

Medical Negligence: Tragedy Under Wraps

Medical Negligence

Tragedy Under Wraps

TheNetwork Publications

Title: Medical Negligence: Tragedy Under Wraps

All rights reserved. No part of this publication may be reproduced
or translated without duly acknowledging the source.

First published March 2006

Cover designed and layout by
Mohammad Rafiq

Printed in Pakistan by Khursheed Printing Company Limited
Zero Point, Islamabad

Published by
TheNetwork for Consumer Protection
40-A Ramzan Plaza, G-9 Markaz, Islamabad, PAKISTAN
e-mail: main@thenetwork.org.pk
website: www.thenetwork.org.pk

Contents

Executive Summary	1
1. Introduction	3
2. Medical Negligence-Definitional and Conceptual Aspects	4
3. Medical Malpractice Litigation in Pakistan	6
4. Medical Negligence in Pakistan -A Situational Analysis	10
5. Conclusion	15
6 References	17
Annex I: Court Judgement in Riaz Bibi Case	18
Annex II: Riaz Bibi Case: A Chronology	28
Annex III: Tales of pain	32
Annex IV: Press clippings	36

Executive Summary

The understanding of medical negligence as a concept is rather hazy in our society. This holds true for healthcare providers as well as for the general public. Negligence is a broad category of tort law, and it is, in essence, a careless behavior that places an unreasonable risk of injury on another person. Medical malpractice is, by and large, considered to be a special case of negligence, where a medical professional causes unreasonable harm to a patient due to her/his failure to meet an established standard of care. Medical malpractice litigation should then seek, one, to compensate the injured and, two, to serve as deterrence, because in the absence of such a correction, the patients are at the mercy of medical professionals.

There are, in fact, many reasons for the virtual absence of the medical malpractice litigation culture in Pakistan. Some pertain to general lack of awareness on the part of patients about their healthcare rights; the others come under administrative and legal domain. Societal tendency to repose unlimited confidence in the physician is fraught with many dangers and there are instances in which improper care or medical negligence was camouflaged by references to divine predestination, leading to the death of a patient.

But even if the injured patients have access to information to seek retribution, they invariably find themselves entangled in the procedural cobweb weaved by Pakistan Medical and Dental Council rules and regulations. Even when enquiries are held in hospitals looking into the incidents of medical negligence, cases of medical malpractice are not likely to get a fair trial because of the nature of the composition of enquiry committees. In the absence of strong institutional mechanisms to provide checks and balances in the medical profession, unscrupulous medical professionals will always find a happy hunting ground.

To curtail this negligent behavior on the part of the medical professional, there are well thought out, standard protocols of medical or surgical treatment. Many incidents of negligence actually happen because they are not followed. Many a time, it has been seen that a patient needing emergency is denied such help and the primary reason put forward by the medics is that they are tied by rules and regulations. Usually, in these situations, time is of primary essence and many reported cases of medical negligence reveal that precious time is lost in discussing legal niceties. Also low level of professional skills and casual attitudes, or a

combination of both, results in incidents of medical negligence.

Avarice and greediness of the medical professionals also results in cases of medical negligence. Many medical professionals become tools in the hands of pharmaceutical companies at the expense of professional integrity. There develops a tacit understanding between doctors and sale representatives of these companies and they indulge in the practice of polypharmacy (prescribing multiple brands of the same or different medicine formula) in order to satisfy the pressing demands of these companies, wreaking havoc on the health of their patients in the process. There are known cases of medical professionals prescribing veterinary drugs in order to make quick money.

A great deal of work needs to be done, urgently and in many directions to protect the interests of the patients and reduce the incidents of medical negligence. An informed public can play a great role in serving as deterrence against medical negligence and a good starting point. Secondly, the colleagues of the accused doctors should not sit on the administrative committees and the committees should be made independent. There should be some non-medical members on these committees to protect the interests of the patients as well. Thirdly, there should be separate consumer courts to dispense justice to the victims of medical malpractice. There are many procedural hurdles and they need to be answered.

This paper attempts to create conceptual understanding of this issue by laying out the legal basis of 'medical negligence', by putting this concept in its historical perspective and narrating a brief overview of some of the known and documented cases of medical negligence in Pakistan. It also tries to depict the socio-economic milieu in which these cases occur, presenting a detailed analysis of all the factors and actors involved in the healthcare process. An attempt is also made to understand what roles belief systems, societal norms and family units play in the decision-making process vis-à-vis healthcare and their impact on medical negligence.

