

Allegations of Negligence were turned down, but sympathy towards patient costed Rs.50,000/- !!

- 1) A medical practitioner faced with an emergency ordinarily tries his best to redeem the patient out of his suffering.
- 2) He does not gain anything by acting with negligence or by omitting to do an act. Obviously, therefore, it will be for the complainant to clearly make out a case of negligence before a medical practitioner is charged with or proceeded against criminally.
- 3) A surgeon with shaky hands under fear of legal action cannot perform a successful operation and a quivering physician cannot administer the end-dose of medicine to his patient....
- 4) So long as it can be found that the procedure which was in fact adopted was one which was acceptable to medical science as on that date, the medical practitioner cannot be held negligent merely because he chose to follow one procedure and not another and the result was a failure

In the Case of RAVINDER SINGH JOLLY V/s DHARAMSHILA CANCER HOSPITAL & RESEARCH CENTRE, Delhi, Commission relied upon the above judgment of Apex Court in the case of Jacob mathew V/s. state of Punjab.

See the Link- <http://cms.nic.in/ncdrcusersWeb/GetJudgement.do...>

The Complainant's mother Smt. Soma Devi, 70, (since deceased- hereinafter referred as 'patient'), was diagnosed as a case of Cancer Oesophagus (Ca).

The complainant filed the case for damages of **Rs. 2 lakhs +** on the grounds that-

- A) Several hospitals like AIIMS, Apollo, General William Masonic, examined patient but none had made conclusive diagnosis of Ca Oesophagus, Hence, there was no malignancy.
- B) The stenting was not properly done and as a result of which lungs collapsed.
- C) Stenting was excessively charged i.e. **Rs.38,491/-** instead of **Rs.35,000/-**
- D) There was no proper care taken while shifting the patient from Ambulance.

The doctors vehemently refused the said allegations and contended that the patient was approached in serious condition and they did their job well.

The commission after perusing the record and medical literature held that Doctors have taken proper care during the diagnosis and during the treatment, hence there was no medical negligence or any procedural lapse. The radiological investigations were confirmatory of invasion in the thoracic cavity; therefore stenting was done and it was done properly.

In every hospital, where the Patient visited, it was suspected as a Ca Oesophagus and confirmed.

*However by confirming the sympathetic view taken by State Commission which directed Doctors to pay **Rs.50,000/-** which was paid without any demur, the Revision petition was dismissed....*

These are the cases where Doctors should file counter cases for recovery of amount for mental pain and agony for filing false cases..... Merely venting on social media is of no help!!!!