

Use of Pre-Printed & Fixed Forms to Record Patients' Consent Amounts To 'Unfair Trade Practice': NCDRC

The National Consumer Disputes Redressal Commission has held that a pre-printed and fixed 'informed consent cum undertaking' form used by hospitals is unfair and deceptive and would amount to unfair trade practice within the meaning of section 2(1)(r) of the Consumer Protection Act, 1986. The Commission noted that a pre-printed and fixed 'informed consent cum undertaking' form, with blank spaces for limited select handwritten entries and for the signatures was used by the hospital in this case. The main body of the form is pre-printed and fixed. It can fit into any procedure, any doctor, and any patient, after filling up the blank spaces for the limited select handwritten entries and getting the signatures.

The Commission made these observations while dismissing a complaint of medical negligence against R G Stone Urology and Laparoscopy Hospital, Delhi and its doctors, Dr. Anil Varshney. Although the allegations of medical negligence were rejected, the Commission noted the issues with the use of pre-printed forms for recording informed consent. As a result, the two-member bench comprising Dr. S. M. Kantikar and Dinesh Singh directed the hospital to deposit an amount of Rs. 10 Lakhs within 2 weeks into the Consumer Legal Aid Account of the Commission and to discontinue use of pre-printed forms with immediate effect.

Facts- A patient of aged 65 years with some pain in the abdomen and related difficulties had rushed to a private hospital in abdomen department of Fortis Hospital, New Delhi. Thereafter, due to financial difficulties, for further treatment, he approached opposing party 2, Dr. Anil Varshney at RG Stone Urology and Laparoscopy Hospital (opposing party 3). The doctor examined the patient and advised surgery, which was performed and on January 13, 2010. Later, the patient approached the hospital for the complaints regarding the difficulties he faced after his surgery. After examination, he was informed by the doctor that a complication occurred and advised for natural healing. The Complainant had to then approach Indraprastha Apollo Hospital where he got admitted and took treatment from and incurred expenditure for the treatment but wasn't completely cured. Thereafter, he reverted to Fortis Hospital for the treatment and was visiting regularly.

According to the Complainant, He suffered negligent treatment, injury and complications because of OP-1 and OP-2, and moved before the Consumer Commission seeking compensation of ₹1,88,37,602/-.

The respondents however resisted the complaint and denied the allegations. The OPs took preliminary objection of limitation as the instant complaint was filed in year 2018, after 8 years of cause of action which arose in year 2010. They also submitted that the Complainant had prior surgery of hernia and appendix with history of tuberculosis and acquired immune deficiency syndrome.

Order- The Commission noted that the patient was suffering from HIV and skin cancer, and was fully aware about his immune-compromised status, despite which the doctor had operated the patient with all due care and reasonable skill. However, the Complainant with an ill intention published a story against the hospital in the 'Hindustan Times' to influence the court, in its attempt to coerce the hospital and influence emotionally for out of court settlement.

Thereafter, the hospital explaining the real facts, the Hindustan Times published the rejoinder and also sought apology from the hospital. Thus, the Complainant was trying to coerce the hospital and influence emotionally for out of court settlement. Considering the entirety, it is clear that the allegations of complainant are completely after thought based on assumptions, surmises and perverse beliefs. The complaint therefore is frivolous, bereft of merit and ill-conceived.

The Commission also noted that it is clear that the allegations of complainant were completely after thought based on assumptions, surmises and perverse beliefs.

STRONGER TOGETHER!