

DISTRICT CONSUMER DISPUTES REDRESSAL FORUM KOLKATA
UNIT - II
8-B, NELLIE SENGUPTA SARANI, 7TH FLOOR,
KOLKATA-700087

Complaint Case No. CC/74/2015

1. Lakshman Kumar Pal

Teghari Para, Sasthitala, P.O. & P.S. Nabadwip, Dist. Nadia, PIN-741302.

.....Complainant(s)

Versus

1. Apollo Glenegles Hospitals

58, Canal Circular Road, Kolkata-700054.

2. Dr. Asoke Sengupta

Apollo Glenegles Hospitals, 58, Canal Circular Road, Kolkata-700054.

3. Dr. Srijita Ghosh Sen.

Apollo Glenegles Hospitals, 58, Canal Circular Road, Kolkata-700054.

.....Opp.Party(s)

BEFORE:

**HON'BLE MR. Bipin Mukhopadhyay PRESIDENT HON'BLE MRS. Sangita Paul
MEMBER HON'BLE MR. Subrata Sarkar MEMBER**

For the Complainant: complainant is present.

For the Opp. Party: Ops are present.

ORDER

Order-16.

Date-30/09/2015

This is an application u/s.12 of the C.P. Act, 1986.

Complainant by filing this complaint has submitted that on 11-07-2014 complainant went to OP2 for his treatment and OP2 advised him to do CT scan promptly and then he would observe the report on computer and after seeing the report on computer he came to the conclusion and affirmed too that complainant had no nodules in his lungs. OP2 wrote it in the prescription and set the complainant free. Complainant thought OP2 decided on seeing the report on computer but after a few days complainant got the report which revealed nodules in his lungs. It is quite preposterous that the OP2 attached no importance to CT scan. After contacting OP2 complainant met him on 25-09-2014 in his OPD and that day OP2 asked him to get chest x-ray done and complainant did it.

Following the event OP2 consulted with OP3 and advised him to bring CT scan report second time on 25-09-2014 and he consulted with OP3 and told the complainant

that she would be present in person on the day of CT scan. On 26-09-2014 complainant contacted OP3 and she told that she had shown OP2 where the nodules make presence. Complainant is a cancer patient. Due to hopeless opinion complainant became upset so he was compelled to go to Mumbai Tata Memorial Hospital for check up though it was not his check up date and the doctors of Tata Memorial Hospital and R.M.C. Mumbai met together and told the complainant that the prescription of OP2 referred in 2009 shows that there are nodules and the CT scan report done in 2014 does not disagree with the prescription but they assured that those nodules are not malignant. So, complainant did not need further CT scan.

The aforesaid facts crystallize that OP2 was not guided by the noble duty of a doctor. He was only concerned with monetary interest of the hospital and himself and complainant felt terrible mental agony and for such act of the OPs Rs.50,000/- has been drained out and also he was not able to discharge his daily duty for the fault of the OPs. Therefore, he prayed for a discussion with OPs2 and 3 and compensation for his mental agony but they paid no heed to complainant's request and also did not give any importance to his sufferings. So, complainant filed this case praying for compensation against medical negligence and also for harassment and mental agony and other relief.

On the other OP2 by filing written version submits that he is practicing as senior pulmonologist and associated with Apollo Gleneagles Hospital and he had treated more than 2000 number of patients with similar complications till date.

The complaint filed by the complainant is not maintainable in law and is liable to be dismissed. The Supreme Court in the judgement reported in 2009(1) CPJ 32 (SC) have specifically laid down that before admitting a complaint the complaint ought to have been referred for opinion of medical experts of specialized field before further proceeding in the matter. The complainant herein has not filed any expert opinion in this matter which makes the complaint bad in the eye of law and the medical issues involved in this case is so complicated in nature that without any evidence of medical

experts of specialized field it would not be possible for the Hon'ble Commission to decide the matter and further voluminous evidence has to be recorded.