1. Introduction

Every day countless numbers of people are treated successfully, in our country by doctors, both from the public and private sector. However, healthcare relies on a range of complex interactions of people, skills, technologies and drugs. In the course of business, sometimes, things do go wrong and results in what we call "Medical Negligence". For most countries, patient safety is now the key issue in healthcare quality and risk management. The Department of Health (NHS of UK government) estimates that one in ten patients admitted to NHS hospitals is unintentionally harmed, a rate, which is not very different from other developed countries. Around 50 per cent of these incidents could have been avoided, if only lessons from previous incidents had been learned. Interestingly, the Government of Pakistan does not have any data on these unfortunate events of medical negligence, called "never events" in the terminology of torts. This results in a medical profession that has no fear of any retribution resulting from malpractice litigation. Its counterpart in US, however, is under so much pressure by the legal profession and consumer groups that physicians have resorted to 'defensive medicine'. Despite the reporting of a large number of medical negligence cases, there has never been sustained effort on the part of civil society to put in place institutional and organizational checks and balances to deal with this issue in an effective manner. The complexity of the issue, however, requires that it is understood in its entirety through situational analysis of the interaction of all the stakeholders in the healthcare process. Many health professionals and the public have a general, but hazy, understanding of what medical negligence is and how the law defines it. Therefore, this paper attempts to create conceptual understanding of this issue by laying out the legal basis of "medical negligence" by putting this concept in its historical perspective and narrating a brief overview of some of the known and documented cases of medical negligence in Pakistan. It also tries to depict the socio-economic milieu in which these cases of medical negligence occur, presenting a detailed analysis of all the factors and stakeholders involved in the healthcare process. An attempt is also made to understand as to what roles belief systems, societal norms and family unit play in the decision-making process vis-à-vis healthcare and their impact on medical negligence. This paper hopes to initiate a dialogue amongst the medical community, civil society organizations and policy makers so that effective institutional mechanisms could be put in place to cope with the incidents of medical negligence.

2. Medical Negligence -Definition and Concept

“ *Medical malpractice is, by and large, considered to be a special case of negligence, where a medical professional causes unreasonable harm to a patient due to his failure to meet an established standard of care.* ”

'Tort', 'malpractice' and 'negligence' are key words in this entire debate that need to be understood at the outset. A straightforward definition of tort is a civil wrong that usually arises outside of a formal agreement. Negligence is a broad category of tort law, and it is in essence a careless behavior that places an unreasonable risk of injury on another person. Malpractice is the failure of professionals, such as physicians, lawyers, and engineers, to conform to the standards of competence and skill laid down by their particular professions. Medical malpractice is, by and large, considered to be a special case of negligence, where a medical professional causes unreasonable harm to a patient due to his failure to meet an established standard of care. Moreover, medical malpractice is not limited to medical doctors alone. It applies also to nurses, dentists, osteopaths, healthcare facilities, and others providing healthcare services. Many questions arise here that need to be addressed. One, what is the basis for a medical negligence suit against a doctor; after all, a patient chooses his doctor of his own free will? Two, what is 'an established standard of care? Three, what is a person supposed to do, if and when, he suffers from medical negligence. Four, what are the goals of medical malpractice litigation? Even a cursory analysis of the legal definitions shows that when a patient enters into a relationship with a doctor, it becomes the duty of the doctor to act and behave in a way a reasonable person would, under similar circumstances, and that the doctor should meet 'established standards of care'. The classic attempted judicial definition of negligence is noticed in *Blyth v Birmingham Co.* [(1856) 11 Exch 781 784], wherein Alderson B said: "Negligence is the omission to do something which a reasonable man, guided upon those considerations which regulate the conduct of human affairs, would do, or doing something which a prudent and reasonable man would not. Lord Writtle said: "In strict legal analysis, negligence means more than heedless or careless conduct, whether in omission or commission; it properly connotes the complex concept of duty, breach and damage thereby suffered by the person to whom the duty owed". Negligence therefore consists of two acts. The act of not doing (omitting) something, that a reasonable man or woman, under the circumstances, would do (act of omission); and doing something which a reasonable prudent man or woman under the cir-

