JUDGMENT SHEET

IN THE ISLAMABAD HIGH COURT, ISLAMABAD

CRIMINAL APPEAL NO. 89 OF 2025

RAZIA KHATOON
Vs
DR. ARIFA MANZOOR.

Appellant by : Hafiz Shoaib Muhammad, Advocate.
Respondent by : Mr. Sufyan Haider, Advocate.
Date of hearing : 07.10.2025

MUHAMMAD AZAM KHAN, J.

1. By this judgment, I intend to dispose of Criminal Appeal No.89/2025 arising out of the order dated 06.01.2025 **("Impugned Order")** passed by the learned Additional District & Sessions Judge-VII, West-Islamabad **("Trial Court")** whereby the consumer complaint filed by the Appellant was dismissed being not maintainable.

2. The brief facts of the case in hand, as per the contents of the instant appeal, are that Razia Khatoon **("Appellant")** filed a complaint under the Islamabad Consumer Protection Act, 1995, contending therein that on 09.12.2023, she was suffering from persistent gallbladder pain, consulted Dr. Arifa Manzoor **("Respondent")** at Ali Medical, Islamabad. After thorough examination, the Respondent diagnosed the Appellant with Cholelithiasis and recommended immediate surgery, assuring the latter that the procedure was routine and carried minimal risk. On 11.12.2023, her surgery was performed by the Respondent. The Appellant alleged that she experienced severe pain post-surgery, without any relief. Despite this, she was discharged on 12.12.2023 with a follow-up scheduled after 10 days. On 17.12.2023, the Appellant/Complainant's condition became unbearable, leading her to seek emergency treatment at Shifa International Hospital, Islamabad, and it was revealed through tests that the Respondent had failed to properly clip the bile duct during surgery, resulting in bile leakage into the Appellant/Complainant's

abdomen. Additionally, it was discovered that the Respondent had used infected surgical instruments, causing peritoneal fluid infection with Geothrichum SPP. On 20.12.2023, she underwent an emergency surgery at Shifa International Hospital to drain the bile, wash out the abdomen, and properly clip the bile duct. She also underwent an ERCP and biliary stenting to halt the leakage. She alleged that she has incurred medical expenses exceeding Rs.14,00,000/- and continues to bear additional costs due to ongoing treatments, medications, and follow-up consultations. The Appellant/Complainant served a legal notice to the Respondent, whereby the latter was required to compensate her Rs.14,00,000/- as the compensation for medical expenses. The Respondent was also required to pay Rs.20,000,000/- as damages for the pain, suffering, emotional distress, and mental agony suffered by her.

3. The Respondent contested the complaint by filing a written reply. The learned Trial Court, after hearing arguments of the parties, vide Impugned Order dated 06.01.2025, dismissed the complaint being not maintainable. Feeling dissatisfied with the said Impugned Order, the Appellant has filed the instant criminal appeal.

4. The learned counsel for the Appellant submitted that under Section 2(c) of the Islamabad Consumers Protection Act, 1995 (hereinafter referred to as the ***"ICPA, 1995"***), a person who pays for medical services qualifies as a "consumer," and such services fall within the definition of "services" under Section 2(e). Relying on "*Shifa International Hospitals Ltd. v. Hajira Bibi*" **(Crl. Appeal No.176/2017)**, it was argued that medical negligence complaints are maintainable before the Consumer Court. The ICPA, 1995 expressly empowers the Consumer Court under Section 9(3) to award compensation for damages caused by defective services, an authority not available under the Islamabad Healthcare Regulations Act, 2018 (hereinafter referred to as the ***"IHRA, 2018"***). The learned counsel, whilst relying on ***Shifa International Hospitals*** (Supra), has stated that while the PMDC (now IHRA)

