DMC/DC/F.14/Comp.2490/2/2019/ 27th August, 2019

**O R D E R**

The Delhi Medical Council through its Disciplinary Committee examined a complaint of Dr. Alok Kumar, Flat No. 211, Secotr-A-5, Pocket-6, DDA Flats, Narela, Delhi-110040, alleging medical negligence on the part of doctors of Nulife Hospital, 1616 Outram Lines, GTB Nagar (Hakikat Nagar) Delhi-110009, in the treatment of complainant’s wife and new born baby.

The Order of the Disciplinary Committee dated 22nd July, 2019 is reproduced herein-below:-

The Disciplinary Committee of the Delhi Medical Council examined a complaint of Dr. Alok Kumar, Flat No. 211, Secotr-A-5, Pocket-6, DDA Flats, Narela, Delhi-110040 (referred hereinafter as the complainant), alleging medical negligence on the part of doctors of Nulife Hospital, 1616 Outram Lines, GTB Nagar (Hakikat Nagar) Delhi-110009 (referred hereinafter as the said Hospital), in the treatment of complainant’s wife and new born baby.

The Disciplinary Committee perused complaint, written statement of Dr. Shakuntla Kumar, Dr. Vyom Agarwal, Medical Superintendent of Nulife Hospital, medical records of Nulife Hospital and other documents on record,

The following were heard in person :-

1. Dr. Alok Kumar Complainant
2. Dr. Vyom Aggarwal Paediatrician, Nulife Hospital
3. Dr. Shakuntla Kumar Consultant Gynaecologist, Nulife Hospital

4) Dr. Harish Anaesthetist, Medical Superintendent, Nulife Hospital

5) Dr. Anubha Agarwal Paediatrician, Nulife Hospital

6) Dr. Akshay Kumar Director, Nulife Hospital

The complainant Dr. Alok Kumar alleged that the patient his wife Smt. Anshu Bala felt weakness while they were in Ranchi during vacations. They consulted a doctor (Dr. Neelam Nalini); who recorded her LMP 25th May, 2017, as is clearly mentioned in the paper. Prescription related to previous delivery which was normal at the same hospital. Before joining the treatment at Nulife Hospital, his wife was under observations and treatment of Dr. Reena at Narela.

The complainant further alleged that he avails the medical facilities as per the norms of University of Delhi by dint of his being posted as Assistant Professor in Department of Commerce, Shri Ram College of Commerce, University of Delhi, Maurice Nagar, New Delhi. As the Nulife Hospital, GTB Nagar, Delhi is on the panel of University of Delhi, the patient being in the family way, started treatment under the care of Dr. Shakuntla Kumar of Nulife Hospital from 24th July, 2017. It’s appropriate to mention here that his wife was having no history of any medical complications. The expected date of delivery based on LMP was stated as 1st February, 2018 by Dr. Shakuntla Kumar, which was manipulated later on in the discharge certificate. The date of delivery was wrongly calculated and the delivery date was preponed by one month about which the patient and family members were totally ignorant. As per instruction of the doctor which is also mentioned in the prescription, his wife was admitted on 11th February, 2018 at 8.30 a.m. On admission, she was administered medicines for labour pain. Severe labour pain started around 1.00 p.m. and she remained in pain for more than eight hours. Thereafter, he was called on the gate of operation theatre by Dr. Shakunlta Kumar and was informed that the head of baby was out of vagina but it was not possible to proceed with normal delivery and surgical operation was required immediately. Signatures on various papers were taken there in the presence of the doctors and then they proceeded for operation. During the process of operation and afterwards, also the attitude and approach of Dr. Shakuntla and Dr. Vyom(Paediatrician) was highly negligent, unethical, insensitive and callous in giving proper treatment and a normal case of delivery was deliberately made complicated for pecuniary gains. The baby is now four months old and still admitted in Agarwal Hospital, Delhi New Born Centre, Pitampura, Delhi-110034 and is undergoing treatment. Alongwith other complications, the baby is suffering from Birth Hypoxia (Hypoxic-ischemic) which may lead to permanent disability and may affect the quality and life of the child. The Hospital lacks in the essential medical facilities which it ought to have, being a maternity centre, to cater to the need of emergency situations. Moreover, he was totally kept ignorant about the non-availability of the essential medical facilities, which consequently ushered into the threat of life of the new born as well as the mother.

