

Advantage Consumer

Monthly News Letter of Consumer Protection Council, Rourkela

“ An aware consumer is an asset to the nation”

Website : www.advantageconsumer.com

VOLUME – XXXIII

SEPTEMBER 2021

ADVANTAGE - IX

Queries & Answers through the Web

(www.advantageconsumer.com is the website of Consumer Protection Council, Rourkela. One of the major attractions of the website is that a visitor can ask queries on issues relating to consumer protection. Answers to these queries are made free of cost, by the Chief Mentor of the Council, Sri B. Vaidyanathan.)

Sub: Harassment by BSNL

I am interested in knowing some lawyer who can file a consumer case against BSNL for deficiency of Services. Can you refer me to any one you know? I have set up Auto pay for my two BSNL mobile post-paid numbers. The Bank has debited my account on 21st August well before the due date of the bill. But today morning, I found BSNL have stopped outgoing services on both the mobiles causing lot of inconvenience. I have immediately registered a complaint in their customer service number and got the complaint no. through SMS. They did not tell me when they will restore the services, but said it may take some time. No one senior in the listed numbers are responding to my phone calls. For quicker resolution, I paid the bill once again today morning using the My BSNL mobile portal. This stoppage of service without prior notice or intimation and providing a time frame for communication and settlement amounts to a serious harassment. I felt it is time these BSNL guys are made to show some sense. I want to file a case against them for causing inconvenience, harassment and anguish and claim sizeable damages. The total bill amount is Rs.1400, but it is the way they are treating the whole issue that I want to highlight. Please advise.

K.Radhakrishnan
Adyar, Chennai-20.

Ans: I do appreciate the enormous inconvenience caused to you, on account of this suspension of service. Of late, due to the massive Voluntary Retirement Scheme implemented by the BSNL, even I have experienced substantial reduction in their Customer Service infrastructure, at times causing lot of inconvenience to the customers. As far as your case is concerned, please ascertain whether the Bank had not defaulted in crediting the BSNL account. With necessary proof, instead of depending on verbal complaints, write (or email) to the concerned designated authority, if not done already, about the harassment meted out to you. If it is revealed that BSNL had indeed been negligent in suspending the service without any valid reason, you can approach the District Consumer Commission, for the redressal for your grievance. But it should be remembered that, as of now, only nominal compensation is awarded, unless you are in a position to prove the huge financial loss suffered, on account of the suspension of service.

Since the amount at stake is not big, as a consumer, it may be worth fighting the case on your own. Only thing, you have to devote some time, to attend the hearings. Hopefully, I will be able to provide necessary guidance, if required. Please note that we in the Council are fighting all the consumer cases, on our own.

LIC Life Certificate can be done through *Jeevan Saakshya* Mobile App

- **B Vaidyanathan, Chief Mentor**

In the last (August 2021) issue of this monthly, we had discussed about the difficulties in filing the Life Certificate, required for obtaining the monthly annuity (pension) payments, from LIC. After I had represented the matter through the CPGRAMS Portal of the Govt. of India, LIC had informed that the Life Certificate can be filed through email as well.

In the meanwhile, I received the following email from LIC, which has informed about one ***Jeevan Lakshya*** App, available in the Google Play Store.

Life certificate under annuity policy no. 713137821

LIC of India <licipp@licindia.com>

To: firstindyan@yahoo.in

Thu, 16 Sep at 8:48 am

Dear Annuitant
(SRI.B.VAIDYANATHAN, B.TECH.)

Life certificate is due under your policy no. 713137821. You are requested to submit the same at the earliest. You can submit through mobile app ***Jeevan Saakshya*** available in Google Play store. Earlier facilities for submission of life certificate are unaltered.

Thanking you,

Team – LIC. *Based on that information, I downloaded the said App and filed my Life Certificate, which is quite user friendly. One has to have a smart-phone for verifying his face, with that available in the Aadhar Card database.*

Part of my mobile screenshot is reproduced below, for information:



At last, LIC has come out with a digital mechanism for filing the Life Certificate. Interestingly, they could inform about that only after protracted follow-up. Hope, the corporate culture changes for the better, in future.

Though there may be a negative fallout of the treatments given, there is no medical negligence, when the doctor exercises due care and diligence in treating the patient.