may conduct disciplinary proceedings, it cannot award compensation; and the Consumer Court may proceed independently for that purpose after seeking input from the regulatory body. Similarly, in "Dr. Asif Osawala Versus Qamar-un-Nisa" **(PLD 2022 Sindh 430)**, the Sindh High Court upheld the jurisdiction of the Consumer Court despite the existence of a healthcare commission, ruling further that its presence does not oust the Consumer Court's authority to adjudicate negligence claims. The learned Consumer Court erred in holding that Section 32 of IHRA, 2018, ousts its jurisdiction and limits complaints only to those filed by the Authority before a Sessions Court. The learned counsel further stated that medical negligence, under IHRA, 2018, is not a criminal offence, and the Authority lacks the power to award damages or compensation. Therefore, denying jurisdiction leaves the consumer without any remedy. The ICPA, 1995, being a special law on consumer rights, prevails over general statutes and provides an independent remedy for defective services, including medical negligence. The learned court misinterpreted Section 32 and failed to appreciate binding precedent. It was further submitted that the Impugned Order dated 06.01.2025 was passed without application of judicial mind, is sketchy and non-speaking, and reflects a misreading of the law and record. The court failed to address or record the Appellant's submissions and acted with material irregularity, resulting in a miscarriage of justice. Lastly, learned counsel prayed that the instant appeal may kindly be allowed, the Impugned Order dated 06.01.2025 be set aside, and the matter may kindly be remanded to the learned Consumer Court for a fresh decision on merits in accordance with law.

5. On the other hand, learned counsel appearing on behalf of the Respondent supported the Impugned Order and contended that the learned Consumer Court has rightly dismissed the complaint, which was not maintainable; that there is no illegality or jurisdictional defect in the Impugned Order, which needs no interference by this Court. Lastly, he prayed for the dismissal of the instant appeal.

6. I have heard learned counsel for the parties and perused the record with their able assistance.

7. The Appellant, Razia Khatoon, filed a complaint before the Islamabad Consumer Court alleging medical negligence by Dr. Arifa Manzoor following a gallbladder surgery that led to bile leakage and infection. The learned Consumer Court dismissed the complaint as not maintainable, holding that such matters fall within the exclusive jurisdiction of the Islamabad Healthcare Regulatory Authority (IHRA) under the Islamabad Healthcare Regulation Act, 2018. The Appellant has now challenged that decision through the present appeal. The following moot questions need consideration in order to adjudicate properly:

1. Whether the Consumer Court had jurisdiction to entertain a complaint alleging medical negligence after the enactment of the Islamabad Healthcare Regulation Act, 2018?

2. Whether the Islamabad Healthcare Regulation Act, 2018, being a special law, overrides the Islamabad Consumer Protection Act, 1995, in matters concerning medical negligence, malpractice, and maladministration?

3. Whether Section 33 of the IHRA Act, 2018, read with Regulation 44 of the Islamabad Healthcare Regulations, 2023, vests exclusive authority in IHRA to investigate and adjudicate complaints relating to medical negligence, malpractice, and maladministration?

8. The pivotal question before this Court is whether the complaint alleging medical negligence against the Respondent was maintainable before the learned Consumer Court under the Islamabad Consumer Protection Act, 1995, or whether such matters fall within the exclusive jurisdiction of the Islamabad Healthcare Regulatory Authority ("IHRA") under the Islamabad Healthcare Regulation Act, 2018 ("IHRA, 2018") and the Islamabad Healthcare Regulations, 2023 ("the Regulations"). The preamble of the IHRA, 2018 reads as under: -

> *"Whereas it is expedient to provide a regulatory framework to ensure provision of quality health care services, by implementing quality standards by the healthcare sector, to residents of the Islamabad Capital Territory and where as it is expedient to establish the Islamabad Healthcare Regulatory Authority for aforesaid purpose and to provide for matters connected therewith and ancillary thereto"*

The principal objective of the IHRA, 2018 is to regulate healthcare facilities through a comprehensive regulatory framework. Medical negligence has been clearly defined under Section 2 (xxiv) of the IHRA, 2018, which is reproduced as under for ready reference:

> *"medical negligence" means any negligence by an act or omission of a healthcare professional in performing his duty. In medical negligence cases it has to be established that-*
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> *(a) there was a duty which the healthcare professional owed to the patient;*
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> *(b) there was a breach of duty;*
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> *(c) the breach resulted in injury to the patient; and*
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> *(d) the injury resulted in causing damage or death;*

9. It is pertinent to mention herein that Section 4 of the IHRA, 2018 outlines the powers and functions of the Islamabad Healthcare Regulatory Authority, empowering it to inquire into and investigate any violation of the provisions of the Act by a healthcare establishment, and to take action against such violations, including those brought before it through a complaint filed by an aggrieved person. Furthermore, Section 33 of the IHRA, 2018 mandates that *"the Authority shall investigate the complaints relating to healthcare establishment, healthcare professional, healthcare services and medical negligence."* Read conjointly with Section 29, it empowers the Authority to impose penalties, which may extend to ten hundred thousand Rupees keeping in view gravity of the contravention of the Act, Rules and Regulations. Section 32 restricts cognizance by any court unless a complaint in writing is filed by the Authority before a Court of Sessions, it is evident that the legislature has created a self-contained mechanism for redressal of grievances arising out of medical negligence or malpractice. The definition of *"medical*

negligence" under Section 2(xxiv) clarifies the elements that must be established, i.e., duty, breach, causation, and resulting damage, all of which require expert medical scrutiny.

10. Moreover, an "aggrieved person" has been defined under Regulation 2 (iii) as a patient or client who is not satisfied with the services rendered to him by the healthcare establishment or healthcare professional, and includes his next of kin or any other person duly authorized by him. Regulation 44 of the Islamabad Healthcare Regulations, 2023, provides a detailed catalogue of acts and omissions constituting maladministration or medical negligence. The grounds mentioned therein include, inter alia, inordinate delay in provision of medical care; inadequate or incorrect communication of information about diagnostics, risks, or any other related subjects including non- communication of change of address; failure to follow prescribed standard medical procedures; failure to implement or comply with the prescribed standards; failure to maintain adequate services for clinical management including, but not limited to assessment, diagnosis, treatment and follow up; undertaking the management of a patient without the availability of requisite competence, human resource, equipment or other facilities related thereto; inadequate clinical assessment and/or diagnosis; failure to keep, maintain or secure records including medical records, in accordance with the prescribed standards and the reference manual etc.; failure to implement or follow recognized standards, safety or other, regarding infection control; failure to provide post-operative care according to the prescribed standards; failure to foresee and take comprehensive precautionary measures against system failures or possible mishaps; any other mistake or deficiency on the part of the healthcare establishment or professional that the Authority and its experts believe were medically and ethically incorrect and have caused sufferings for the patient and their families, etc.

11. In the present case, the relevant provisions of the Islamabad Healthcare Regulations, 2023, particularly Regulations 42 to 53 are directly applicable.

These regulations empower the Islamabad Healthcare Regulatory Authority (IHRA) to receive, manage, and adjudicate complaints regarding medical negligence, malpractice, maladministration, and failure in the provision of healthcare services. Specifically, Regulation 44 enumerates instances constituting medical negligence, such as failure to follow prescribed medical standards, inadequate clinical assessment or diagnosis, failure to maintain infection control, failure to provide post-operative care, and inappropriate or unjustifiable costs, all of which are alleged by the Appellant in the present case. Furthermore, Regulation 49 establishes the Complaint Hearing Committee, which functions as the first forum of adjudication, vested with the authority under Section 4(1)(h) and (w) of the IHRA Act, 2018, to inquire into violations and impose penalties. Regulations 45 to 47 detail the procedure for filing and admission of complaints, while Regulation 52 provides for joint hearings, examination of witnesses, and reliance on expert opinions to determine whether a healthcare professional or establishment has deviated from accepted medical standards. Hence, the case in question squarely falls within the jurisdiction and procedural framework outlined in these provisions, warranting investigation and possible penal action under Section 29 of the IHRA Act, 2018, read with Regulation 44(3), (6), (7), (10), and (11) of the Regulations, 2023.