Dr. Shakuntla Kumar, Consultant, Nulife Hospital in her written statement averred that the patient Mrs. Anshu Bala had visited and consulted her on 24.07.2017 for antenatal check-up. The patient had last menstrual period on 25th May, 2017. Past Obstetric History: 1st FTIUO – LSCS done elsewhere 30.4.11- details not available. 2nd VBAC 29.7.12 at Nulife Hospital under her care delivered a girl, alive and healthy 3rd -present pregnancy. The patient was anaemic with haemoglobin level of 10.5 gm/dl and had hypothyroidism for which she was prescribed necessary medication. The patient was also advised to come for follow up visits twice a month. Following is the patient’s ultrasound report for foetal well being performed on 25.1.2018. Foetal growth corresponding to 35weeks 5 days, cephalic, EFW 2944+/-441 gms. The patient was called for elective induction in view of previous IUO and LSCS at full term in first pregnancy done elsewhere. Second vaginal delivery was under her care, on 29.7.12. Trial of labour this time at 37 weeks 4days, as the USG had shown a baby of 2.9kg on 25.1.18 at 35 weeks, around 2 weeks before admission. Accordingly on 11.02.2018, the patient was admitted in the hospital. Upon examination the patient’s vitals were found to be normal, per abdomen examination revealed term size pregnancy with cephalic presentation 4/5 above brim, FHS regular with irritable uterus, no scar tenderness, per vaginal examination revealed as: OS 2 cm, 20% effaced, uterus was soft central, presenting part at brim, membranes flat, and pelvis gynaecoid. It is important to mention here that the care plan was discussed with the complainant and the trial of labour was planned. The possibility of need for LSCS in case of the failure of trial was discussed and possible complications were also informed. On the first day following the admission, the patient was given low dose (0.5 Units) oxytocin intravenous in ringer lactate drip for cervical ripening for delivery. It is submitted here that till 10 pm on 11.02.2018, no labour pain was observed and the drip was discontinued. A low dose oxytocin drip was restarted on early morning hours (4 a.m.) of 12th February and by 8 am the patient started having mild labour pains. The patient was getting labour pains every 8-10 minutes. Vaginal examination at 6 a.m. showed OS 2 centimetres with 60% effacement, presenting part at 2/5th above brim, pelvis gynaecoid. Thereafter it was advised to increase the oxytocin drip to 1 unit and watch for pulse, uterine contractions, scar tenderness and foetal heart sound. By 8 a.m., the patient started having mild labour pains. The patient was shifted to labour room at about 9:00 am. After shifting the patient, the patient was attended by her throughout the patient’s stay in the labour room. The maternal condition and foetal heart were constantly monitored.

She further averred that there was a failure of the foetal parts to descent (obstructed labour), therefore, the patient was taken up for urgent LSCS. An informed and written consent for surgery was obtained from the complainant after explaining about the current situation. A call was sent to anaesthetist and was attended by Dr Harish Kumar senior anaesthetist in 5-10 minutes. An informed consent was obtained for anaesthesia. Dr Asish Gupta a general surgeon and another gynaecologist Dr. Ritu Verma were present at the hospital and both were taken into the surgical team. The paediatricians team attending were: Dr. Anubha and Dr. Vyom Aggarwal. Post anaesthesia and per-operatively upon opening the abdomen there was giving way of old stitch line of uterus- the baby was delivered by patwardhan technique and handed over to the attending paediatrician immediately. It was observed that the patient had a rent in the urinary bladder which was repaired by urosurgeon Dr. T.C. Sharma and Dr. Ashish Gupta (Surgeon). This was informed to the complainant and a consent for hysterectomy was taken. However, the uterine rent could be repaired successfully and hysterectomy was avoided as patient was haemodynamically stable. The abdomen was closed in layers and patient shifted toward post-operatively in a stable condition. All through this process vitals were monitored, the lady was haemodynamically stable and to compensate for blood loss two units of red blood concentrate were arranged and transfused. No postoperative complications were observed and the patient was discharged on 17th February 2018 on day six after handing over the summary and reports and instructed to contact her or the hospital at any time in case of any emergency. It is stated that the patient was taken care of at every stage of her treatment and given the best of the available resources. In the light of all the above, it would be wrong to say that she has been negligent in giving treatment.

On enquiry by the Disciplinary Committee, Dr. Shakuntla Kumar admitted that the EDD (expected due date) was wrongly mentioned as 1st February, 2018 instead of 1st March, 2018 when the patient’s LMP was 25th May, 2017.

