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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P.(C) 4200/2015**

BILKIS & ANR

..... Petitioners

Through: Mr Deepak Kumar Singh, Advocate.

versus

GOVT OF NCT OF DELHI & ORS

..... Respondents

Through: Mr Naushad Ahmed Khan, ASC, Mr Zahid and Md. Tanheed Arshi, Advocates for GNCTD.

Ms Tejaswita Sachdeva, Advocate for Mr Anurag Ahluwalia, CGSC for UOI.

Mr Sanjay Bemwal, Advocate for Mr Mukesh Gupta, Standing Counsel, for R-6/NDMC.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

% **31.01.2019**

1. The petitioners have filed the present petition seeking several reliefs. Essentially, the petitioners seek reimbursement of expenditure and compensation in relation to the treatment meted out to late Tabassum, who had died after child birth. The child also did not survive. Petitioner no.1 is mother-in-law of late Tabassum and petitioner no.2 claims to be an activist championing women rights.

2. The petitioner alleged that late Tabassum had expired as a result of failure to provide quality antenatal checkups and other delivery services. It

is stated that Tabassum had visited three Government facilities – MCD Jawala Puri Dispensary; (ii) Guru Govind Singh Hospital (GGS Hospital); and (iii) Deen Dayal Upadhyay Hospital (DDU Hospital) – and had expired at DDU Hospital on 15.02.2015. Her new born son had expired eight days earlier, i.e. on 07.02.2015 .

3. The petitioners state that Tabassum was aged 25 years and belonged to a below poverty line category. It is stated that her labour pains started on 06.02.2015 at around 4.00 a.m. and she travelled to MCD Jawala Puri Dispensary (hereafter ‘the Dispensary’), where she had earlier registered her pregnancy. She was, thereafter, referred to GGS Hospital because she was bleeding and the staff could not detect fetal movement. The ambulance took approximately an hour to reach GGS Hospital. It is alleged that at the said hospital, Tabassum’s family was asked to arrange blood and in the meantime, she was referred to DDU Hospital and it took another half an hour for Tabassum to reach DDU Hospital. It is alleged that Tabassum’s family was asked to arrange for blood and, thereafter, the family arranged eight units of blood. It is also claimed that petitioner no.1 paid a sum of ₹5000/- for her medicines and additional sums may have been paid by her son. The petitioners claim that this was in clear violation of Janani Shishu Suraksha Karyakaram (hereafter ‘JSSK’).

4. It is stated that Tabassum was anaemic and the same could have been redressed by providing her nutritious balanced diet and iron folic acid tablets.

5. Tabassum delivered baby boy on 06.02.2015 at 3.00 p.m. by Caesarian Section. The new born baby was immediately put in an incubator

and he died on 07.02.2015 at 8.00 a.m. Tabassum's medical condition started deteriorating after 08.02.2015 and she expired at 5.15 a.m. on 15.02.2015.

6. It is alleged that Tabassum's family paid for ambulance services for removing Tabassum's dead body as well as for the services for transporting the deceased infant.

7. The petitioners claim that Tabassum's family spent about ₹10,000/- on her medicine, travelling and cremation.

8. The petitioners have also made a grievance of not being provided the medical records of Tabassum.

9. The claims made by the petitioners are disputed by the respondents.

10. A counter affidavit has been filed on behalf of respondent no.6 (Jawala Puri Dispensary) by Dr Mrs Amita Tandon, who was working as MO I/C M&CW Centre Jawalapuri, North Delhi.

11. She has affirmed that as per the record, Tabassum came to the Jawala Puri Centre on 27.11.2014 and registered herself as being three months pregnant. She came for the second visit at the Centre on 18.12.2014, when she was examined and her weight was recorded as 52 kgs. She was assessed to be 18 to 20 weeks pregnant.

