



The Center for Health, Human Rights and Development & Ors. v. Nakaseke District

Civil Suit No. 111 of 2012

Country: Uganda

Region: Africa

Year: 2015

Court: High Court of Uganda at Kampala

Health Topics: Child and adolescent health, Health care and health services, Hospitals, Medical malpractice, Sexual and reproductive health

Human Rights: Right to health, Right to life

Facts

The plaintiffs contended that a woman named Nanteza Irene was brought to the Nakaseke Hospital to deliver a child. She had an obstructed labour and did not receive appropriate medical care due to unavailability of the duty doctor (DW4). The plaintiffs sought damages on account of negligent conduct of the hospital in respect of a patient who was in a critical condition and needed immediate medical attention.

The issues in this case were whether the human rights of the deceased and her children violated by the defendant due to her untimely death.

Decision and Reasoning

The Court found the defendant negligent in their conduct. It stated that the fact that the deceased remained in the hospital for 8 hours before her death without any proper care or attention amounts to a negligent conduct. The duty doctor (DW4) was not available at the hospital and the plaintiff and defendant witnesses all testified to this fact. On the basis of evidence, the Court found that the duty doctor (DW4) was not available in the hospital from mid-morning till late. The Court further stated that Article 33(3) of the Constitution specifically provides for rights of women to be protected taking into account their unique status and maternal functions.

Further the Court stated that as the children have been denied the care of their mother due to her untimely death, it violated their rights under Article 34(1) of the Constitution as it recognizes the best interest principle in case of children and a right to know and be cared by their parents. The Court stated that it was clear from the evidence brought forward that an obstructed labour condition if not attended to could lead to death and this fact was known to the defendants. The Court granted general damages to the plaintiffs.

Decision Excerpts

“There is a preponderance of evidence especially by DW4 and DW 2, that such a condition of “obstructed labour”, would lead to death of a mother and child, unless attended to with urgency and dispatch and that her condition needed the attendance, management and intervention of a senior doctor. ” (Page 9)

“The deceased did not receive the care and protection she was entitled to under the constitution as a result of a flagrant act of neglect of duty of DW4...The deceased children, plaintiff, 3 4 and 5 and the PW1, have been denied the care and companionship of their mother and wife, that is recognized under the constitution, by a flagrant act of neglect of duty by DW4. ” (Page 13)