Dr. Vyom Aggarwal, Paediatrician, Nulife Hospital in his written statement averred that on 12th of February 2018, he received a call from Nulife Hospital that a sick baby had been born and Dr. Anubha who was busy in taking care of the baby, needed his help. He immediately rushed to the Nulife hospital and straightaway headed towards the operation theatre. He found that Dr. Anubha had already intubated the baby and was giving IPPV through Ambu bag. They both then together managed the child as per standard protocol. When the baby had stabilized somewhat with improving spontaneous respiratory efforts, he discussed with Dr. Shakuntala (the obstetrician incharge) and informed her about need of transfer of the baby to NICU at the earliest. The sequence of events was duly recorded by him in the case sheet, (Dr. Anubha being busy with ventilating the baby) before putting his own examination notes. He came out of the OT to inform the relatives about the condition of the baby and would like to reinforce that this was his first ever interaction with the father of the baby (the complainant). He informed the father about the baby being born limp and cyanosed, revival of cardiac activity after resuscitative efforts, still having breathing difficulty and need for transfer to facility with functional ventilator at the earliest. He also suggested the complainant names of a few nearby tertiary care NICU facilities (including Tirath Ram Shah Hospital, which was perhaps the nearest tertiary care NICU facility, on Delhi University panel) and asked him if he had any personal preference (for any of these or any other facility), so that availability of the ventilator could be ensured there and baby could be transferred at the earliest possible. The complainant asked for some time to discuss with his contacts before taking the decision. He advised the complainant to take the decision and intimate it to them on an early basis, as the baby was still having breathing difficulty. After some time, the complainant came to him and informed that he wanted to get baby transferred to Tirath Ram Shah Hospital. He himself called up the resident doctor, in nursery of the Tirath Ram Shah Hospital and after explaining the condition of the baby, ensured ventilator availability. After requesting the resident doctor to keep the ventilator tentatively reserved for the child, he informed the Nulife hospital reception to arrange an ambulance with ventilator for ensuring safe transfer of the baby. The complainant was also informed that ventilator was available at the Tirath Ram hospital and that the transfer was being arranged. He prepared the transfer summary himself and handed note/summary to the complainant to pass on to the doctor on duty at the Tirath Ram hospital. When he left the Nulife hospital, the baby was breathing spontaneously but had E Ttube in situ. Dr. Anubha stayed with the baby till the baby was transferred to the ambulance with ventilator facility. He would like to re-emphasize that the baby was given all due attention and required medical care since the time of birth, with full devotion. No case of negligence is, thus, made out against the pediatric team which did its best to successfully revive a limp born child (Apgar score 2/6/7) and ensured timely referral to a well equipped facility of choice of the parents and approved by the University of Delhi. Since the note/referral summary of the baby was handed over to the complainant at time of referral itself, no case of subsequent record manipulation can be made out against the pediatric team. It is therefore requested that the complaint against him may kindly be set aside and no further proceedings be initiated.