It is pertinent to mention that the patient had a history of complete papillary thyroidectomy at Tata Hospital Mumbai sometime in the year 2009 and as such he was a compromised patient having a chance for recurrence of malignancy. It is true complainant came to the OP2 on 11-07-2014 with complaint of no symptoms and OP2 clinically examined the patient and advised him for CT scan of the chest. Again on that date complainant came to the OP and he accessed the CT scan image of the patient through the internal network of the hospital and found that there was no malignant nodules or new nodular growth comparing all his previous treatment papers and reports which were shown to the OP2 and accordingly he assured that there was no need to worry as there was no recurrence of malignancy the said fact was also codified and the patient was having nodules in his lungs but those nodules were not any new malignant nodules but complainant did not submit all his previous treatment papers and previous CT Scan reports and plates which would clearly establish that these nodules were the nodules which had existed for few years. As the nodules were not malignant and similar to that of the previous one OP2 had prescribed normal medication. It is further stated that on 25-09-2014 the patient again came to the OP2 with the CT Scan report dated 12-07-2014, OP2 explained him that these nodules were not malignant nodules and was similar to those which were existing but as the complainant had a fear of recurrence of malignancy and was insisting for a minute check up for his mental satisfaction, so OP2 advised Chest X-ray using the digital X-ray and also a discussion with the radiologist for his satisfaction. The chest X-ray also suggests no malignant growth and therefore OP2 suggested a comparative study of the nodules of the lungs by CT scan for complete satisfaction of the patient what the patient had not taken. It is also stated by OP2 that the subsequent treatment which the patient had undertaken in Mumbai is also available in Apollo Hospital and it was for his mental peace and further no treatment he got from Apollo Hospital. So, there is no negligence on the part of the OP2.

On the other hand, OP3 by filing written version stated that on 11-07-2014 she had done the CT Scan of the patient by using a 16 SLICE PHILIPS machine and the machine had recorded the images which were stored in the memory and by examining the detail images she had prepared the report and recorded the finding of nodules in left and right lungs but no history of previous treatment was provided to OP3 and as such her finding was a new finding and she had prepared the report as per her findings where it was mentioned that the presence of fibrotic nodules which clearly establishes that they are not malignant nodules which was being investigated for. It is further stated on 25-09-2014 patient again came to OP2 with CT report dated 12-07-2014 and considering the mental condition of the patient OP3 agreed for a reevaluation of the CT scan for a comparative and detail study of the existing nodules with the previous ones. OP3 further stated that she produced a correct report and TATA Hospital also endorsed her report as a correct one. This present complaint is filed by the complainant due to ignorance of the complainant regarding medical science and the endeavour of the OP2 to provide the complainant a tension free life. So, the complaint should be dismissed.

Decision with Reasons

In fact, in this case complainant himself conducted the case and on the date of argument he produced his agent Dr. Kunal Saha, the renowned figure in India for getting huge compensation for his wife's death who submitted the argument on behalf of the complainant for the greater interest of the complainant including the present complainant. On behalf of the OPs' their Ld. Lawyer argued.

After hearing the argument of Dr. Kunal Saha on behalf of the complainant and OPs' Ld. Lawyer we have gathered that only question is whether the opinion of Dr. Asok Sengupta dated 11-07-2014 to the effect no lung nodules in the lung of the complainant was correct. In fact, on 11-07-2014 complainant went to OP2 and OP2 advised him to get CT chest done and advised him to see him promptly and told him that he will observe the report on computer and after seeing the report on computer he came to the conclusion that complainant has no nodules in his lungs and he wrote it in the

prescription and set the complainant free and on the basis of that report complainant was satisfied that he has not been suffering further from any lung problem or malignancy. Subsequently, complainant got the report in hand and he found that reveals reads that there is 'nodules' in his lung but OP2 attached no importance to that CT chest.

Subsequently, complainant met OP2 who told him to meet him at his OPD on 25-09-2014 and that day OP2 asked him to take further x-ray, thereafter, OP2 consulted with OP3 and advised him to bring CT scan report on 25-09-2014 and he consulted with OP3 and she told the complainant that she would be present in person on the day of CT Scan. On 26-09-2014 complainant contacted OP3 and she told him that she had shown OP2 where the nodules in existence.

