

"Can a Gynaecologist be an expert witness in the MLC involving Chest Medicine or Neurology?"

The National Commission was dealing with this question and expressed its concern that it's high time in India to have strategies for regulating expert witness testimony in medical negligence cases.

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Facts in Brief:

1. 90 years old father (deceased) of the Complainant was kept in HDU (High Dependency Unit) as he was drowsy and unconscious.
2. It was alleged that the patient was not attended properly in HDU. His feet became cold due to AC machine. The patient vomited twice, BP was not recordable and oxygen saturation was 73%, the patient became unconsciousness and died soon.
3. The Complainant examined one Dr. Bandookwala, a Gynaecologist having experience in matter of health insurance and medical negligence for 20 years, as an expert witness who gave opinion in favour of the Complainant.
4. The Doctors rejected all the allegations.

Held:

1. After going through the case papers, the Commission came to the conclusion that patient was a known case of diabetes, hypertension and having pacemaker implanted.
2. The investigations clearly revealed, patient had infective etiology and suspected to be a stroke and accordingly the treatment was started. The Neurologist suspected it as Cerebro-Vascular Accident (CVA). The USG report revealed Chronic Renal Disease.
3. Bare mention of "advice on telephone from Dr. P.P. Roy" in the medical record, will not constitute medical negligence.

4. The commission refused to rely upon the opinion of said expert who was not in the speciality of Chest medicine or Neurology.

5. It should be borne in mind that whether a medical practitioner carries out a particular form of treatment in accordance with the appropriate standard of care is a question in the resolution of which responsible professional opinion will have an influential, often a decisive, role to play. In the instant case the expert opinion is devoid of such details.

Dear Medicos,

This case is very important from Medical Negligence cases. As in every such cases, the aspect of third party expert witness always arise. So it's very important to see who the expert is and what knowledge he/ she has, because the decision of the Court may change on such opinion.

In addition to the one of previous article on can a M.D. Medicine practice Cardiology, question of expertise was raised.

IMA should on its own frame guidelines for such expert witness, which may be confirmed or modified by the Court in future cases.