



\$~122

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

+ W.P.(C) 14663/2025

SMT SHWETA NIJHWAN

.....Petitioner

Through: Mr. Chand and Mr. Varun Jain,
Advs. (through v/c)

versus

UNION OF INDIA AND ORS.

.....Respondents

Through: Advocate for UOI.

Ms. Sangita Malhotra, SPC, Mr.
Harish Kumar Sehgal, Adv. for UOI.
Mr. Shlok Chandra, SC and Mr.
Parikshit Singh Bhati, Advs. for
ESIC.

CORAM:

HON'BLE MR. JUSTICE SACHIN DATTA

ORDER

%

22.09.2025

CM APPL.60145/2025 (Exemption)

1. Allowed, subject to all just exceptions.
2. Application stands disposed of.

W.P.(C) 14663/2025

3. The present petition has been filed by the petitioner, whose deceased husband was admitted at ESI Hospital, Rohini on 02.01.2023 for gall bladder stone surgery under Insurance No.2213772063.
4. It is submitted that the doctors at ESI hospital obtained the petitioner's signatures on printed performa and other documents without narrating the contents thereof. It is submitted that the surgery was carried out without conducting a fresh ultrasound of abdomen and other standard medical practices. It is contended that as a result thereof, the petitioner's



husband developed complications post surgery.

5. It is also the case of the petitioner that since the doctors at ESI hospital could not manage her husband's condition thereafter, he was referred to Park Hospital/respondent no.3 allegedly to conceal negligence.

6. The petitioner alleges that the transfer was done without her consent and Park Hospital created false medical record/s including noting 'alcohol consumption' though her husband was a non-drinker.

7. On 07.01.2023, the petitioner's husband passed away allegedly due to gross medical negligence of the doctors of the respondent nos. 2 and 3.

8. Consequently, the present petition has been filed seeking the following prayers:

"i. Pass a writ/order/direction/instruction in the nature of mandamus thereby directing the respondent No.1 to hold an independent and impartial inquiry against the respondents No.2 and 3 in respect of causing the death of husband of the petitioner in a rash and negligent manner.

ii. Pass a writ/order/direction/instruction in the nature of mandamus thereby directing the respondents No.2, 3, their Doctors, authorized agents, servants and Manager etc. to provide the complete medical records, test reports, discharge summary and other medical records relating to the medical treatment of husband of the petitioner.

iii. Pass a writ/order/direction/instruction in the nature of mandamus in favour of the petitioner and against the respondents thereby directing the respondents jointly and severally to pay a sum of Rs.20,00,000/- (Rupees twenty lakh only) to the petitioner on account of deficiency of services.

iv. Pass a writ/order/direction/instruction in the nature of mandamus in favour of the petitioner and against the respondents thereby directing the respondents jointly and severally to pay a sum of Rs.20,00,000/- (Rupees twenty lakh only) to the petitioner on account of loss of earning caused due to the death of the deceased.



v. Pass a writ/order/direction/instruction in the nature of mandamus in favour of the petitioner and against the respondents thereby directing the respondents jointly and severally to pay a sum of Rs.10,00,000/- (Rupees ten lakh only) to the petitioner on account of mental torture, pain, agony and suffering.”

9. As far as prayer no. 2 above is concerned, learned counsel for the respondent no.2 fairly concedes that all the medical records of the petitioner including tests report, discharge summary and other medical records relating to medical treatment of husband of the petitioner shall be provided to the petitioner, if not already provided.

10. Let the same be done within a period of two weeks from today.

11. Let the relevant medical records be also supplied to the petitioner by the respondent no.3.

12. As far as the relief sought by petitioner regarding conduct of an inquiry as to the cause of death of the petitioner's husband, and whether there was any medical negligence or not, it is incumbent on the petitioner, in the first instance, to approach the Delhi Medical Council (DMC), which is the appropriate forum to examine the allegations of medical negligence. The DMC would inquire as to whether there was any medical negligence and if so, fix responsibility and pass appropriate consequential orders.

13. Needless to say, the findings / conclusion rendered by the Delhi Medical Council shall be subject to the prescribed appellate procedure.

14. The petitioner is at liberty to take appropriate steps to approach the said Medical Council which shall bestow its urgent consideration to the matter.

15. Needless to say, the petitioner is also at liberty to initiate civil proceedings, seeking appropriate relief/s, *inter-alia*, award of damages.



16. The petition is disposed of in the above terms.

17. It is made clear that the above directions shall not be construed as an expression of opinion of this Court on the merits of the allegations made by the petitioner.

SACHIN DATTA, J

SEPTEMBER 22, 2025/cl