Fact remains complainant is a cancer patient and due to such sort of views or opinion complainant suffered mentally and went to Mumbai Tata Memorial Hospital for check up and the doctors of Tata Memorial Hospital told the complainant that the prescription of OP2 shows that there are nodules and the CT chest report done in 2014 does not disagree with the report of 2009 and they assured that those nodules are not malignant in nature so, complainant did not need further CT Scan. In view of the above situation present complainant brought allegation against the OP2 that he did not properly discharged his noble duty as a doctor, only for monetary interest again and again he was examined and due to their such sort of different type of check up and for not giving any confirmed opinion complainant lost faith and ultimately went to Mumbai and found that he is not suffering from malignancy. Thereafter, complainant met with the OPs 2 and 3 and prayed for compensation for mental agony and harassment but they did not pay any heed and in fact complainant has brought allegation that treatment was wrong and they did not give any proper opinion in the prescription etc. for which he suffered. That is the main allegation.

On the other hand OP2 by filing written statement submitted that complainant is a patient of the OP2 since 2014 and was under his treatment for complication of

respiratory problem but patient has a history of complete papillary thyroidectomy at Tata Hospital Mumbai sometime in the year 2009 and as such was a compromised patient having a chance for recurrence of malignancy. It is admitted that complainant came to him on 11-07-2014 with complaint of no symptoms and he clinically examined the patient and advised him for CT chest and patient again on that date came to the OP2 and he accessed the CT chest image of the patient through the internet network of the hospital and found that there was no malignant nodules or no nodular growth comparing all his previous treatment papers and reports which were shown to the OP2 and accordingly he assured that there is no need to worry as there is no recurrence of malignancy and the said factor was also codified. No doubt in the CT chest report the patient had nodules in his lungs but those nodules were not malignant nodules and those nodules are in existence for few years but all those papers were not supplied at the time of first examination on 11-07-2014 and when nodules were not malignant and similar to that of the previous one OP2 had prescribed normal medication and assured good health.

On 25-09-2014 the patient again came to the OP2 with the CT chest report dated 12-07-2014, OP2 disclosed that these nodules were not malignant nodules and was similar to those which were existing but as the complainant had a fear of recurrence of malignancy and was insisting for a minute check up for his mental satisfaction, OP2 advised CT chest X-ray using the digital X-ray and also discussed with the radiologist for his satisfaction. The chest X-ray also suggested no malignant growth and therefore OP2 suggested a comparative study of the nodules of the lungs by CT chest for complete satisfaction of the patient what the patient had not taken. But truth is that the treatment as taken at Mumbai is also available at Apollo Hospital but complainant did not avail of it.

Thereafter, there was no question of further treatment. It is specifically stated that complainant had been explained in detail the significance and interpretation of the CT chest report which suggested existence of nodules, however, the complainant being annoyed as he had previously suffered from cancer did not went for further CT Scan

and did not meet the OPs. So, the allegation of the complainant in the complaint is false and fabricated for which the case should be dismissed.

On the other hand, OP3 Dr. Srijita Sen Ghosh by filing written statement submitted that on 11-07-2014 she had done the CT chest of the patient by using a 16 SLICE PHILIPS machine and the machine had recorded the images which were stored in the memory and by examining the detail images she had prepared the report and recorded the finding of nodules in left and right lungs but no history of previous treatment was provided to OP3 and as such her finding was a new finding and she had prepared the report as per her findings where it was mentioned that the presence of fibrotic nodules which clearly establishes that they are not malignant nodules which are being investigated for. On 25-09-2014 when patient again came to OP2 with CT chest report dated 12-07-2014 and considering the metal condition of the patient OP3 agreed for a reevaluation by CT scan for a comparative and detail study of the existing nodules with the previous ones and she produced a correct report and subsequently Tata Hospital also endorsed her report as a correct report.

