



## **IMA HQs. Standing Committee For Medicolegal Cell**

**MEDICO LEGAL TIP No.- 2/2021**



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## **National Consumer Disputes Redresses Forum**

**BEFORE:**

**HON'BLE MR. JUSTICE R.K. AGRAWAL,  
PRESIDENT HON'BLE MRS. M.SHREESHA, MEMBER .**

### **FACT OF THE CASE:**

On 24.07.1997, the patient Vasanthakumari, was given gynetocia/pitocine, an oxytocine to induce labour. She delivered a female baby on 24.07.1997 at 7.08 PM and post-delivery, the patient complained of chest pain. The patient complained Chest pain and was seen by the Opposite party by 9.30 pm and advised Inj. Ranitidine. No Cardiac assessment was advised. Thereafter, the condition of the patient deteriorated and the duty nurses informed the first Opposite Party over phone, but he did not chose to attend to the patient immediately, but came to the Hospital only after getting the information that the patient had passed away, i.e. at 1.40 AM on the morning of 25.07.1997. There was over-writing and correction in case record from 1.45 AM to 1.40 AM.

### **ALLEGATION:**

- First or the Third Opposite Party or any doctor of the Hospital were not present to attend to the patient, post-delivery, particularly, when the patient was suffering from chest pain.
- There was over-writing and correction of time as 1.40AM from 1.45AM .
- No further test was suggested such as ECG as the patient complained of Chest pain.

### **DEFENSE OF THE DOCTORS:**

- Came to the Hospital at midnight and saw patient was sleeping comfortably.
- Called at 1.00 AM , rushed to the Hospital and saw patient gasping , hence oxygen and fluids was started.
- Patient detoriated and External Cardiac massage was given, but did not recover and collapsed by 1.45 AM.
- The deceased patient knew very well that the Hospital did not have any ECG facility and in spite of that, the Complainant and his wife approached the Opposite Party's Hospital for the second delivery and thus, it is only an 'act of God' and not because of the negligence of the first or third Opposite Party.

- That though the first Opposite party insisted for post-mortem to rule out suspicion, if any, yet the relatives of the deceased patient, did not permit the same.

### **OBSERVATION OF THE COURT:**

- Facts in dispute is whether the standard protocol was followed by the treating doctors, when the patient complained of chest pain at 9.30PM immediately after the delivery, and if so, had the doctors had attended to her between 9.30 PM and 1.40AM, it would have led to the saving of the patient's life.
- It is an admitted fact that the patient complained of chest pain at 9.30 PM and the nurses' progress report, i.e., Exhibit A-5, does not show that any of the treating doctors had attended to the patient between 9.30PM and 1.40AM, by which time, the patient had expired.
- The first Opposite Party had enquired about the patient and visited her around 12 O' clock in the night, is not substantiated by any documentary evidence. The treatment record also does not evidence that any instructions were given to the nurses about the patient's condition
- The case dates back to 1997, and it was observed that the hospital is not equipped with ECM machine. . When a patient complains of chest pain, taking an ECG as per the medical literature is the standard protocol and if the Hospital/Nursing Home is not equipped with it, at least, the patient should have been referred to another Centre.
- The nurses' notes or the treatment record does not anywhere evidence that an ECG was even advised or taken. A patient suffering from labour pain and was induced by oxytocine, the following precautionary measures have to be taken, namely, monitoring of BP, pulse rate, foetal heart rate and assessment of progress of labour. Therefore, when admittedly, the patient was having high BP and the patient complained of chest pain and head-ache, it is significant to mention that not only the ECG was not prescribed, the patient was not even referred to a higher management Centre, for better administration, as admittedly, the Nursing Home was not equipped with ECG.
- **Therefore, we are of considered view that the standard protocol to be followed when the patient, post-delivery, complains of chest pain, was not followed, hence, we hold that the treating doctors were negligent in not following the standard norms of normal medical parlance and not adhering to the duty of care,**
- A wife's contribution to the family in terms of money can always be worked out. Every housewife makes a contribution to his family. It is capable of being measured on monetary terms although emotional aspect of it cannot be. It depends upon her educational qualification, her own upbringing, status, husband's income, etc." Thus, in computing compensation payable on the death of a home-maker spouse who is not employed, the Court must bear in mind that the contribution is significant and capable of being measured in monetary terms.

### **COMMENT ON THE CASE:**

- The case had been on appeal from the State commission to the National commission when the State awarded a compensation of Rs.15,00,000.
- Courts rely only on Treatment protocols from the standard text books and that are presented by the complaint or the opposite party with DOCUMENTARY evidence.

- The incident dates back to 1997 and ECG machine as an ESSENTIAL infra-structure is well established by the court then itself.
- Documentary evidence for all your visit and Instruction is absolutely necessary to defend you in the Courts.

## **CODE OF MEDICAL ETHICS IN RELEVENCE:**

### **CHAPTER 2**

#### **2. DUTIES OF PHYSICIANS TO THEIR PATIENTS**

##### **2.1 Obligations to the Sick**

2.1.1 Though a physician is not bound to treat each and every person asking his services, *he should not only be ever ready to respond to the calls of the sick and the injured, but should be mindful of the high character of his mission and the responsibility he discharges in the course of his professional duties.* In his treatment, he should never forget that the health and the lives of those entrusted to his care depend on his skill and attention. A physician should endeavor to add to the comfort of the sick by making his visits at the hour indicated to the patients. A physician advising a patient to seek service of another physician is acceptable, however, in case of emergency a physician must treat the patient. No physician shall arbitrarily refuse treatment to a patient. *However for good reason, when a patient is suffering from an ailment which is not within the range of experience of the treating physician, the physician may refuse treatment and refer the patient to another physician.*

**PURITY OF PROFESSION – PARITY IN HEALTHCARE**