Dr. Harish, Medical Superintendent, Nulife Hospital in his written statement averred that he was the anaesthetist involved in the surgical procedure in addition to being the Medical Superintendent of Nulife Hospital. He further stated that the patient Mrs. Anshu Bala had first visited Nulife Hospital on 24th July 2017 after she got pregnant in May 2017. After detailed history taking, it was revealed that she had earlier conceived twice before wherein the first baby had died while still inside the womb (Fresh Still birth on 30.04.2011) and her second baby was born on 29.07.2012 by normal vaginal delivery. In view of the aforesaid history, Dr. Shakuntla Kumar started treating the patient with utmost care and due diligence. On the said OPD visit, the patient was found to be anaemic with hemoglobin level of 10.5 gmldl(normal ref. values 13 - 16 gm/dl*).* She had also been suffering from hypothyroidism for which she was prescribed the necessary medications. The patient was advised to come for follow up visits twice a month but she only visited the hospital randomly as per her own sweet will and failed to adhere to the treating doctor’s advice. It is important to mention that on 25th January, 2018, the patient had undergone a detailed ultrasound examination at Nulife Hospital for foetal well-being wherein the foetal gestational age was calculated as 35 weeks and 5 days(Nearly 36 wks). Thereafter, the patient along with the complainant visited Nulife Hospital on 11.02.2018. Upon initial examination, her vitals were found to be normal, per abdomen examination revealed term size pregnancy (37 weeks+) with cephalic presentation 4/5 above brim, FHS regular with irritable uterus, no scar tenderness, per vaginal examination revealed OS was 2 cm, 20% effaced, uterus was soft central, presenting part at brim, membranes flat, pelvis gynaecoid. She was having mild labour pains.. In view of her examination findings, history and ultrasound dated 25th January, 2018; it was decided to give her a trial of labour. It is important to mention here that the patient and the complainant insisted that the treating doctor should make the lady undergo only normal vaginal delivery In view of their past experience that her last delivery in July, 2012 was conducted successfully as normal vaginal delivery with Dr. Shakuntla Kumar as her obstetrician at the same hospital. On 12th February, 2018, she developed labour pains in the morning and as per the standard protocol she was watched for pulse, contractions, scar tenderness and foetal heart sound. She was constantly kept on CTG monitoring all through this period. The patient was in active labour as such she was shifted to labour room at about 9:00 a.m. am. There was a failure of the foetal parts to descend, therefore, she was taken up for urgent / emergency caesarean section operation and consent was obtained by the treating doctor from her husband after explaining about the situation, complications and risk involved. Upon opening the uterus, per abdomen the foetal parts were felt with giving way of old stitch line and baby was delivered by patwardhan technique. It was observed that the patient had developed rent in bladder which was repaired by uro-surgeon Dr. T.C. Sharma and Dr. Ashish Gupta (surgeon) after catheterizing both the ureters. Two units of blood were also infused following the said surgery. Since the baby was born limp and cyanosed with no auscultable heart sounds at birth. (apgar score 2/6/7), the attending paediatrician immediately started IPPV and chest compression and had been able to revive the heart (heart rate more than 100/m by 2m 30s). In view of poor respiratory efforts, the baby was intubated and IPPV continued through ET tube and Ambu bag/Oxygen. Dr. Vyom Agarwal also arrived immediately. Upon examination, the baby was found to have gained normal cardiac activity and palpable peripheral pulses but still had poor spontaneous respiratory efforts. Dr. Vyom Agarwal then started treating the new-borne as per the standard medical treatment and guidelines. As soon as the baby stabilized with improving spontaneous respiratory efforts, Dr. Vyom Agarwal informed and discussed with father of child about the baby being born limp and cyanosed, revival of cardiac activity after resuscitative efforts, still having breathing difficulty and need for transfer to NICU at the earliest and named few nearby tertiary care NICU facilities including Tirath Ram Shah Hospital, which was the nearest and asked him if he had any personal preference so that availability of ventilator could be ensured there and baby could be transferred at the earliest possible. The complainant asked for some time to discuss with his contacts before taking the decision. The complainant was advised to take the decision and inform on an early basis as baby was still having breathing difficulty. After some time, the complainant expressed his desire to get the baby transferred to Tirath Ram Shah Hospital. Thereafter, Dr. Vyom Agarwal himself called up the resident doctor, in the nursery of Tirath Ram Shah Hospital, ensured ventilator availability and requested to keep the ventilator tentatively reserved for the child. Upon being intimated by Dr. Vyom Agarwal about requirement of ambulance with ventilator for ensuring safe transfer of the baby, the Hospital staff immediately made arrangement for the same. Subsequently, the complainant was also informed that ventilator was available at Tirath Ram Hospital and that the transfer was being arranged. Thereafter, the transfer summary was prepared and handed over to the complainant to be handed over to the doctor on duty at the referral hospital and he was once again explained about the condition of the baby in details. Thereafter as soon as the ambulance with ventilator arrived, the baby was handed over for safe transfer to Tirath Ram Shah Hospital. It is to state that the Nulife Hospital is registered with the Directorate of Health Services as a Nursing Home since 1993. From the above mentioned facts, it is clear that a well-qualified and competent team of the doctors treated the patient as well as her newborn baby with due care and diligence and as per the set medical standards and, therefore, the treating doctors are not liable for any medical negligence in the treatment of the patient or the newborn, as alleged in the complaint.

Dr. Anubha Agarwal, Paediatrician, Nulife Hospital stated that at the time of delivery of the patient Smt. Anshu Bala, she was associated with the Nulife Hospital in the capacity of the paediatrician, but she cannot recall as to whether she assisted in the delivery of the patient or administrated any treatment to the baby of the patient, as there are no notes of hers in medical records of the Nulife Hospoital. She further stated that as a practice, if she has treated any child/baby, she records her notes in the medical records.

In view of the above, the Disciplinary Committee observes that the patient Smt. Anshu Bala was 37 weeks pregnant with 1previous caesarean and 1previous stillbirth. The LMP was erroneous documented and, hence, calculated EDD was also wrong. She was induced by oxytocin drip for an unspecified indication on 11th February, 2018, given rest in the night and restarted next morning. No notes are available between 7.00 to 11.00 a.m. which is the crucial intra-partum time during which rupture of the scar has occurred which is documented in the operation notes. This scar rupture has lead to baby being born severaly asphyxiated. She had a LSCS next day where uterus was found ruptured along with bladder rent. Baby was born limp and cyanosed. Post-operatively, the patient did ok but the baby probably suffered hypoxic brain damage, as the APGAR score was poor (2 6 and 7 at 2 5 and 10 minutes, respectively) as per notes of Delhi New Born Centre.