In fact, due to ignorance of the complainant in the medical science and endeavour tension free life that was advised by the OP2 for a reevaluation of CT scan. Save and expect OP3 did nothing and there is no illegality and no negligence on the part of the OP3 and the report as prepared by the OP3 is absolutely correct but in fact, OP3 for complete mental satisfaction of the complainant was consulting to do reevaluation of the CT Scan as was advised by the OP2. So, the present complaint is misconceived one for which the present complaint should be dismissed.

On proper evaluation of the entire argument of Dr. Kunal Saha and also the OPs' Ld. Lawyer we have gathered that Dr. Kunal Saha argued in such a manner which simply reveals that some ethical part of the doctor was not properly ventilated in the prescription and particularly it was alleged that on 11-07-2014 this OP2 in writing stated that 'no lung nodules'. Thereafter, on 25-09-2014 when complainant went to OP2 he

noted a question mark in blue ink against 'no lung nodule' and for what reason OP2 to put such question mark that has not been explained in the prescription.

Moreover, on 25-09-2014 it is noted "discussed with Radiologist and for comparative study of further chest x-ray" but, thereafter, complainant did not appear before the OP because of their opinion created doubt in the mind of the complainant and practically case history, opinion of doctor subsequent advice of the doctor are not noted and no prudent and reasonable person can realize after reading the prescription what is the actual opinion of doctors and what is the decision about nodules or no nodules what is the final opinion, what is the diagnosis and practically for such sort of incomplete prescription complainant was annoyed and for which he went to Mumbai to satisfy what is the correct position. Relying upon the argument of Dr. Kunal Saha we have gathered that he tried to convince that a prescription must be exhaustive regarding diagnosis, regarding its history, regarding present position and also the advice for future treatment but nothing is there. But at the same time we have gathered main question is why question mark is noted on 25-04-2014 by Dr. OP2 against his own observation dated 11-07-2014 and that is the main point of Dr. Kunal Saha. On the contrary from the reports of OP3 we find that it is a Radiological report. Report says or reveals that there were some small tiny nodules in both lungs and after consulting that report dated 12-07-2014 by OP3, OP2 discussed the matter with the OP3 and as per report of OP3 and also for satisfaction of the OP2 the complainant was asked for CT chest x-ray that is reevaluation of x-ray report of OP3. In the eye of medical science it is the general view one x-ray report should be further checked to maintain correlation of a report and come to a conclusion and in the present case OP2 rightly asked the complainant for further chest x-ray because complainant had a history of small nodules in the lungs previously and he suffered and at the same time he suffered from thyroid for which he had his past treatment at Tata Centre and Thyroidectomy was also done in the year 2009. If in any case that tiny nodules are found bigger than that of the previous nodules which were found previously then treatment would be otherwise if nodules which are within the lung are intact condition always then it is not malignant but as per medical science if tiny nodules are found increased day by day in that case such increase of

nodules inside both the lungs must be suspected as malignant. Truth is that doctor noted no lung nodules on 11-07-2014 but question is on the basis of which materials OP2 came to a conclusion that no lung nodules and such an opinion cannot be passed by any doctor without observing the CT Scan report and other chest x-ray report because no doctor has such x-ray eyes that he can see everything of inside the lung. So, apparently such an opinion of the doctor no lung nodule on 11-07-2014 is not based on any x-ray report CT Scan report but anyhow OP2 has admitted that on the date of examination on 11-07-2014 complainant did not bring any other previous document about treatment what necessitated on the part of the OP2 so, only by external examination opinion no lung nodules was not medically justified.

For the sake of the argument if it is accepted that this OP2 is such an expert doctor that no x-ray is required by him because his eyes are expertised as x-ray machine that he can see everything then we can easily rely upon the opinion made on 11-07-2014 "no lung nodule" when that doctor came to a conclusion that there is no lung nodule then for what reason on 25-04-2014 he put a question mark against no lung nodules. It indicates that without any examination report or x-ray report without relying about CT chest he put such note "no lung nodules" when complainant was satisfied that he did not suffer from any cancer effect and he was satisfied but on 25-04-2014 when this doctor put a question mark against that previous note invariably patient became anxious when there is no note why the question mark was made without explanation in the prescription and why that doctor put question mark against "no lung nodules" without assigning any reason in writing.

