



M. Chinnaiyan v. Sri Gokulam Hospital and another

III (2007) CPJ 228 NC;

Country: India

Region: Asia

Year: 2007

Court: National Consumer Disputes Redressal Commission

Health Topics: Health systems and financing, HIV/AIDS, Hospitals, Infectious diseases, Informed consent, Medical malpractice

Human Rights: Right to bodily integrity

Facts

R. Lalitha, late wife of the Petitioner, M. Chinnaiyan underwent an operation in Sri Gokulam Hospital, the 1st Respondent (R1). In the post operative period, two units of blood from Queen Mary's Laboratory, the 2nd Respondent (R2), was transfused into her. Soon thereafter, she developed many infections and tested positive for HIV. She later died due to HIV-related complications.

The Petitioner's case being dismissed from the State Consumer Disputes Redressal Commission, he filed a petition in the National Consumer Disputes Redressal Commission (the Commission). The issue before the Commission was whether the Petitioner's wife contracted HIV due to the negligence of the Respondents.

Decision and Reasoning

As to the issue of obtaining the Petitioner's wife's consent before the transfusion, the Commission relied on *Malette v. Shulman* (72 OR (2d) 417), to hold that before any medical procedure the patient must be informed of its pros and cons and should have given their consent based on such information. The Court also held that a doctor conducting medical procedures without having obtained the requisite consent would be liable in battery.

Regarding the nature of obligation upon Respondents R1 and R2 and their consequent liability, the Court placed reliance on Rule 66(A) of the Drugs and Cosmetics Rule which makes it mandatory to conduct HIV antibody test before certifying the "purity of the blood" for transfusion. It held that neither had R2 complied with this duty nor had the doctor and the hospital insisted on getting the blood test certificate. It, therefore, held both R1 and R2 guilty of negligence. The Court further held that the attending physician also had the "duty to ensure that the blood is free from infection." The Court held that the Petitioner's wife had contracted HIV due to the blood transfusion.

On the issue of compensation, the Court directed the Respondents to, jointly and severally, compensate the Petitioner with approximately Rs. 10,50,000.

Decision Excerpts

"A doctor who performs a medical procedure without having first furnished the patient with the information needed to obtain an informed consent will have infringed the patient's right to control the course of her medical care, and will be liable in battery even though the procedure was performed with a high degree of skill and actually benefited the patient." Para. 30.

"Apart from the duty of the clinical laboratory and the blood bank to ensure that the blood is free from infection and it is the duty of attending physician to ensure that the blood is free from infection. The decision to transfuse blood or blood products must be based on a careful assessment which indicates that they are necessary for saving life or for preventing major morbidity. Responsibility for the decision to transfuse must rest ultimately with the attending physician, although this will often be made in consultation when a specialist transfusion advice is available." Para. 36.