Since the baby suffered from birth asphyxia and required ventilator support, Dr. Vyom Agrawal arranged for the transfer of the baby to Tirath Ram Shah Hospital. Later on the baby was admitted in Delhi Newborn Centre where she was diagnosed as suffering from hypoxic ischemic encephalopathy (HIE) stage II.

Miscalculated EDD was probably unintentional but resulted in the unnecessary induction. No manual or electronic records of monitoring of labour are present and clinical notes are also inadequate. Fetal outcome is poor. Introperative surgical morbidity of mother is also present though without long term repurcussions.

The attending paediatrician Dr. Anubha Agarwal did not put any notes on the immediate condition of the baby as per hospital records.

In view of the above, the Disciplinary Committee recommends that name of Dr. Shakuntala Kumar (Delhi Medical Council Registration No.2959) be removed from the State Medical Register of the Delhi Medical Council for a period of 7 days. The hospital authorities of Nulife Hospital are also advised to ensure proper record keeping, as a part of good medical practice

Complaint stands disposed.

Sd/: Sd/:

(Dr. Subodh Kumar) (Dr. Ashwini Dalmiya)

Chairman, Delhi Medical Association,

Disciplinary Committee Member,

Disciplinary Committee

Sd/: Sd/:

(Dr. A.P. Dubey) (Dr. Reva Tripathi)

Expert Member Expert Member

Disciplinary Committee Disciplinary Committee

The Order of the Disciplinary Committee dated 22nd July, 2019 was taken up for confirmation before the Delhi Medical Council in its meeting held on 2nd August, 2019.

Whilst confirming the Order of the Disciplinary Committee, the Council observes that in the facts and circumstances of this case; the punishment of removal of name of Dr. Shakuntala Kumar from the State Medical Register of the Delhi Medical Council for a period of 7 days is highly inadequate; as she has committed serious lapses in the medical management of the patient Smt. Anshu Bala, which not only compromised the health of the patient but also her newborn baby, as has been highlighted in the Disciplinary Committee’s observations. The Council, therefore, holds that name of Dr. Shakuntala Kumar (Delhi Medical Council Registration No.2959) be removed from the State Medical Register of the Delhi Medical Council for period of 90 days.

The Council further observed that the Order directing the removal of name from the State Medical Register of Delhi Medical Council shall come into effect after 30 days from the date of the Order.

This observation is to be incorporated in the final Order to be issued. The Order of the Disciplinary Committee stands modified to this extent and the modified Order is confirmed.

 By the Order & in the name

 of Delhi Medical Council

 (Dr. Girish Tyagi)

 Secretary

Copy to:-

1. Dr. Alok Kumar, Flat No. 211, Secotr-A-5, Pocket-6, DDA Flats, Narela, Delhi-110040.
2. Dr. Vyom Aggarwal, E-21 B, Vijay Nagar, New Delhi-110009.
3. Dr. Shakuntala Kumar, Through Medical Superintendent, Nulife Hospital, 1616 Outram Lines, GTB Nagar (Hakikat Nagar) Delhi-110009.
4. Dr. Anubha Agarwal, 2/7, Roop Nagar, 2nd Floor, New Delhi-110007.
5. Medical Superintendent, Nulife Hospital, 1616 Outram Lines, GTB Nagar (Hakikat Nagar) Delhi-110009.
6. Section Officer, Medical Council of India, Pocket-14, Phase-1, Sector-8, Dwarka, New Delhi-110077-w.r.t. letter No. MCI-211(2)(Gen.)/2018-Ethics./132128 dated 2308.2018-**for information.**
7. Chairperson, Delhi Commission for Women,, C-Block, 2nd Floor, Vikas Bhawan, I.P. Estate, New Delhi-110002-w.r.t. letter D.O. No.DCW/1803/S/2018 dated 074.08.2018-**for information.**
8. Secretary, Medical Council of India, Pocket-14, Phase-1, Sector-8, Dwarka, New Delhi-110077(**Dr. Shakuntla Kumar is also registered with the Medical Council of India under registration No.7665 dated 12.01.1989**)-**for information & necessary action**.

 (Dr. Girish Tyagi)

 Secretary