**BEFORE THE DISCIPLINARY COMMITTEE OF PAKISTAN MEDICAL COMMISSION**

In the matter of

Complaint No. PF. 8-2004/2021-DC/PMC

Tariq Mahmood vs. Dr. Mirza Kamran Abbas

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| Mr. Muhammad Ali Raza | Chairman |
| Dr. Anis-ur- Rehman | Member |
| Dr. Asif Loya | Member |

*Present:*

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| Tariq Mahmood | Complainant |
| Dr. Mirza Kamran Abbas (20158-P) | Respondent |
| Dr. Tanwir Khaliq | Expert (General Surgeon) |
| Hearing dated | 03.06.2022 |

## I. FACTUAL BACKGROUND

### Complaint

1. Mr. Tariq Mehmood (hereinafter referred to as "the Complainant") filed a complaint on 21.09.2021 against Dr. Mirza Kamran Abbas (hereinafter referred to as "the Respondent") working at Kamran Surgical Hospital, Hafizabad.

2. The Complainant alleged that Respondent Dr. Kamran performed surgery of his father without investigations and in absence of qualified staff and other facilities. As a result, the surgery remained unsuccessful and the patient died due to negligence of the Respondent.

**Findings of Punjab Healthcare Commission**

3. The Complainant prior to filing the instant complaint before the Disciplinary Committee of Pakistan Medical Commission had also filed a complaint before the Punjab Healthcare Commission. The Punjab Healthcare Commission disposed of the said complaint vide its decision dated 09.08.2021 and referred the case of Dr. Kamran Mirza to PMC with the following observations.

> *"... After thorough deliberations, taking into account the evidence, available record, expert opinion and hearing both the parties, the Board of Commissioners (the Board) has noted that 70 years old high-risk patient was treated at the respondent HCE which lack ICU facilities, blood bank and qualified staff especially for post-operative care. When condition of the patient further worsened, he was asked to be shifted to Jinnah Hospital. Despite of best efforts of the doctors at Jinnah Hospital the patient could not survive. In view thereof, Dr. Kamran Mirza is found negligent in treating the patient hence his case is referred to PMC for appropriate action, in accordance with law...."*

## II. SHOW CAUSE NOTICE TO RESPONDENT

4. In view of the complaint and reference received from the Punjab Healthcare Commission, Show Cause Notice dated 28.01.2022 was issued to Respondent Dr. Mirza Kamran Abbas stating the allegations in the following terms:

> 4. ***WHEREAS,*** *in terms of reference of PHC, Complainant brought his father Mr. Nawab Din (the patient) to Kamran Surgical Hospital due to abdominal pain at around 01:00 pm on 28.01.2018, where you were the treating doctor. After examining the patient, you diagnosed him as case of perforated duodenal ulcer and advised immediate surgery (laparotomy); and*
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> 5. ***WHEREAS,*** *in terms of reference of PHCC, you carried out exploratory laparotomy of the patient on 29.01.2018. Nothing per oral (NPO) of patient was broken on 5th post op day after removal of the NG tube. The patient was discharged on home medications on 02.02.2018. When*

*the patient was brought home, he was unable to tolerate food and you were informed about the condition of the patient. The patient came to you for follow up and removal of stitches on 08.02.2018, whereby, you opened his alternate stitches as his wound was infected. Medicines were advised and patient was sent home; and*

6. ***WHEREAS,*** *in terms of reference of PHC, the condition of the patient got serious and was unable to digest anything and the food taken was seeping out from the stitches, about which you were informed. On 12.02.2018 the patient was taken to the emergency of Jinnah Hospital with complain of burst abdomen and discharge from midline would where he was operated on 13.02.2018, for leakage from the repaired duodenum and underwent, pyloric exclusion, gastrojejunostomy, T-tube & dudonostomy. The condition of the patient became critical in Jinnah Hospital & expired on 17.02.2018; and*

7. ***WHEREAS,*** *in terms of reference of PHC, you operated a high-risk patient in a setup which did not have ICU, blood bank and qualified medical staff to give proper post-operative care. While in the follow up visit you opened alternate stitches due to infected wound but did not anticipate that discharge could be due to leakage from the repaired duodenum; and*

