

2nd NATIONAL MOOT COURT COMPETITION

(INTRODUCTION)

“No doctor knows everything. There’s a reason why it’s called “practising” medicine.” To err is human. Indubitably doctors all over the world are given the stature next to God. It happens so mostly because they are lifesavers who work tirelessly for mankind. Since no man is perfect in this world, it is evident that a person who is skilled and has knowledge over a particular subject can also commit mistakes during his practice. *Too err is human but to replicate the same mistake due to one’s carelessness is negligence.* Medical Negligence basically is the misconduct by a medical practitioner or doctor by not providing enough care resulting in breach of their duties and harming the patients which are their consumers.

A professional is deemed to be an expert in that field at least; a patient getting treated under any doctor surely expects to get healed and at least expects the doctor to be careful while performing his duties. Though patients see the doctors as God and believe that their disease will be cured and they will be healed by the treatment but sometimes even the doctors makes mistakes which can cost a lot to the patients in many ways. Sometimes the mistakes are so dangerous that a patient has to suffer immensely.

The amount of care to be provided by any doctor varies from case to case. With the increase in public awareness of rights relating to medical negligence, courts have witnessed numerous complaints against doctors. It is said, if it exists it’s debatable, just like with every act of doctor arises the possibility of arguments over his/ her decisions. Hence the moot court committee of PURC, Ludhiana presents a moot proposition on the topic of “MEDICAL NEGLIGENCE”, with an aim to provide budding lawyers a platform for debate and discussion on this topic which has recently gained popularity.

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(MOOT PROPOSITION)

1. Dr. Ridhi Sharma, a 35 years old Geneticist worked in New Life Hospital, one of the prestigious hospitals in India. She was very passionate about her patients and held an exceptionally progressive record. She worked around the clock at the hospital to make sure the well being of her patients and believed in making difference.
2. Mrs. Kalpna Pathak, 42 years old, resident of Amritsar was patient of New Life Hospital, Delhi, from past 12 years as she was suffering from a rare, life-threatening syndrome called ROHHAD syndrome.
3. Her family spent a lot of money on her treatment but this disease was incurable and finally left her in Delhi for her further treatment. As travels were expensive, her family only visited her when they could. Though, they appointed Gayatri, a 18 years old caretaker for her.
4. Living in hospital for 12 years almost broke Mrs. Pathak from inside. She used to be a warm and lively person who never compromised her freedom and liberty for anything. But, her time in hospital made her life monotonous and miserable. As a result, she started avoiding medications even after strict warnings by doctor and several times even overdosed tonics consisting of alcoholic contents.
5. Dr. Ridhi came to know about this condition of Mrs. Pathak from Gayatri. She also agreed that Mrs. Pathak needed regular medication. But Dr. Ridhi became quite sympathetic when she realized that Mrs. Pathak hadn't left the hospital once in 12 years. And became determined to discover any possible way to help her.
6. Following through her research, she discovered that the precise cause of ROHHAD (Rhodes illness) is reportedly unknown. Experts, however, suspect it could be a genetic disorder. She found out about a Project named "Discover Relief", which aimed to discover readily accessible guidelines for patients with rare diseases and for the anesthesiologists caring for them.
7. Dr. Ridhi, in the data presented under this project found out that Elixir Labs, the same company, which manufactured Mrs. Pathak's medicines of ROHHAD disease, in a research have claimed that the drug they were marketing for Huntington's disease has also cured a considerable percentage of Rhodes disease patients as well. However, the chance of the treatment being fatal is expected to be 30 percent at her age.
8. She decided to bring this up to Mrs. Pathak as an option and tell her about the odds, to which Mrs. Pathak replied "*I'm really thankful for the care and time my doctors have given me, but it's just not enough just to be alive. I want to live*" and consented to it.
9. Dr. Ridhi wrote a detailed application mentioning the medical history and current scenario of Mrs. Pathak's health condition on 25th March 2019 to Elixir Labs in order to ask for the drug but her

application got rejected by the Managing Director of Elixir Labs, Mr. Naveen Mathur, stating that the drug hasn't been completely approved by Food and Drug Administration, it is yet being experimented.

10. Dr. Ridhi and Mr. Mathur were never fond of each other due to their contrasting work ethics. Mr. Mathur was an established businessman who only bothered about ways to multiply his profits.
11. Dr. Ridhi decided to get to the bottom of the issue and found out that the Elixir labs actually never really wished to introduce the cure of Rhodes disease in medical world as it would reduce their company's profits. This fumed Dr. Ridhi and she decided to get access to the drug either way and hence stole the sample drug sent by the lab to their hospital for the patients of Huntington's disease.
12. After getting the drug she asked Mrs. Pathak whether to give her the dose and she gave her verbal consent to Dr. Ridhi in front of Gayatri. Within a week Mrs. Pathak showed a miraculous recovery and on 1st May 2019 she was declared fully cured of the disease and Dr. Ridhi discharged her the next day without even keeping her under observation.
13. Mrs. Pathak, after few days of discharge on 5th May 2019 contacted Dr. Ridhi to thank her for giving her a new life where she was not just meaninglessly existing. But on 7th May 2019 the news of Mrs. Pathak's death came as a shock in the hospital which immediately raised alleging questions.
14. The postmortem reports of Mrs. Pathak confirmed died of Cardiopulmonary arrest, it was registered as a case of "sudden unexplained death (SUD)". The husband of Mrs. Pathak sued the Hospital under Section 304A for causing death by medical negligence which led to an investigation within the hospital to find the cause of her death revealing the acts of Dr. Ridhi.
15. The hospital held a meeting of Hospital Administration on 15th May 2019 against the action of Dr. Ridhi consisting of 7 jury members which included 6 Senior Doctors and Mr. Mathur and asked her to explain her actions.
16. Dr. Ridhi pleaded not guilty on the pretext of acting in good faith after receiving the consent of the patient which was corroborated by Gayatri. After the hearing, 5 members including Mr. Mathur voted against Dr. Ridhi overseeing the hospital's best interests, consequently she lost her reputed job at New Life Hospital, Delhi.
17. Moreover, the licence of Dr. Ridhi was suspended by the Medical Council of India for 7 years on 25th May 2019 believing that she did commit medical negligence due to which a patient lost her life.
18. Before the trial in court, this case gathered a lot of negative media attention which resulted in gross tarnishing of Dr. Ridhi's reputation in society.
19. The Trial Court on 26th December 2019 convicted Dr. Ridhi under section 304A IPC read with Section 90 and Section 337 of IPC and approved the suspension of her licence.

20. Now Dr. Ridhi Sharma has filed an appeal before the Hon,ble High Court to seek justice against her conviction in Trial Court. The hearing of which is scheduled on 6th March 2020.

ISSUES RAISED:

- a) Whether or not the stance of the appeal is maintainable in court of law?
- b) Whether or not the act of Dr. Ridhi Sharma amounts to negligence on her part?
- c) Whether or not the constitution of the Hospital Administration as well as its decision is in accordance with the law?
- d) Whether or not the Trial Court has erred in finding Dr. Ridhi Sharma guilty of Medical Negligence under Section 304A of IPC?

NOTE:- The participants are allowed to add issues pertaining to the above petition.