Further on 25-04-2014 he relied upon the CT chest report of OP3 and from the said report it is found that some tiny nodules on both lungs and invariably this doctor OP2 was not satisfied that tiny nodules in lungs do not mean that it was malignant for which OP2 suspected that tiny nodules on both lungs means some malignancy of the nodules and it may be malignant for which he advised for further x-ray. Further at the same time that doctor was not satisfied about his own opinion no lung nodules so he put a question mark that means question was put by that doctor to himself that means he

had no faith about his own opinion dated 11-07-2014. Whatever it may be for the sake of the argument if it is accepted that the complainant was under diagnosis and for which examinations are being continued by the OP2 then why such a classless prescription was issued without mentioning past history of the patient, previous history of the treatment, present diagnosis and reasoned opinion which must be made by a doctor on the basis of such past history also other reports because there was past history of present complainant and he was cured by Tata Medical Centre then any opinion should be noted in the said prescription after collecting all test reports. Further he had suffered from thyroid for which a treatment was done but that was also not mentioned in the present prescription which cannot be accepted as prescription of an expert medical doctor as per medical science and ethics though it is the duty of the doctor to waste time for the patient for examination but the present prescription appears to be like a slip of reduction sale market but as per medical science and ethics. The prescription shall be always discipline and realizable by the patient and in this case patient is a school teacher who has produced so many doctor students in his career.

Most interesting factor is that this Doctor in his written version at Para 5 (IV) has stated that patient came to him on 11-07-2014 and he accessed the CT Scan image of the patient through the internet network of the hospital and found that there was no malignant nodules or new nodular growth comparing all his previous treatment papers and reports which were shown to him. Accordingly, he assured that there is no need to worry as there is no recurrence of malignancy and this factor was also codified. Further he has stated that patient having nodules in his lungs but those nodules were not any new malignant nodules and fact remains complainant has not submitted his previous treatment papers and CT Scan but peculiar factor is that this story is first stated in the written version and if actually it is the result of diagnosis and opinion the said doctor what prevented him to note down the diagnosis in the said prescription.

Another peculiar factor is that in the prescription practically nothing is noted. Moreover, in the prescription past history examination of other document etc. are also not noted. Then it is clear only to save his skin and to prove his skill he has stated the

above fact. So, considering the above conduct of Dr. Asok Sengupta we find that doctor issued such a prescription that any prudent man having some knowledge cannot realize why he put such comment 'no nodules' on 11-07-2014 and why on 25-09-2014 even after discussing with Radiologist and after considering the radiological report done by OP3 he did not put any such note that he suspects that nodules are suspected one. So, for cross verification further CT scan it is highly required and his observation 'no lung nodule' is not correct.

Another factor is that on 25-09-2014 after discussing with radiologist what is the cause for further comparison that is not noted then it is clear that it is a casual prescription only for earning money and practically in the Apollo Gleanagles Hospital's doctors are in such a manner issues prescription. It is not prescription as per medical science, no opinion is noted by Dr. Asok Sengupta about 'no lung nodule' and about his putting question mark against that opinion on 25-09-2014 in separate ink. Truth is that complainant after hearing all these things and after studying the same because confused because previously he suffered from cancer and was cured from Tata Memorial Hospital and at that stage complainant lost faith upon the doctor because doctor did not give any light. No such opinion was noted in the said prescription what is noted in the written version at Para 5(IV) that means at that situation that is on 25-09-2015 the present OP doctor Dr. Asok Sengupta practically failed to give any decision and he has not explained why did he note 'no lung nodules' on 11-07-2014 and on 25-09-2014 why he put question mark against that. No such history is noted in the prescription and invariably complainant was confused, suspected that he suffered from cancer for which the doctor put question mark but did not disclose why he put question mark, in that situation patient must have to lose faith upon such doctor and in such situation he was compelled to go to Tata Memorial Centre for verification why this doctor noted 'no lung nodules' on 11-07-2014 and on 25-09-2014 he put question mark in it but did not give any clear picture about 'no nodules' or has not denied the report of OP3 and its status. Fact remains in such situation such a patient must not have to wait when the doctor failed to give any final decision but when he went to Tata Memorial Centre on 08-10-2014 and there he was examined thoroughly and report was issued to