## III. REPLY OF RESPONDENT

5. Respondent Dr. Mirza Kamran Abbas submitted his reply on 25.02.2022 wherein he stated that:

a) The patient Nawab Din was 75 years old admitted as emergency case in my hospital on 28.01.2018 with the disease of perforated duodenal ulcer resulting in chemical peritonitis. After base line investigation and erect abdominal x-ray showing gas under ® dome of diaphragm the diagnosis was confirmed. The serious condition was explained to the patient's relatives, they were asked to shift the patient to tertiary care hospital but by all means they opted for his surgery at hometown therefore, high risk consent form was signed by his son Mr. Tariq Mehmood. Exploratory laparotomy was performed on the same day.

b) Recovery of patient was uneventful and on 3rd postoperative day pelvic drain was removed, on 5th postoperative day N/G tube was removed. On 6th postoperative day sub hepatic drain was removed and oral fluid started, patient was discharged on 02.02.2018 after closing wound.

c) On 08.02.2018, patient came for removal of stitches and follow up on his own the wound was ok and the patient was taking his normal diet. After 08.02.2018, nothing heard from the Complainant.

d) In this case, cause of death has not been determined through autopsy. Further, the advice of Expert also proves my stance that diagnosis was correct as well as treatment, however, the complication of wound infection is a routine minor problem which is beyond surgeon's control.

e) Later on, patient was admitted in Jinnah Hospital on 13.02.2018 where he was operated upon and died there on 17.02.2018 due to cardiopulmonary arrest.

f) Repaired duodenal leakage is a known complication even in advance countries of the world. Therefore, it is prayed that the impugned show cause may please be withdrawn.

## IV. REJOINDER

6. The reply submitted by the Respondent doctor was forwarded to the Complainant for rejoinder. The Complainant submitted his rejoinder on 14.03.2012, wherein he stated that he is not satisfied with the comments of the Respondent doctor and requested to process his case further for necessary action.

## V. HEARING

7. The matter was fixed for hearing before the Disciplinary Committee on 03.06.2022. Notices dated 16.05.2022 were issued to the Complainant as well as the Respondent directing them to appear before the Disciplinary Committee on 03.06.2021.

8. On the date of hearing Mr. Tariq Mahmood (Complainant) and Respondent Dr. Mirza Kamran Abbas appeared before the Disciplinary Committee.

9. The Committee asked the Complainant to narrate his grievance briefly to which he stated that he has narrated facts of his case in his complaint which may be treated as his statement.

10. The Committee enquired from the Respondent doctor about the whole event to which he stated that the patient was a case of perforated duodenal ulcer. He was 75 years male presented with complaints of abdominal distension vomiting and constipation for the last three/four days. His vitals were not stable and he was dehydrated. The patient was resuscitated first and then his x-rays and other investigations were performed. His x-ray showed gas under dome of diaphragm which confirmed the diagnosis of perforated duodenal ulcer. Laparotomy was planned on 28.01.2018. The attendants were counselled and informed that it was a high-risk case and the patient can develop complications during the procedure or post-operatively. The attendants were given the option to take the patient to some other hospital if they wish but they opted for his surgery at

hometown. Resultantly, high risk consent was obtained from the attendants and surgery was performed.

11. The Expert enquired from the Respondent doctor about his professional opinion to conduct surgery of a critical patient at a small private hospital (Kamran Surgical Hospital) when the patient was 75 years old and symptoms of the patient i.e. hypertensive and toxicity were of septic shock. He stated that he explained the situation to attendants and advised them to take the patient to tertiary care hospital but the attendants insisted for the surgery at his hospital.

12. The Disciplinary Committee asked the Respondent, why did he accept and admit such a critical patient when he knew that it was a high-risk patient and facilities to handle complications were not available at his hospital. He stated that the attendants had signed high risk consent therefore he admitted and operated the patient. The Committee further enquired that once he had given the opinion that the patient should have been treated at tertiary care hospital why he admitted and operated that patient. The Respondent doctor stated that there is a lot of local pressure in such cases and because of that he admitted and operated the patient.

13. The Expert enquired the Respondent whether he had advised albumin test of the patient he replied in negative. The Expert further enquired that whether there was appropriate lab facility available for such a critical patient the Respondent replied in negative.

