N.V. v. LLC â€œâ€¦ Hospitalâ€•

Docket number #áƒ•áƒ¡-33-406-05

Country: Georgia
Region: Europe
Year: 2005
Court: Supreme Court [áƒ¡áƒ•áƒ¥áƒ•áƒ áƒ—áƒ•áƒ”áƒšáƒ•áƒ¡ áƒ£áƒ–áƒ”áƒœáƒ•áƒ”áƒ˜áƒ˜ áƒ¡áƒ•áƒ¡áƒ•áƒ›áƒ•áƒ á
Health Topics: Aging, Disabilities, Hospitals, Informed consent, Medical malpractice
Human Rights: Right to health

Facts

N.V. submitted a lawsuit in Court against the respondent LLC â€œâ€¦ Hospitalâ€• for reimbursement of pecuniary an non-pecuniary damages after multiple failed surgeries. The plaintiff alleged the resulting damages were caused by poorly done surgeries and post-surgical treatment. The plaintiff was operated on for left pelvis-hip joint total endoprosthesis. The plaintiff had three surgical operations without positive effect. Instead, the surgeries damaged and deteriorated the patientâ€™s health. He became a person with disabilities and limited capacity to work. Â The respondent hospital refused any liability.

Decision and Reasoning

The Court found that the respondent was grossly negligent and owed the plaintiff compensation.

The Court in the judgment used the international â€œConvention for the Protection of Human Rights and Dignity of the Human Being with regard to the Application of Biology and Medicineâ€• (4 April 1997). Georgian law applies the Conventionâ€™s professional standards to Georgian doctors. Article 4 of the convention provides that a doctorâ€™s obligation is not only the recovery of the patient but improvement of health, relief from pain and the patientâ€™s psychological welfare.

The Court used the Georgian Civil Code to find civil responsibility for the damages. Liability applies if damage is inflicted because of an illegal action, there is a causal link between the action and the result and the damage is caused by the perpetratorâ€™s fault. In determining non-pecuniary damages, the Court assessed the factors of the volume of pain, age, limited ability to work, the plaintiffâ€™s amount of mental anxiety, and the respondentâ€™s material wealth.

Decision Excerpts

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â€œThe international â€œConvention for the Protection of Human Rights and Dignity of the Human Being with regar
to the Application of Biology and Medicineâ€• (4 April 1997), which provides that any medical interference in the
field of health, including research, should be conducted with appropriate professional obligations and
standards. Article 4 of the memorandum provides that doctorâ€™s obligation is not only the recovery of the
patient but improvement of health, relief from pain and patientâ€™s psychological welfare. (Ratified 27.05.2000).

In this particular case, the respondent not only did not fulfill the requirement of the convention, but because of
improper action of the respondent, the plaintiff sustained long-lasting physical and mental suffering.
According to Article 3, paragraph â€œáƒ•â€œ of the law on Health Protection,Â medical malpractice is the accident
inappropriate diagnosis of the patientâ€™s condition or treatment, which in this particular case became the cause
of the damage.â€• (p. 2)

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