12. On the other hand, Islamabad Consumers Protection Act, 1995, covers all kinds of persons who buy goods for consideration as well as services, even the concept of unfair trade practice has been explained therein. Under ICPA, 1995, the medical services availed after paying the consideration fall within the definition of "consumer" as defined in section 2(c) of the Act, and the "services" provided by the appellants fall within the definition of section 2(e) of the Act.

13. The Islamabad High Court has recently addressed this very question in "Dr. Farhat Ullah Bakhsh v. Ex-Officio Justice of Peace" (**PLD 2025 Islamabad 106)**, wherein it has been conclusively held that complaints

pertaining to medical negligence are not maintainable before the Consumer Court. The Court, after examining the IHRA, 2018 and analogous provincial laws, held that the regulatory authority is the specialized forum empowered to investigate and decide issues of medical negligence, while the Consumer Court, being a general forum, is ousted of jurisdiction in such matters.

> "13. On the other hand, medical negligence has exclusively been explained in Islamabad Healthcare Regulation Act, 2018, which covers the negligence in performance of duty by the healthcare professional, owed to the patient and the injury causing damage or death, such aspect establishes the jurisdiction of Islamabad Healthcare Regulatory Authority under the law.
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> 18. The offences provided in Section 30 of IHR Act, 2018, provides exclusive jurisdiction to the Court of Sessions for their cognizance under this Act, but such complaint shall only be filed by the authority and not by the aggrieved. **In terms of Section 33 of the Act, the Authority shall investigate the complaints relating to healthcare establishment, healthcare professional healthcare services and medical negligence filed by any individual directly to the authority and shall investigate the matter in terms of Section 30 of the Act, as prescribed by the authority itself. The offences provided in Section 30 did not cater the requirements envisaged in Pakistan Penal Code, hence, in case of any complaint it requires to be adjudicated in only one eventuality i.e. subject to conclusive report by IHRA or PMDC qua issuance of the medical negligence**.
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> 19. While comparing both laws (IHRA Act and PMDC Act) this court has drawn following guidelines to deal with the issue of medical negligence, whenever an aggrieved person instead of filing complaint in IHRA goes to police station or files private complaint under section 200, Cr.P.C. or 22-A and 22-B, Cr.P.C. application for lodging of FIR against healthcare service establishment, professional or administration with the allegation of medical negligence;
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> i. To criminally prosecute only a healthcare professional for medical negligence under criminal law it must be shown that the accused did something wrong or failed to do something which in the given facts and circumstances no medical professional in his ordinary senses and prudence would have done or failed to do. And for that a technical report of subject experts is necessary by IHRA or PMDC.
> ii. When an aggrieved person informs police regarding matters of medical negligence against a healthcare/medical professional, no

FIR shall be lodged and SHO is bound to keep the record in daily diary and shall prepare official letters requesting an expert inquiry/ investigation report and address them to both IHRA and PMDC. Upon receiving a negative report from IHRA or PMDC or both then FIR will be lodged otherwise no FIR will be lodged.

iii. The SHO is bound to cite the name of the expert as a witness and make the report of IHRA or PMDC as part of challan.

iv. Similarly, the case of private complaint under section 200 Cr.P.C. may be entertained subject to all legal exceptions, however, the complaint shall not be proceeded further unless the expert report from IHRA or PMDC with its conclusive findings is not obtained.

v. Ex-officio Justice of Peace when receives an application under sections 22-A and 22-B, Cr.P.C., instead of issuing order for lodging FIR, he/she would direct the concerned SHO to prepare official letters requesting an expert inquiry/ investigation report and place it before the IHRA or PMDC. After receiving the report, based on the findings of the report, Justice of Peace will pass an order of lodging the FIR (or as the case may be).