14. The Expert further asked from the Respondent that whether there was any other option available short of laparotomy, he stated yes insertion of drain under local anesthesia and referral to tertiary care hospital. He further stated that he assessed the patient at the time of admission and found him stable to undergo surgery therefore he decided to perform laparotomy instead of referring him.

15. Responding to question put by the Disciplinary Committee the Respondent further stated that the patient's surgery went uneventful. His post-surgery recovery was satisfactory and he was discharged after 05 days. The patient again visited the hospital on 08-02-2018 for removal of stitches, he had infection in stitches. The patient never visited the hospital thereafter. The expert pointed out that thereafter the patient had visited Jinnah Hospital with complaints of burst

abdomen. Responding to a question put by the Disciplinary Committee, the Respondent doctor clarified that he observed infection in stitches of the patient on 08.02.2018.

16. The Expert asked as to what type of anesthesia was administered to the patient. The Respondent stated that it was spinal anesthesia. The Expert further enquired that whether in upper abdomen surgeries it was a good choice to administer spinal anesthesia, he stated that spinal anesthesia hampers respiration in such cases but the patient was not fit for general anesthesia therefore it was decided to perform the surgery under spinal anesthesia.

17. The Expert further asked whether ICU facility was available for this patient, he stated that this patient did not require ICU. He was kept in opaque where he was monitored by staff nurse and a medical officer was also available. The Committee asked whether the medical officer available in the opaque was trained in anesthesia to handle patient in opaque, he replied in negative.

18. The Complainant stated that neither consent was obtained nor investigations were performed before the surgery and all reports produced by the Respondent are post-surgery. The Respondent did not disclose the disease of his father and the planned treatment. He further stated that the Respondent tampered the record and changed date on consent form from 29.01.2018 to 28.01.2018.

19. The Committee asked the Respondent to explain why consent was signed on 29.01.2018 whereas surgery was performed on 28.01.2018, he stated that it was a clerical mistake. He further stated that no benefit would it serve to him to change the date on the consent form. The Committee asked how many OTA he had at the time of incident, he stated that there were three OTAs and nurses.

## VI. EXPERT OPINION BY DR. TANWIR KHALIQ

20. Dr. Tanwir Khaliq who was appointed as an Expert to assist the Disciplinary Committee in the matter has opined that:

> "75 years old male, admitted with perforated Duodenal Ulcer and peritonitis. As per clinical presentation described by the treating consultant patient was critical and in septic shock, which was explained to the attendant of the patient and a high risk consent was

obtained. An exploratory laparotomy and primary repair of perforated Duodenal Ulcer with omental patch was performed.

On inquiring about alternate option, Surgeon confessed that insertion of drain under Local Anesthesia, stabilization and referral to a teaching hospital was another option, but he performed laparotomy on the insistence of attendants and relatives. Laparotomy and closure perforated Duodenal Ulcer is a standard accepted procedure in serious patient and needs good post-operative care in a dedicated ICU.

As for as diagnosis and treatment is concerned, the Surgeon correctly diagnosed the underlying condition and followed an accepted approach for the management of this patient. However, it appears that there was lack of communication and poor follow up and further management in different hospital resulted in patient condition deterioration

No obvious medical or surgical negligence was found in this case as far as the technical expertise, management and surgical procedure. Though the decision of surgeon of performing a major surgical procedure in a set up without back facilities of ICU can be questioned by a more conservative school of thought surgeons"

## VII. FINDINGS AND CONCLUSION

21. After perusal of the record statements of the Complainant as well as the Respondent it has been noted that the patient, Nawab Din, 70 years male was brought to Respondent Dr. Kamran Abbas with complaint of vomiting, abdominal distension for three/four days. He was diagnosed as a case of perforated duodenal ulcer and exploratory laparotomy was advised. Surgery was performed on 28.01.2018 and patient was discharged on 02.02.2018. The patient visited the Respondent for removal of stitches on 08.02.2018. Thereafter he was taken to Jinnah Hospital, Lahore on 13.02.2018, where he was diagnosed duodenal perforation. He remained admitted at Jinnah Hospital where he died on 17.02.2018 due to cardiopulmonary arrest.