the effect he was free from any disease, only patient was advised to continue Thyronorm tablet and was asked to follow up after 1 year. If we rely upon the Radiation Medicine Centre report dated 08-10-2014 we find that practically this doctor present OP2 did not properly diagnose the case and failed to assert what is the position for which first time on 11-07-2014 he noted 'no lung nodules' and on 25-09-2014 noted nothing only put question mark against 'no lung nodule' whereas the report of Apollo Gleneagles Hospital issued by Dr. Srijita Ghosh Sen it is clear that the impression of small tiny nodules in both lungs, right more than left with largest in nodule in right upper lobe.

But that doctor did not note whether it is malignant or not. At the same time after consulting with Dr. Srijita Ghosh Sen, Dr. Asoke Sengupta also failed to come to a conclusion whether said tiny nodules were malignant in nature or not. No such opinion was noted by Dr. Sengupta in his prescription then for what purpose this patient went to the OP2. Practically considering the present prescription of Dr. Sengupta we are confirmed that this Doctor himself confused the patient and at the same time that doctor failed to come to a conclusion about his own opinion no nodules after consulting chest report, small tiny nodules of both lungs are malignant or not and truth is that this doctor did not properly examined, did not consider the previous history of the patient, did not consult the documents which were in the custody of the complainant and truth is that lung nodules were there in the body of the complainant and for which he had been treated and for thyroid he was treated but except chest report of 2009 doctor did not ask the complainant to bring other documents and so, there is historical background but only he noted bilateral lung nodules. If in the year 2009 there was bilateral lung nodules why did he note no lung nodules and fact remains on 11-07-2014 this doctor referred the complainant for CT chest that was done and report was submitted on 12-07-2014 by doctor OP3 that was followed by OP2 after consulting the doctor but there is no opinion in putting question mark against 'no lung nodules' that means doctor created such atmosphere for which the complainant lost faith and was confused and suffered mental pain and agony when he went to the Tata Memorial Hospital wherefrom he was satisfied that the tiny lung nodules are not malignant so, there is no question of further

treatment in the Tata Memorial Centre who asked him only to continue Thyronorm but no other medicine. When that is that fact then it is clear that OP2 doctor practically failed to note down very specifically in the prescription that small tiny nodules are not malignant and all others are 'ok' but this doctor has failed to give or show his skill in this regard and he himself became confused and put a question mark placing the complainant in darkness and for such sort of activities of the doctor complainant was compelled to go to Tata Memorial Centre, Mumbai and to verify whether he had been suffering from any malignancy for putting such question mark against 'no lung nodules' remarked by OP2, such an act is no doubt an act which is against the general forms of medical practice and also against method of examination of the patient and at the same time this prescription is nothing but a reduction sale receipt in the market and as if prescription is issued for realization and for determination by the doctor not for the patient party or not for any other doctor's realization in that case prescription has caused vital damages in the mind of the present complainant and no doubt any patient if got such sort of prescription in that case such a patient must have to suffer from mental agony and what the present complainant suffered for the laches on the part of the OP2 and for which he spent huge money otherwise there was no scope on the part of the complainant to go to Tata Memorial Centre if the doctor on 25-09-2014 shall not put a question mark against no lung nodules and if on 25-09-2015 this Dr. Sengupta would put such note that after consulting the said CT Scan, Chest report dated 12-11-2014 he found that this nodules are not malignant and there is no necessity to think over the matter but that was not noted but when this complaint was filed OP2 wrote in the written version a prepared report and that is vomited in the written version but we have failed to understand for what reason that portion which is vomited in written version in Para 5 (IV) had not been vomited in the prescription on 25-09-2014. If it would be vomited on 25-09-2014 then there was no chance on the part of the complainant to go Tata Memorial Centre for satisfying himself to remove the doubt of the OP2 regarding question mark against no lung nodules and by not giving such opinion on 25-09-2014 rather he noted down for comparison, that means the doctor did not apply his medical skill and method of examination is very casual no doubt even this Forum cannot say

after studying prescription what is the authenticity of the present prescription and what is basis of such doubtful prescription.

