Jagdish Jain, (OP-2). The OP-2 referred him to Nobel Hearing & Speech Therapy Clinic, the OP-1. The Brainstem Evoked Response Audiometry (BERA) test was conducted, and the report showed that the left ear was normal, whereas the right ear had minor hearing defect. The OP-2 assured the complainant that, the child would start hearing and talking very soon and there was nothing to worry about. However, as the child did not show any improvement, he consulted Dr. Satya Prakash Dubey at Bhopal who advised a CT Scan and another BERA Test. The BERA report showed that the child had profound sensory neural hearing loss in his left ear. Hence, the complainant/	<p>Akhilesh Jain (complainant) Versus Nobel Hearing & Speech Therapy Clinic & Dr. Jagdish Jain (petitioner/op)</p> <p>Akhilesh Jain (appellant/OP) Versus Nobel Hearing & Speech Therapy Clinic & Dr. Jagdish Jain (Respondent)</p> <p>Akhilesh Jain (Petitioner) Versus Nobel Hearing & Speech Therapy Clinic & Dr. Jagdish Jain (Respondent/OP)</p>	<p>District forum</p> <p>SCDRC BHOPAL</p> <p>NCDRC</p>	<p>Complain t no. CC/587/2 011</p> <p>First Appeal no.1599 of 2011</p> <p>Revision petition no.2908 OF 2013</p>	<p>21.10.2011</p> <p>15.05.2013</p> <p>21 May 2014</p>	<p>The District Forum dismissed the Complaint summarily on the basis of the report of the medical expert committee.</p> <p>The State Commission appreciated the facts and grounds, and upheld the order of the District Consumer Disputes Redressal Forum.</p> <p>National commission did not find any merit in this revision, hence, endorsed the view taken by both the fora below, without any interference and dismissed this revision petition. No order for the costs.</p>

		Petitioner filed a complaint before the District Forum alleging that OP-1 and OP-2 are negligent in diagnosis, issued wrong report by which his child was deprived of specific treatment.					
3.	http://164.100.72.12/ncdrcprep/judgement/00140728130600439RP244813.htm	The brief facts of the case are that on 25.05.2009 the patient/Complainant Smt. Meenu Jain was admitted to Fortis Escort Hospital, Jaipur, Rajasthan-OP for treatment of Guillain Barre Syndrome (GBS), a serious disease. The Complainant-2, Sh. Prem Chand Jain who was the husband of Smt. Meenu Jain had signed a general consent for admission form, a counselling form, It was agreed that the treatment will be done as per the advice of doctors and the patient's treatment will be charged at hospital rates. On 25.06.2009, the patient was on ventilator and it was decided to administer a lifesaving drug injection "IVIGLOBEX", five doses daily, for five days. The cost of each injection-M.R.P. was Rs.18,990/-. Those injections were provided by hospital pharmacy and the Complainant was successfully treated and discharged on 13.06.2009. The total sum of Rs.6,82,965/- as hospitalisation charges were paid by the Complainant without any protest. The Complainant alleges that, he was told that the cost per injection was Rs.9,000/-.The Complainant-2 requested the hospital authorities that the injection "IVIGLOBEX" was available at Rs.30% - 40% discount in the other medical shops in the market and he may be permitted to purchase the injections from outside, but his request was not considered and he was forced to purchase the injections from the hospital itself. After discharge, the Complainant wrote a letter to the OP on 24.06.2009, and sought information about the Batch no., Expiry date,	Smt. Meena Jain & Ors. (complainant) Versus Fortis Health Management (North) Ltd. (Respondent)	District forum	Complain t case no.489/20 12	3.5.2012	The District Forum allowed the complaint and held the hospital guilty for not allowing the Complainants to arrange the injections from the market and awarded a sum of Rs.1,00,000/- each, to the Complainant-1 and State Consumer Welfare Fund. Also, Rs.5, 000/-was awarded towards the cost of litigation. The District Forum also directed the Hospital not to repeat such unfair trade practices.
			Fortis Escorts Hospital (Appellant) Versus. Smt. Meenu Jain & Ors. (Respondent)	SCDRC Jaipur	First appeal no.747/20 13	14.5.2013	The state commission dismissed the appeal and raised several factual as well as legal grounds.
			Fortis Escorts Hospital (Appellant) Versus. Smt. Meenu Jain & Ors. (Respondent)	NCDRC	Revision petition no. 2448/2013	22 July 2014	The complainant calculated the excess amount of Rs.1,56,167/-. Also, we cannot totally ignore the services which OP had rendered to the patient in critical condition. The OP has every right to earn profits from its pharmacy, but it should be reasonable or acceptable one. Therefore, we feel it is just and proper to allow refund of 50% of the calculated excess amount.

and the Bill of the supplier of those injections to the hospital, but the OP refused to furnish the details to the Complainant. Therefore, the Complainant sought Rs.1,56,167/- from the OP which was charged in excess to the price of those injections which was also turned down by the OP. Hence, the Complainant filed the complaint before the District Forum. The Respondent/Complainant submitted the written argument and furnished an application for exemption for personal appearance on the ground of old age of about 70 years, he is suffering from acute asthma and cancer. The Counsel for the Petitioner argued that the treatment of Complainant-1 was successful till the patient was discharged, the Complainant-2 never protested about the price of the injections, also did not protest at the time of discharge and paid the entire bill amount. The Complainant-2 raised this issue of discount of 30%-40% beyond M.R.P., after discharge. Hence, there is no iota of any medical negligence. So no liability should be fastening on OP. He also submitted that the same drugs, available outside the hospital may be spurious. He brought to our attention to the raid conducted by Drug Controller officials, on a medical store, outside hospital and seized 15 "INVIGLOBEX" injections that were suspected to be spurious.

Accordingly, we modify the order passed by the State Commission and direct the petitioner/OP to refund/pay Rs.78, 000/- to the complainant, within 90 days from the date of receipt of this order, otherwise, it will carry interest @ 9% p.a. till its realization. The parties are directed to bear their own costs.