22. Main grievances of the Complainant are that he was kept in dark regarding the diagnosis and treatment of his father and at no stage counselling was done. Further, surgery was performed in an unequipped facility and medical record was tempered by the Respondent. In this regard, the Complainant pointed out that consent for the procedure was signed after the surgery and all investigations were also performed after the surgery.

23. The Committee has noted that a major surgery of the patient was performed at a private hospital. During the course of hearing, the Respondent while responding to questions put by the Expert has admitted that lab facility was not available at the hospital. Simple for the reason that hospital lacked lab facility, it revealed that albumin test of patient could not be carried out before surgery. The Respondent further admitted that ICU was not available, however he added that this patient did not require ICU. The Expert specifically asked the Respondent doctor that the symptoms of patient were of septic shock and what was his professional opinion regarding surgery of such a critical patient at a small private hospital, the Respondent stated that he explained the situation to attendants and advised them to take the patient to tertiary care hospital but the attendants insisted for the surgery at his hospital.

24. Further, in response to a question put by the Committee as to why he accepted and admitted such a critical patient when he knew that it was a high risk patient and facilities to handle complications were not available at his hospital. The only answer the Respondent doctor could give was that the attendants had signed high risk consent therefore he admitted and operated the patient.

25. It is also an admitted fact that other options were available to manage the patient. While Responding to such query put by the Expert, the Respondent clarified that other option available was insertion of drain under local anesthesia and referral to tertiary care hospital.

26. The Committee has further noted that the surgery of the patient was performed under spinal anesthesia. The expert pointed out that choice of spinal anesthesia in cases of upper abdomen surgery is inappropriate as it may cause complications to which the Respondent stated that the patient was not fit for general anesthesia therefore it was decided to perform surgery under spinal anesthesia. The assertion of the Respondent that the patient was not fit for general anesthesia is another leading point which would have alerted the surgeon to refer the patient to some tertiary care hospital instead of performing a major surgery at a small private hospital. Similarly, post-surgery care was not provided by the qualified staff. As per statement of the Respondent the patient did not require ICU care, instead he was kept in opaque where he was monitored by a staff nurse and a medical officer. However, the Respondent doctor admitted the medical officer did not have any qualification/training in anesthesia.

27. The expert has also highlighted the shortcomings of the decision of Respondent to perform laparotomy of a critical patient without availability of proper post op care and dedicated ICU facility. The opinion of the expert is reproduced hereunder:

> *"75 years old male, admitted with perforated Duodenal Ulcer and peritonitis. As per clinical presentation described by the treating consultant patient was critical and in septic shock, which was explained to the attendant of the patient and a high risk consent was obtained. An exploratory laparotomy and primary repair of perforated Duodenal Ulcer with omental patch was performed.*
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> *On inquiring about alternate option, Surgeon confessed that insertion of drain under Local Anesthesia, stabilization and referral to a teaching hospital was another option, but he performed laparotomy on the insistence of attendants and relatives. Laparotomy and closure perforated Duodenal Ulcer is a standard accepted procedure in serious patient and needs good post-operative care in a dedicated ICU.*
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> *As for as diagnosis and treatment is concerned, the Surgeon correctly diagnosed the underlying condition and followed an accepted approach for the management of this patient. However, it appears that there was lack of communication and poor follow up and further management in different hospital resulted in patient condition deterioration*
>
> *No obvious medical or surgical negligence was found in this case as far as the technical expertise, management and surgical procedure. Though the decision of surgeon of performing a major surgical procedure in a set up without back facilities of ICU can be questioned by a more conservative school of thought surgeons"*

28. It is important to note here that issue regarding non-availability of proper facilities at the hospital comes under the jurisdiction of Punjab Healthcare Commission and the Committee has noted that while disposing complaint of present Complainant the Board of Commissioner of Punjab Healthcare Commission has already passed appropriate order in this regard in the following terms:

> *"19. ……..Moreover, the Respondent HCE is allowing such high risk surgeries without adequate facilities. The Respondent HCE has been deficient in implementation of Minimum Service Delivery Standards and its score stood at 15% only on the evaluation matrix. In view thereof, a fine of Rs. 200,000/- is imposed upon the Respondent HCE to be paid within four weeks of the receipt of this order.*
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> *The Board directs that a fresh inspection of the Respondent HCE be conducted in a week's time after communication of this order and if its score on the Scoring Matrix of MSDS is found to be less than 70Yo, further necessary action shall be taken in accordance with law."*