In the light of the above observation and considering the conduct of the OP and the nature of issuing prescription and manner of determination of the disease we are convinced that the doctor Asok Sengupta did not discharge his duties as specialist doctor after examining the patient (complainant) properly and truth is that he failed to diagnose properly for which he himself put a question mark on 25-09-2014 or it may be the doctor was not aware of the fact what is the meaning of small tiny nodules. At the same time the doctor ought to have noted otherwise in such a fashion small tiny nodules (not malignant) but that has not been noted that means doctor passed a questionable note against no lung nodule and if he was satisfied that there was no lung nodules in that case what was the necessity to put a question mark only rather he ought to have note a proper report after consulting the CT chest dated 12-11-2014 what has not been done. He also consulted with doctor OP3 the radiologist but there was no opinion if that is the fact then it is clear that doctor failed to give any correct version of the lung nodules to the complainant but asked the complainant for another comparison that means this doctor failed to give any proper opinion even after consulting diagnostic report to the complainant and that is the cause of the complainant to go to Tata Memorial Centre for examination when he lost faith upon the doctor and no doubt we are convinced that the entire part of examination and opinion of the Dr. Asok Sengupta is against ethics of medical science and it is not proper type of prescription, such a prescription is not even written by the Quack doctors. But it is proved that for the laches of the OP2 practically complainant spent huge money for satisfying himself whether lung nodules are malignant or not. Most interesting factor is that CT chest was done by Apollo Gleneagles' doctor Dr. Srijita Ghosh Sen and she has also not noted of both lung nodules are not malignant, this is the position of the Apollo Gleneagles Hospital, their doctors who are there only for collecting money, squeezing money by different methods but treatment is 'zero' and that is the fundamental medical trade to deceive the patient and in the present case it is proved that complainant is deceived by the OP2 and their hospital Apollo Gleneagles at the same time the OP3's chest report is incomplete

because as per report there is no opinion whether the small tiny nodules are malignant or not. In this regard that report is incomplete. Then it is clear that doctor was also not so efficient to write the specific opinion after CT chest.

On overall evaluation of the entire materials on record and also considering the conduct of the OPs we are confirmed that complainant was harassed by the OPs and OPs failed to give any proper diagnosis report even after consulting of CT chest by the OP3 and most interesting factor is that their doctors Dr. Srijita Ghosh, Sen, the radiologist and Dr. Asok Sengupta, FRCS failed to come to a conclusion that a small tiny nodules are malignant or not and in this regard the prescription is silent but after considering the same reports we have gathered that CT chest report is required for the opinion of the radiologist regarding the particular items malignancy and that shall be there. If only it is noted there are black spot or there are ulcer after CT chest that is not sufficient nature of ulcer or nature of black spot, that must be clearly noted whether it is malignant or carcinoma type or etc. if it is not noted then what is the necessity of such CT Chest report or Scan report etc. Peculiar factor is that by one report Tata Memorial Centre cleared everything. Practically now-a-days the said scan and etc. are being done in all the cases and doctors generally the doctors has been passed any comment without collecting any CT Scan report, MRI etc. but truth is that the doctors who are operating such machine for CT Scan, MRI etc. are not practically aware about the machine or about its operation. Everything is done by the technicians. At the same time there is no experts in Nuclear Medicine for which their report are always incomplete in nature and that has already been confirmed by the expert of the Bhaba Atomic Centre and in this case it is proved that doctor OP3 doctor also failed to note down whether the small tiny nodules are malignant or not and that is the position of the doctors.