vi. **IHRA and PMDC have mutually exclusive jurisdiction to deal with the matter of medical negligence in case of a medical professional under sections 33 and 44 of their respective laws**. And the findings of one have persuasive value for other.

vii. Both the authority and council are bound to complete their investigation and submit the report to the PS within a period of ninety days.

viii. The standard minimum requirement to initiate criminal proceedings against a medical professional is to receive a technical expert report from IHRA or PMDC whereby it is suggested or held that the accused has been medically negligent. One negative report from any one of the above departments is sufficient to proceed criminally against the accused.

ix. PMDC is the regulatory body which deals with the licensing and registration of medical and dental practitioners in Pakistan, and it hears the matters pertaining to cancellation/suspension of license to practice. IHRA after completion of its inquiry forwards the matter to PMDC for cancellation/suspension of license of medical or dental practitioner. However, the findings of IHRA are not binding on PMDC and vice versa.

x. On the contrary, if a person is aggrieved from the negligent behavior of a healthcare establishment or healthcare service, only IHRA has the exclusive jurisdiction to entertain the matters against them. Under such circumstances the concerned Police Station will request to IHRA for expert report. And IHRA shall submit the report within 90 days.

xi. **Consumer courts have no jurisdiction to exercise in the matter of medical/professional negligence by any healthcare professional or establishment. Because consumer protection law is general in nature and only the healthcare Commissions and Authorities (as the case may be) are solely responsible to investigate and adjudicate on complaints against healthcare service providers, professionals and establishments**. **As held by a division bench of Lahore High Court in PLD 2019 Lahore 429 (Dr. Riaz Qadeer Khan v. Presiding Officer, District Consumer Court, Sargodha and others) and further in PLD 2022 Lahore 18 (Lady Dr. Nafeesa Saleem v. Justice of Peace/ASJ Multan and 2 others).**

xii. **If a complaint qua medical negligence is filed in IHRA, and the authority comes to conclusion that there is medical negligence and mens rea of doctor or paramedical staff is reflected, the authority may refer the case to the concerned Police Station for criminal prosecution against the delinquent irrespective of the fact that complaint in terms of Section 30 of IHRA (which deals with only three specialized offences i.e. quackery, obstruction of inspection and running an Establishment without license) has been referred to Sessions Judge or otherwise.**"

(Emphasis added)

14. The ratio in ***Dr. Farhat Ullah Bakhsh*** (Supra) follows and endorses the principle earlier enunciated in "Dr. Riaz Qadeer Khan v. Presiding Officer, District Consumer Court, Sargodha" **(PLD 2019 Lahore 429)**, wherein the Lahore High Court held that after the promulgation of the Punjab Healthcare Commission Act, 2010, the Consumer Courts had no jurisdiction to adjudicate medical malpractice claims. The Islamabad High Court, therefore, adopted the same reasoning, holding that IHRA is the competent authority to investigate and take actions in all matters concerning medical negligence, maladministration or failure in provision of healthcare services.

15. Furthermore, the IHRA Act, 2018, is a subsequent and more specific enactment dealing exclusively with the regulation of healthcare professionals and establishments within Islamabad, while the Islamabad Consumer Protection Act, 1995 (ICPA) is a general law addressing consumer rights across multiple fields. As determined in ***Dr. Farhat Ullah***

Bakhsh (Supra), the Islamabad Consumer Courts lack jurisdiction to adjudicate matters involving medical or professional negligence by any healthcare professional or establishment, as consumer protection laws are general in nature. The exclusive authority to investigate and decide complaints against healthcare service providers, professionals, and establishments rests with the respective Healthcare Commissions and Regulatory Authorities. In the said judgement, the Court applied the special law versus general law rule, and held that when a special law and a general law operate in the same field, the special law prevails and the general law must yield. Additionally, Section 51 of the IHRA, 2018 provides it shall have overriding effect over other laws. The relevant portion of ***Dr. Farhat Ullah Bakhsh*** (Supra) is reproduced hereunder for reliance:

> *"10. Now question arises as to whether any case of medical negligence could be decided by the Islamabad Healthcare Regulatory Authority. In order to answer the proposition, when there is overlapping jurisdiction on certain special law, then both the special laws have to be seen with reference to their overriding clauses like Section 50 of PMDC Act, 2022 has been given an overriding effect.* ***On the other hand, similar effect has been provided in terms of Section 51 of the Islamabad Healthcare Regulation Act, 2018. In such scenario, if there was a conflict between two special laws containing overriding clauses, then generally the statute later in time would prevail over the statute prior in time as held in 2017 SCMR 1218 (Syed Mushahid Shah v. Federal Investigation Agency).*** *"*
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> (Emphasis added)

Similarly, the Hon'ble Lahore High Court in the case titled "Dr. Riaz Qadeer Khan v. Presiding Officer, District Consumer Court, Sargodha and others" **(PLD 2019 Lahore 429)**, whilst dealing with complaints filed before the learned Consumer Courts claiming damages for medical negligence, observed the following qua the jurisdictional dispute:

> *"9. The Punjab Consumer Protection Act, 2005 is applicable for protection and promotion of rights and interests of all kinds of consumers but the Punjab Healthcare Commission Act, 2010*

> *exclusively deals with the matter for improvement of quality of healthcare services related to treatment, diagnosis and care. It regulates the "healthcare service provider" being the person who is responsible for the provision of the services.* ***It is well settled canon of interpretation that where there is a conflict between a special law and a general law, the former will prevail over the latter. Reliance is placed on case reported as Syed Mushahid Shah and others v. Federation Investment Agency and others (2017 SCMR 1218)****.*
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> *12. For what has been discussed above,* ***we are persuaded to hold that Healthcare Commission is the only competent forum to investigate into the allegations of maladministration or malpractice by a health service provider and the Consumer Court has no jurisdiction to adjudicate upon such matters. Resultantly, all these writ petitions are allowed and the complaints pending before the learned Consumer Court are directed to be returned for its presentation before the appropriate forum.****"*
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> (Emphasis added)

Therefore, even if the ICPA, 1995 provides remedies in consumer transactions, matters specifically involving medical negligence fall exclusively under IHRA. Thus, any aggrieved person must first approach IHRA for redressal and determination of negligence before seeking other remedies. The IHRA Act, 2018, being a subsequent and special legislation exclusively governing healthcare regulation and medical negligence, overrides the earlier statute, i.e. ICPA, 1995 to the extent of inconsistency. The learned Trial Court, therefore, rightly held that the complaint was not maintainable before the Consumer Court.

16. Under the IHRA, 2018, the use of expert opinion is an integral part of the adjudicatory process in cases involving allegations of medical negligence. Section 33 mandates the Authority to investigate complaints relating to healthcare establishments, professionals, and medical negligence, while Section 34 empowers it to prescribe detailed procedures for such investigations. This statutory framework ensures that findings of negligence are not based on mere lay assessment but are supported by the technical expertise of qualified medical professionals. The Islamabad Healthcare Regulations,

2023, particularly Regulations 49 to 54, reinforce this mechanism by providing for the constitution of a Complaint Hearing Committee, which may call upon medical experts for assistance in assessing whether a healthcare provider has deviated from recognized medical standards or failed to exercise due skill and care. This expert-driven approach guarantees that determinations of negligence are grounded in scientific and clinical evidence rather than conjecture.

17. In contrast, Consumer Courts constituted under the ICPA, 1995, are not equipped with any statutory mechanism for obtaining or relying upon expert medical opinions. Their jurisdiction is confined to assessing the deficiency of service or unfair trade practice in general commercial contexts, and they lack both the procedural framework and technical competence to adjudicate complex issues of medical negligence. Unlike the IHRA framework, which establishes specialized regulatory oversight, expert consultation, and technical inquiry, the Consumer Courts proceed summarily and rely primarily on documentary and oral evidence presented by lay litigants. Consequently, as affirmed in **PLD 2025 Islamabad 106 (Dr. Farhat Ullah Bakhsh v. Ex-Officio Justice of Peace)**, matters involving professional or medical negligence fall exclusively within the domain of the IHRA, which alone possesses the statutory expertise and procedural safeguards to investigate and adjudicate such complaints.

