

Before District Consumer Dispute Redressal Forum, Darjeeling.  
24, M.C.Road, Chotta Kak Jhora, Darjeeling.  
P.O. & Dist. Darjeeling, Pin – 734101

Heading of the Judgement

PRESIENT : SHRI SANDIPAN BANDYAPADHYAY  
MEMBER : Ms. SUJATHA AGARWAL  
MEMBER : SHRI PRADIP KUMAR SIDDHANTA

**Consumer Case No. 28/D/2014**

Smt Lucky Mothey,  
Wife of Sri Damber Singh Mothey,  
Resident of Sonada,P.O. Sonada,  
P.S. Jorebunglow ,District Darjeeling.

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Complainant.

V-E-R-S-U-S

1. Dr. Ansuman Das,  
Consultant and Laparoscopic Surgeon,  
Yuma Nursing Home,  
7/A Balen Villa Road,Darjeeling.  
Chamber at Hanutram,  
N.H.Road,Kurseong,Dist. Darjeeling.

2. Yuma Nusing Home,  
7/A Balen Villa Road,  
Darjeeling.

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Opposite Parties.

For the Complainant ..... Smt. Kalpana Pradhan (Advocate)

For the O.P. .... Shri. P.C.Khati (Advocate)

Date of Filing : 20.08.2014  
Date of Disposal : 07.03.2018  
Time Taken : 3 yrs. 181 days

**Judgement.**

**C.C. Case no.28 /D/2017**

The instant case has been filed on 20.08.2014 under sec. 12 of the C.P. Act by Smt Lucky Mothey, wife of Sri Damber Singh Mothey, resident of Sonada, P.O. Sonada, P.S. Jorebunglow, District Darjeeling against (1) Dr. Ansuman Das, Yuma Nursing Home, 7/A Balen Villa Road, Darjeeling and (2) Yuma Nursing Home, 7/A Balen Villa Road, Darjeeling

The brief fact of the case is that the complainant went to Yuma Nursing Home with the complaint of severe stomach pain. On being advised and referred by Dr. D.T. Bhutia, the complainant underwent Ultra Sonography test at Yuma Nursing Home and Diagnostic Centre Pvt. Limited, Darjeeling on 03.03.2013 wherein it was detected that there was chronic cholecystitis (known as infection and gall stone in common parlance) in the gall bladder of the complainant. Then she was admitted in Yuma Nursing Home, Darjeeling on 31.03.2013 and had to undergo various medical examination and laboratory tests by the O.P. On 01.04.2013, the complainant was operated by O.P. no.1. The O.P. no. 1 adopted the method medically understood as Laparoscopic Cholecystectomy which however, failed and hence the O.P. no.1 switched over to open surgery. The operation took about four and half hours. For this open surgery no consent, verbally or written, of the complainant/complainant's party was taken by the O.P. no.1.

Immediately after two days of the operation, the complainant developed jaundice and she had to undergo laboratory tests and medical examination on daily basis which showed bilirubin level was rising day by day. On 12.04.2014 the complainant was discharged with the bilirubin level being 9.2 mgm. wherein the normal level is 0.2-1.0. The report dt. 05.04.2013 has suggested follow up USG of CBD after removal of stitch but the O.P. totally ignored it thus causing further deterioration of health of the complainant. This report also showed moderate collection in Rt. Sub Phrenic Space, hepatorenal pouch and lower abdomen i.e. below the liver which showed bile leakage four days post operation causing injury after the operation leading to stricture formation later. Since the condition of the complainant was becoming critical and bilirubin level was rapidly rising, the husband of the complainant preferred to take the complainant to Siliguri and on 11.12.2013, another ultra sonography test was undergone by the complainant at 3 Gen Diagnostic, unit of North Bengal Health Care Pvt. Ltd., Siliguri and a stone of 10 mm in size was again detected at the common hepatic duct level of the complainant. It was not medically possible to find a stone of this size immediately after 8-9 months of surgery. This may be due to the casual approach of the O.P. no.1. that the gall stone slipped into the duct while conducting the operation upon the complainant as the O.P. no. 1 did not advise the complainant to get USG of the whole abdomen or ERCP done after the operation.

The complainant was admitted in Anandaloke Hospital and Neuro Science Centre, Siliguri on 16.12.2013 after she complained of severe attack of stomach pain and jaundice where ERCP was done but failed due to CBD stricture (post operative) leading to obstructive jaundice nine months back and the complainant was discharged after being medically treated on 17.12.2013. Thereafter, on 04.01.2014 the complainant was again admitted to Hill Point Clinic, Siliguri on the complaint of stomach pain. On 06.01.2014 a laparoscopic exploration of the sub hepatic area was done upon the complainant and

*Dikanta*  
07/03/18

*Sujana Hazra*  
07/03/18

*Dr. Ansuman*  
07.03.18.