**NATIONAL CONSUMER DISPUTES REDRESSAL COMMISSION
NEW DELHI**

CONSUMER CASE NO. 3 OF 2005

G. VIJAYASHANKAR & ANR.

Son of Shri. G. Gopalakrishnan Nair, Resident of "Sruthi" No.
2/9, Anantha Ramakrishnan Street Devaraj Nagar, Saligramam
Chennai - 600 093.

.....Complainant(s)

Versus

MADRAS MEDICAL MISSION & ORS.

Which owns and manages: Institute of Reproductive Medicine
& Women's Health 4-A, 5th Floor, Dr. J.J. Nagar, Mogappair
Chennai - 600 050.

.....Opp.Party(s)

BEFORE:

**HON'BLE MR. JUSTICE R.K. AGRAWAL, PRESIDENT
HON'BLE DR. S.M. KANTIKAR, MEMBER**

Dated : 01 Apr 2021

ORDER

PER DR. S. M. KANTIKAR, MEMBER

FACTS:

A married couple, Mr. G. Vijayashankar (Complainant No.1) and Mrs. Chitra Vijayashankar (Complainant No. 2, hereinafter referred to as the 'patient') was unable to conceive for about 15 years. The couple, for their treatment of infertility, approached Dr.Thankam Varma (hereinafter referred to as the 'Opposite Party No. 2') the specialist in Assisted Reproductive Technique (hereinafter referred to as the 'ART') at the Madras Medical Mission, Chennai (hereinafter referred to as the 'Opposite Party No. 1'). The Opposite Party No. 2 examined the couple and suggested In-Vitro Fertilization (hereinafter referred to as the 'IVF') treatment. The patient underwent IVF procedure twice, but failed to conceive. Therefore, the Opposite Party No. 2 advised to try for Intra Uterine Insemination (hereinafter referred to as the 'IUI'). In the year 2001 during the 1st cycle of IUI patient conceived but unfortunately it resulted into missed abortion. Thereafter again in April 2002 during 2nd IUI cycle she got conceived, it was twin gestation (pregnancy) confirmed by Ultra Sonography (USG). However, at 5th week of pregnancy one embryo got destroyed internally – known as 'the vanishing twin syndrome'. The surviving embryo was monitored as a singleton pregnancy. During the antenatal check-up period (hereinafter referred to as the 'ANC') series of USG scans were carried out at the Opposite Party No. 1 hospital. On 18.06.2002, the Opposite Party No. 1 performed Nuchal Translucency (hereinafter referred to as the 'NT') scan to rule out possibility of Down's syndrome. The Complainant alleged that the NT scan was not a diagnostic test for Down's syndrome and being super specialty hospital, the doctors did not follow the standard procedures to manage such high-risk pregnancy. It was further alleged that the treating doctor failed to provide genetic counselling to the couple as it was elderly pregnancy with previous history of missed abortion. Certain diagnostic tests like Amniocentesis or Cordocentesis for detection of Down's syndrome were not advised. The Complainant No. 1 denied that the couple refused to undergo those tests. It was further alleged that the Opposite Parties did not place any record to prove that the genetic counselling was done. The Complainants submitted that though all the USG were performed by Sonologist, the Opposite Party No. 2 as a Medical Director is responsible in her personal capacity for the negligence.

2. It was submitted that the child born with Down's syndrome carries various risks and wide range of medical problems. There is no definitive treatment or cure for the Down syndrome. The medical cost in bringing up the child with Down syndrome would be huge. The instant baby of the Complainants had suffered cardiac anomaly known as Patent Ductus Arteriosus (PDA). The Complainant No. 1 is a businessman and the Complainant No. 2 is a playback singer; both have suffered severe mental trauma and depression knowing upon their first child affected with Down syndrome, therefore they could not dream or afford to have another child in future. Being aggrieved, the Complainants-couple filed a Consumer Complaint before this Commission and prayed compensation of Rs. 2.5 Crores from the Opposite Parties.