If any other patient with such history of cancer etc. are treated in that case their note would be same because their report shall be complete and final examination report shall be of such a nature along with a big question the prescription with big question mark against no nodules has caused the complainant to suffer from mental suffering as

he already was satisfied by the Tata Memorial Centre that he had not been suffering from cancer that is no nodules are there. But this doctor OP2 examining that CT Scan report of 2009 noted no lung nodules then it is clear he did not at all properly devote himself to determine whether there was nodules or not and ultimately after collecting CT chest he failed to determine whether tiny nodules are malignant or not and that is the knowledge of the doctors OPs 2 and 3 and they are deputed by OP1 Apollo Gleneagles Hospital whose business is such to depute such doctors to the patient for different machine and collecting final report but in the present a big question is made without any diagnosis result, then how upon such doctor a patient can rely and in the present case complainant lost all faith and after studying the prescription he was highly sad that he has been further affected by cancer and only to save himself and to satisfy himself he went to Tata Memorial Centre spending huge money and that was only for the negligent, deficient manner of treatment made by the OPs and for which no doubt they must have to compensate if actually OPs would be devoted, conducted and for their minimum knowledge in medical science they must have to note that tiny nodules are not malignant but painful factor is that two doctors, one FRCS and another MRCP talked with each other along with report of Apollo Gleneagles Hospital report, CT chest report but both of them only talked and gossiped but no result is noted that is the conduct of the OPs and such a practice on the part of the OPs is no doubt unethical and against medical philosophy and for their negligent and deficient manner of treatment and diagnosis complainant suffered mental suffering, physical suffering, family suffering and financial suffering.

In view of the above finding we are inclined to hold that complainant is no doubt entitled to compensation from the OPs, question is what would be amount. Fact remains complainant suffered from mental pain and sufferings and he spent huge money for checking up and treatment and diagnosis at Tata Memorial Centre and no doubt in the present case complainant has prayed for Rs.50,000/- as compensation because he spent it for such diagnosis and treatment at Tata Memorial Centre but after considering the document we find by one report made by Nuclear Medicine Specialist Dr. Sunita Sonavane it was detected that he has not been suffering from any cancer but

the nodules were there and they found that everything is 'ok' only he was advised to continue tab Thyronorm when that is the fact then it is clear no exhaustive treatment was required for which the x-ray report clears everything and fact remains he went there, spent money and considering the mental sufferings, pain, cost of journey, cost of diagnosis etc. a sum of Rs.30,000/- should be paid by the OPs jointly and severally to the complainant. At the same time complainant was compelled to file this complaint only for negligent and deficient manner of treatment made by the OPs and no doubt he has been contesting the case personally hailing from Nadia and in the meantime he has attended this Forum on 14 occasions. So, complainant spent journey cost etc. so, invariably the complainant is entitled to get a sum of Rs.10,000/- as litigation cost.

Accordingly, the complaint succeeds.

Hence,

Ordered

That the case be and the same is allowed on contest with a cost of Rs.10,000/- against all the OPs jointly and severally.

OPs are jointly and severally directed to pay compensation of Rs.30,000/- to the complainant for their negligent and deficient manner of diagnosis and also for harassing the complainant in such a manner and further for causing mental pain and sufferings including financial loss what he sustained for the unskilled diagnosis by the skilled doctors.

OPs are jointly and severally shall have to pay the entire amount of Rs.40,000/- to the complainant within one month from the date of this order positively failing which for non-compliance and disobedience of the Forum's order OPs shall have to pay penal damages of Rs.200/- per day till full satisfaction of the decree and if it is collected it shall be deposited to this Forum.

OPs are directed to comply the order within one month from the date of this order and even if it is found that OPs are reluctant to comply the order in that case penal action u/s.25 read with Section 27 of the C.P. Act shall be started against them for which further penalty and fine shall be imposed.

[HON'BLE MR. Bipin Mukhopadhyay]
PRESIDENT

[HON'BLE MRS. Sangita Paul]
MEMBER

[HON'BLE MR. Subrata Sarkar]
MEMBER