18. In the case titled "*Lady Dr. Nafeesa Saleem and another Versus Justice of Peace/Additional Sessions Judge, Multan and 2 others*" ***(PLD 2022 Lahore 18)***, the Lahore High Court highlighted that international law recognizes the right to health as a fundamental human right, essential for the well-being, dignity, and security of individuals and societies. The Constitution of the World Health Organization (WHO) affirms that health is a state of complete physical, mental, and social well-being, not merely the absence of disease. Every human being is entitled to the highest attainable standard of health without discrimination. Similarly, Article 25 of the Universal Declaration of Human Rights (UDHR) and Article 12 of the International

Covenant on Economic, Social and Cultural Rights (ICESCR) affirm the right of every person to adequate health and medical care. The UN Committee on Economic, Social and Cultural Rights, through General Comment No. 14 (2000), clarified that the right to health encompasses both freedoms and entitlements: the freedom to control one's health and body, and the entitlement to a functioning healthcare system that ensures equal access to medical services.

19. In Pakistan, the right to health flows from Articles 9 and 14 of the Constitution, which protect the right to life and human dignity, respectively. Courts have consistently interpreted the right to life to include all facets necessary for meaningful existence, including access to healthcare. The term "healthcare" now covers a wide spectrum of services, institutions, and devices designed to maintain and restore physical and mental well-being, reflecting the need for a system that is effective, accountable, and responsive. Regarding medical negligence, courts have long held that a person who presents themselves as a medical professional undertakes to possess the requisite skill and knowledge for treatment.

20. While upholding the dismissal of the complaint on grounds of maintainability, it must be observed that the Appellant is not without remedy. Section 33 of the IHRA, 2018 expressly provides a mechanism enabling any aggrieved person to file a written complaint before IHRA within sixty days of knowledge of the cause of action, supported by an affidavit. The Authority, after conducting an investigation in accordance with its prescribed procedure, may determine the issue of medical negligence and impose penalties in accordance with the law. With utmost respect, the reasoning adopted in "Shifa International Hospitals Ltd. Versus Hajira Bibi" (**PLD 2018 Islamabad 372)** no longer holds the field in view of the subsequent and authoritative pronouncement in **Dr. Farhat Ullah Bakhsh (Supra),** wherein the same Court unequivocally held that Consumer Courts lack jurisdiction to adjudicate upon matters of medical negligence, as such cases fall exclusively within the

domain of the Islamabad Healthcare Regulatory Authority (IHRA) under the IHRA Act, 2018. Moreover, in the said judgment, the Court observed that when two special laws are in conflict, the general principle of interpretation of a statute is that the special law shall have precedence over the general law, and when two special laws are inconsistent with any provision/situation, then one which is later in time shall prevail over the earlier one.

21. For the foregoing reasons, the moot questions are addressed in the preceding paragraphs, and resultantly appeal stands ***dismissed***. The Impugned Order dated 06.01.2025 does not suffer from any legal infirmity warranting interference. Nevertheless, the Appellant shall be at liberty to approach the Islamabad Healthcare Regulatory Authority for redress in accordance with Section 33 of the Islamabad Healthcare Regulation Act, 2018, read with Regulation 44 of the Islamabad Healthcare Regulations, 2023.

22. The IHRA, upon receipt of such complaint, shall proceed strictly in accordance with the law and ensure that the matter is decided expeditiously. The appeal is accordingly **disposed of** in the above terms.

(MUHAMMAD AZAM KHAN)
JUDGE

Announced in the open court on _____.

JUDGE

//Sajid//*

Approved for reporting
Blue slip added.