DEFENCE:

3. The Opposite Parties Nos. 1 & 2 have filed their joint Written Version and denied the entire allegations. The Opposite Party No. 2 submitted that she is a Medical Director of Institute of Reproductive Medicines & Women Cell at Opposite Party No. 1 Hospital. The patient approached her on 23.05.2000. The patient was 36 years old and had no issue since 13 years of married life. Previously she took treatment in Malaysia and underwent ART procedure twice. Again, in India, she underwent IUI 5 to 6 times in 1997 under care of Dr. Gopinath. In November 1997 she underwent IVF procedure from Dr. B. N. Chakraborty at Calcutta and subsequently the embryo transfer in May 1998, but all efforts were unsuccessful. In May, 2000, the patient approached the Opposite Party No. 1 Hospital and investigated. There was no serious problem. The couple underwent another IVF cycle on 24.11.2000, but it was unsuccessful.

Therefore, for further management with IUI was suggested. The 1st IUI was performed on 29.10.2001 and she got conceived but the foetus did not show cardiac activity. Therefore, ERPC suction was done and the couple was advised for genetic assessment during next pregnancy. On 15.04.2002, IUI was performed and the patient conceived. She was given controlled ovarian hyper stimulation by using gonadotrophins. On 06.05.2002, the USG confirmed twin gestation sac, however subsequently the USG done on 13.05.2002, revealed abortion of one sac and viable pregnancy in other sac. On 18.07.2002 genetic screening/ invasive techniques (CVS, amniocentesis and Cordocentesis) to confirm karyotyping was discussed. It was also told to the Complainants those 1 in 100 chances of Down's syndrome and in the event of invasive investigation / procedures, the chance of losing the pregnancy was 1 in 100. The decision was left to them. the Complainants were happy and decided to continue the pregnancy without invasive procedures because it was very long-awaited pregnancy for 15 years. However, the Complainants did not agree and same was recorded by the Opposite Party No. 2 wrote on medical prescription as 'decided to leave, things all alone'.

4. It was further submitted that the Nuchal Translucency (NT) scan was done at 11 weeks gestation, it was 1.4mm wherein the cut-off level of 2.5 mm for further evaluation. The option for Triple test was there but it was not the correct screening because the patient was conceived after ART which involved use of gonadotropins. During antenatal period the Opposite Party No.2 performed detailed anomaly foetal scan twice and found no obvious anomalies. As the patient developed Gestational Diabetes, therefore elective caesarean section was performed on 18.12.2002 and a female baby was delivered which showed Down syndrome.

SUBMISSIONS:

5. We have heard the arguments from both the sides. The Parties have filed their respective brief synopsis of Written Arguments and relevant Medical Literature on the subject.

5 (i) Submission on behalf of the Complainants:

The learned Counsel for the Complainant submitted that the Opposite Party No. 2 at no point of time done genetic counselling. She did not enquire about the past family history wherein the first cousin of the patient

had a 15 years daughter with Down syndrome. The Counsel further submitted that for diagnosis of Down's no invasive tests or even blood tests were advised by the doctor. He submitted that for the diagnosis of Down's syndrome during first 8-12 weeks of pregnancy, there are two diagnostic tests viz. invasive and non-invasive. The non-invasive tests are USG & blood tests which are indicative and not confirmatory of Down's syndrome. Therefore, in the elderly mother (35 years or more) with high-risk pregnancy, invasive tests like Amniocentesis/ Cordocentesis are mandatory, having 99% accuracy. The learned Counsel further submitted that as per the Medical Board report there was no record to prove genetic counselling or invasive tests were offered. The Opposite Parties stated that the record was misplaced. The Opposite Parties did not produce evidence to prove that the patient refused the tests. The consent forms were simply the declaration given under Pre Natal-Diagnostic Techniques (Regulation of Prevention of Misuse) Act, 1994 (for short PNDT Act) which has no bearing on this case. The learned Counsel further submitted that the hospital issued two discharge summaries after two months of delivery on 20.02.2003. One did not mention about the details of baby and genetic counselling etc., whereas the second one talks about the condition of the baby and that the Opposite Party was not aware of Down's child in the Complainant's family. The 2nd discharge Summary was prepared as an afterthought to cover up their mistakes. Both the discharge summaries are devoid of new born details like birth weight and APGAR score. The learned Counsel for the Complainant filed following medical literature:

- 1.Guidelines issued by U.K. National Screening Committee for Screening of Down Syndrome
- 2.Guidelines issued by U.S. for Screening for Down Syndrome
3. Article on Screening for Down Syndrome by Len Leshin's

5 (ii) Submission on behalf of the Opposite Parties:

1. The learned Counsel argued that the Opposite Party No. 2 discussed the scope of Triple test but the patient did not undergo it. The triple test is usually done at 15 to 16 weeks from the blood, has higher false positive result specifically in twin pregnancies and in elderly pregnancy requesting from ART.
2. The allegation of two discharge summaries is misconceived. As requested by the Complainant No. 1, the details of abnormality was not mentioned in one discharge summary. The complete discharge summary was not issued at the time of discharge on 05.01.2003 because the baby's karyotyping report was awaited.
3. Regarding triple screening test, the counsel submitted that the scope of non-invasive and the invasive tests were discussed with the couple. The OP-1 Hospital has started the first trimester screening test which consist of measurement of NT, PAPP-A, free beta HCG. The triple test's validity in assessing foetal status may be less because of twins pregnancy or in the pregnancy occurred due to ART techniques as beta HCG levels may be higher. He further submitted that in India the Quadruplet tests, integrated screening test and comprehensive tests facilities were not available during 2005.
4. The Opposite Parties Nos. 1 & 2 relied upon the following judgements:
5. Savita Sachin Patil &Ors. Vs. Union of India &Ors., 2017 Lawsuit (SC) 1070
6. M. Kochar Vs. Ispita Seal &Anr., National Commission I (2018) CPJ 41 (NC)
7. K.L. Nijhawan&Anr. Vs Sir Ganga Ram Hospital &Ors., III (2009) CPJ 150 (NC)
8. Kusum Sharma &Ors. Vs. Batra Hospital & Medical Research Centre &Ors., I (2010) CPJ 29 (SC)
9. Dr.Harkanwaljit Singh Saini vs. Gurbax Singh and the National Insurance Co. Ltd., 1986-2005 Consumer 8674 (NS)

to be concluded in the next issue.....

Much before the World Cup Hockey Tournament, Rourkela Railway Station will be beautified.

- **B Vaidyanathan, Chief Mentor**

Consumer Protection Council, Rourkela, has been participating in several consultative bodies since its inception, and has been voicing issues of concern to the consumers and the general public. It will be quite relevant to note that because of such an initiative in the Central Consumer Protection Council, in the early 90s, Rourkela got the sanction for a second District Forum, in Sundargarh district, which is unique in the entire country. Our President, Sri Ajay Kumar Goswami, has been representing the Council, in the Divisional Railway Users Consultative Committee, Chakradharpur, South Eastern Railway.

Recently, the DRUCC Meeting was held on the 15th Sept. The Divisional Railway Manager (DRM), Sri Vijay Kumar Sahu, who heads the Committee, had considered the suggestions given by Sri Goswami and others, pertaining to their respective Railway Stations, and elaborated the plan of action for taking up those suggestions.

Conducting surprise check by the vigilance squad including Food Inspector for checking the quality and quantity of food supplied to passengers, was raised and it was agreed to do the needful.

Beautification of Rourkela Station at the Railway Colony side is planned and soon it will be done in view of the Men's World Cup Hockey which will be taking place in January 2023. One garden already developed in May 2021 and other works for beautification will be taken up very soon. All these jobs will be completed by 30th March 2022.

Flyover on Rourkela Malgodown Level crossing no. 209 is being taken up and the work has been started and widening of the associated road via the Railway Colony is being taken up with the help of the State Government.

Support Your Cause

Consumer Protection Council, Rourkela is a registered voluntary organization, espousing the cause of the consumer. To a great extent, for its sustenance it depends on the good will of its donors like you. We solicit your support for sustaining the multifarious activities of the council. Donation to the council is eligible for tax exemption under Section : 80-G(5) (iv) of the IT Act. Donation may please be contributed through cash or crossed cheque / DD, drawn in favour of "**Consumer Protection Council, Rourkela**".

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Remittance for subscription may be sent to the Secretary, Consumer Protection Council, B/90, Sector-7, Rourkela-769003, through crossed D.D/M.O or Cheque (local only), payable in favour of

'**CONSUMER PROTECTION COUNCIL, ROURKELA**'.

For tariff and other details regarding advertisement, contact Editor

Printed & Published by Sri B Pradhan, Consumer Protection Council, Rourkela at B/90, Sector-7, Rourkela – 769003

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ADVANTAGE CONSUMER

ENGLISH MONTHLY

September 2021

To

If undelivered, please return to :
Consumer Protection Council, Rourkela
B/90, Sector-7, Rourkela -769003. Odisha