29. The Committee observes with concern that the Respondent during the hearing has admitted that his facility was not equipped with proper ICU, Lab and qualified staff to monitor the patient in opaque after the surgery. The Respondent himself clarified that he had the alternate option of insertion of drain under local anesthesia, stabilization and referral to a teaching hospital. Knowing the fact that laparotomy and closure perforated duodenal ulcer is a standard accepted procedure in serious patient and needs good post-operative care in a dedicated ICU and considering the critical condition of the patient, his age and expected complications , the Respondent's choice of conducting surgery at his hospital was uncalled for. The stance of the Respondent that since the attendants have signed a consent form, therefore, he proceeded to conduct surgery is highly objectionable. A professional practitioner is expected to make his own assessment and take decision to proceed further on the basis of such assessment. Being a qualified surgeon, keeping in view the age, symptoms of the patient the Respondent should have opted for safe option of referral with initial management instead of performing surgery at ill equipped hospital.

30. Further, the Complainant has asserted that he was kept in dark regarding the diagnosis and treatment of his father and at no stage counseling was done. The Complainant also pointed out that consent for the procedure was signed after the surgery, medical record was tempered by the Respondent and all investigations were also performed after the surgery. On the other hand, the Respondent has asserted that he counselled the attendants before the surgery, however such assertion of the Respondent is not supported by any notes of the Respondent. As far as different dates mentioned on the consent form are concerned, it is observed that the date on discharge slip shows that the patient was admitted on 28.01.2018, whereas the consent form produced by the Complainant mentions date as 29.01.2018. Whereas another copy of consent form produced on record shows date as 28.01.2018. The Respondent has taken the plea of clerical mistake, however, such stance of the Respondent cannot be relied upon as the date on documents has been changed through overwriting and it is apparent on face of these documents i.e. consent form produced by the Respondent.

31. The Committee would like to emphasize that better communication and counselling is one of the fundamental elements of patient- physician relationship and a patient/attendants have a right to

receive information from the physician and to discuss the benefits, risks, costs of appropriate treatment, alternatives and optimal course of action. The Respondent doctor should have been honest to attendants of patient and explained to them his facility was not equipped with proper ICU, Lab facility and adequate qualified staff to monitor the patient post-surgery. Further, Respondent doctor should have discussed the critical condition, age and possible complications of the surgery and also suggest them the alternate option of insertion of drain under local anesthesia and taking their patient to better facility for proper management which unfortunately is seen missing in this case.

32. A careful consideration of the evidence, record and the expert opinion, the Disciplinary Committee is of the considered view that Respondent doctor caried out surgery of high-risk patient at his private clinic where adequate facilities were not available. The Respondent doctor ' plea that he caried out surgery as the attendants of patients had given consent for the surgery is not acceptable. The Respondent doctor by virtue of his license is under obligation to keep the interests of patient ahead of his personal interests. He should not yield to request of attendant or consent of attendant does not absolve him of his responsibility to take the best decision in the interest of patient based on assessment of patient and the facilities available. Further, recognizing this fact that health care facility is not properly equipped, he failed to consider the alternative options available and discuss with the attendants the complications involved in surgery and possibility to explore the other options available in such circumstances. Further, medical record is the legal evidence which cannot be tampered. Overwriting on consent form to match the date mentioned on admission of 28-01-2018, cannot be ignored as mere clerical mistake.

33. In view of above, the Disciplinary Committee decides to impose a penalty of PKR 50,000 (fifty thousand rupees only) on the Respondent doctor Mirza Kamran. Dr. Mirza Kamran is directed to pay the amount of fine in the designated bank of the Commission within fourteen (14) days from the issuance of this decision and forward a copy of the paid instrument to the office of the Secretary to the Disciplinary Committee, failing which license of the Respondent doctor shall be deemed to be suspended and shall remain suspended until such time the fine is paid.

34. The subject proceedings stand disposed of accordingly.

Dr. Anis-ur-Rehman
Member

Dr. Asif Loya
Member

Muhammad Ali Raza
Chairman

20th July, 2022