12. She once again visited the dispensary on 29.12.2014 with complaints of cough and cold.

13. Thereafter, she was visited by the concerned ASHA to motivate her to come to the Centre for antenatal visit but she did not come. It is affirmed that Tabassum came to the Dispensary on 06.02.2015 at 6.45 a.m., when she

was eight months pregnant. She complained of abdominal pain and vaginal bleeding. She also reported that there was loss of foetal movements since 1.00 a.m. It is affirmed that she was attended by doctors and staff nurse on duty. They also informed the doctor on call who advised them to refer the case immediately by CATs ambulance and she was referred to GGS Hospital. Thereafter, she was sent in CATs Ambulance. The allegation that there was no doctor at the facility is denied.

14. An affidavit has also been filed on behalf of respondent no.4 (DDU Hospital). The said affidavit is affirmed by Dr Savita Babbar, Medical Superintendent at DDU Hospital. It is affirmed that Tabassum had come to a Government Hospital – DDU Hospital (which is a tertiary care hospital). Although, she was not booked at DDU Hospital, she was provided the necessary medical care at the earliest. It is affirmed that all facilities were provided to her and she had died of “accidental haemorrhage with septicaemia with myocarditis”.

15. Dr Babbar has also affirmed that all the services at DDU Hospital were provided free. She further submitted that no processing fee was taken for blood donation and transfusion. She has also affirmed that as per the records, the family of Tabassum did not donate even a single unit of blood contrary to the assertion made in the petition. It is affirmed that DDU Hospital had provided five units of packed cells, ten units of FFP and two units of platelets to the patient.

16. Tabassum had delivered a baby on 06.02.2015 at 3.00 p.m. It is affirmed that the baby’s weight was low and he weighed only 1.74 Kgs and did not cry at birth. He was given Bag & Mask ventilation and resuscitation

at birth. It is affirmed that he was immediately shifted to neonatal ICU. The baby's condition was very sick and he was kept on a ventilator for severe respiratory distress and perinatal Asphyxia 111 (Hypoxic Ischemic Encephalopathy grade 3). She has also affirmed that the doctor on duty had explained the condition of the baby to petitioner no.1, who was present at the neonatal ICU. It is affirmed that her thumb impression was also placed on the "high risk consent" by the doctor on duty.

17. In view of the affidavits filed on behalf of respondent nos. 4 and 6, this Court is unable to accept the allegation that Tabassum's family had been called upon to purchase any medicines or incur any expenditure. The petitioners have also not produced any bills or vouchers to establish that they had incurred the expenditure as alleged in the petition.

18. On 16.09.2016, this Court had directed respondent no.1 to forthwith release the amount of ₹20,000/- under the NBF Scheme. This Court has been informed that the said amount has been released to the petitioners.

19. During the course of the arguments, the learned counsel for the petitioners had also made a grievance that no inquiry was held post Tabassum's death and post maternal death inquiry had also not been conducted. In this regard, the respondents have produced the minutes of the meeting held in the office of the District Programme Management Unit on 26.05.2015. The minutes in the meeting indicate that Tabassum's case was discussed in some detail and, therefore, no orders are required to be issued by this Court.

20. It is seen that the petitioners have also prayed for the copies of the medical records. In this regard, respondent nos. 4, 5 & 6 are directed to

provide copies of all available medical records of Tabassum to petitioner no.1. In this regard, petitioner no.1 is at liberty to approach the respondent nos. 4,5 & 6, and copies of the relevant records, as available with the said respondents, would be provided to petitioner no.1.

21. It was also contended on behalf of the petitioners that the requisite facilities are not available otherwise there would have been no requirement for GGS Hospital to refer Tabassum to DDU Hospital. In this regard, it is pointed out that the neonatal ICU facility was not available at GGS Hospital and since the foetus was in distress, the doctors considered it necessary to refer Tabassum to DDU Hospital where such facility was available. Thus, the petitioners' grievance in this regard is not justified.

22. The petition is disposed of.

VIBHU BAKHRU, J

JANUARY 31, 2019

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