

## **The fall of an Indoor patient while taking a "stroll in the midnight" costed Rs.11 Lakhs to the Hospital.**

In an interesting case of ASHISH KUMAR MAZUMDAR V/s. AISHI RAM BATRA CHARITABLE HOSPITAL TRUST & ORS before the Apex Court, the Court rejected the appeal of Hospital, but also rejected the enhancement claim of the Complainant to Rs. 25 lakhs.

<http://judis.nic.in/supremecourt/imgs1.aspx?filename=41442>

### **Facts in nutshell :**

1) According to the plaintiff, on account of high fever and in delirious state, on 27.10.1988 he was admitted as an indoor patient in the Batra Hospital in Room No.305 on the third floor of the hospital. In one night at about 2.20 a.m., the plaintiff's sister, one Kajal, who was staying with him in the room had noticed the absence of the plaintiff from the room and after prompt search by staff, the plaintiff was found lying on the ground floor in the oncology gallery of the hospital and at a distance of 50 yards from a point immediately below the window of room No. 305. The plaintiff suffered multiple fracture of lumbar vertebrae with complete dislocation of the spinal cord and despite treatment he became a paraplegic i.e. 100% disabled below the waist.

2) The Plaintiff contended that it was the duty and responsibility of the hospital authorities to take care of the plaintiff who was suffering from high fever and was in a delirious state, which could have avoided the tragic incidence.

He filed a suit for damages of Rs. 58 lakhs, but as he could not afford Court fees, claim was reduced to Rs. 25 lakhs.

### **Hospital's Defense :**

1) Hospital contended that when Plaintiff's own sister was permitted to stay in the rooms as an assistant, the plaintiff himself must have jumped out of window. The allegations of negligence were also denied.

### **Held :**

1) The Ld. Trial Judge after going through the Evidence held that having regard to the precarious health condition of the plaintiff, it cannot be accepted that plaintiff had jumped out of window on his own and this being the case of res ipsa loquitur ( meaning "the thing speaks for itself" i.e. a doctrine of law that one is presumed to be negligent if he/she/it had exclusive control of whatever caused the injury even though there is no specific evidence of an act of negligence, and without negligence the accident would not have happened) the Hospital has failed to prove the absence of any negligence and due care and attention on its part

2) The Id. Trial court Judge concluded that, in the present case, the hospital should be held liable for not maintaining the necessary vigil in the hospital premises to ensure the safety of its patients and it is on account of the absence of such vigil that the plaintiff, despite his poor health, was able to walk around and in the process had sustained the injuries in question and awarded damages of Rs. 7 lakhs

3) The judgement of Trial Court was confirmed by Hon. Delhi High Court, but it enhanced the compensation to Rs.11 lakhs. In Apex court Plaintiff filed appeal for enhancement to Rs. 25 lakhs, whereas Hospital approached for quashing of both the orders. The Apex court dismissed both the appeals as there was concurrent finding of lower Courts on Negligence as well as upon damages.

It's indeed an interesting, but unfortunate case. Broadly speaking, with due respect to their Lordships, I personally find that the Hospital was not liable.

What was its real fault? Whether all such patients go on strolling? What is the liability of patient's sister in this case? I do not know what evidences were brought before the trial Court, but had there been CCTV's in 1988, the findings would have been different.

But certainly another lesson for all the Medicos, isn't it? Now put a board outside the rooms, strolling at your own risk.