cumstances would not do (act of commission). It is not necessary that the duty neglected should have arisen out of a contract between the patient and the doctor. However, the duty may arise by a statute or otherwise; and if it is neglected, resulting in an injury to any person, s/he will get a right to sue for damages. In a patient-doctor relationship, the doctor is supposed to meet established standards of care. Meeting 'an established standard of care' means the adherence to a certain level of skill that a "minimally qualified member" in good professional standing would exhibit. This level is established by experts in the same field as the defendant, in accordance with the ruling from *Sheeley vs. Memorial Hospital* 710 A.2d 161 (Supreme Court of Rhode Island, 1998). If a person feels that medical negligence has been meted out to him, resulting in an injury, he can, under the law, seek damages for the injury. For this, he will have to establish that there has been doctor-patient relationship; he will have to establish how the doctor has deviated from established standards of care; he will have to prove that there is causal link between his injury and the doctor's deviation from the established standards of care. Broadly speaking, the system of medical malpractice seeks, one, to compensate the injured, two, to serve as deterrence. In the absence of such a system, the patients are BUT at the mercy of medical professionals.

3. Medical Malpractice Litigation in Pakistan

“ We have only two judgments on medical negligence in Pakistan from 1947 to 2003”

According to Cecilia Loh, concept of malpractice comes from English legal practice dating back to the 1700s. The word malpractice is derived from mala praxis, a legal concept defined in Sir William Blackstone's Commentaries on the Laws of England. The first person to apply the idea of professional misconduct was Blackstone when he defined mala praxis as "injuries caused by a physician's or an apothecary's "neglect or unskillful management" in violation of the trust placed in that practitioner. This definition was adopted by the early settlers of America, however, medical litigation became a significant phenomenon only by mid-1800s. It is interesting to note that, whereas in US there is an intense debate going on as to whose interests the present legal system is serving: lawyers, patients or the medical professionals, medical malpractice litigation is still in its infancy. According to Nasir Maqsood, a Karachi-based lawyer, "We have only two judgments on medical negligence in Pakistan from 1947 to 2003". There are many reasons for this almost virtual absence of medical malpractice litigation culture in Pakistan. Some pertain to general lack of awareness on the part of patients about their healthcare rights, societal norms and belief systems whereas others pertain to administrative and legal domain.

The various factors surrounding the lack of medical malpractice litigation in Pakistan are discussed below:

A - Lack of Awareness of Healthcare Rights

Lack of awareness amongst the general public about their healthcare rights is as low as the abysmal condition of the healthcare system in Pakistan. Not to speak of the illiterate majority, even the educated people do not know about the very basic healthcare rights like 'informed consent' and the existence of institutional mechanisms-no matter how weak and faulty it may be-to which they can turn to for their healthcare rights. 'Informed consent' means essentially that a physician (or other medical provider) must tell a patient all of the potential benefits, risks, and alternatives involved in any surgical procedure, medical procedure, or other course of treatment, and must obtain the patient's written consent to proceed. This lack of knowledge of very basic rights results in incidents of medical negligence. However, injured patients do not know what course of action to take and the reason again is lack of awareness because in the

words of Nasir Maqsood, "remedial instruments" available in the country "are not well publicized".

B - Cultural Norms and Belief Systems

Cultural norms and belief systems have a strong impact on the decision making process of an individual. Therefore, behavioral patterns of a patient with regard to their decision-making pertaining to healthcare issues are strongly influenced by the milieu in which they live. A major factor is our primarily fatalistic society where the majority regards everything to be predestined. Dr. Farhat Moazam says that in eastern cultures "religion and the extended family play a primary role in matters dealing with illnesses, particularly terminal illnesses" and it is in contrast to western societies where "patient autonomy is generally accepted as the cornerstone of medical ethics when it comes to choices involving medical care and end of life decisions." Family plays a central role in the life of an individual in Pakistan and it has strong implications for a patient. "As families are both hierarchical and patrilineal, the oldest male member", Dr. Farhat argues, "plays a pivotal role in major decisions, with a varying degree of input from the patient and other family members." Generally the family avoids the "disclosure of terminal diseases like cancer to patients to avoid burdening them further and to allow them to die in peace. Moreover, the family gives a very special place to a physician and he is often referred to, in the words of Dr. Farhat, "as mother, father, or older sibling". "Privileged position of physicians is derived", she opines, "through a historical understanding of the healer as an instrument of divine mercy." This societal tendency to repose unlimited confidence in the physician is fraught with many dangers and Dr. Farhat testifies "I am aware of instances in which improper care or medical negligence was camouflaged by references to divine predestination leading to the death of a patient."

C - Weak Role of PMDC

Pakistan Medical and Dental Council is the body responsible for regulating the work of medical professionals, and, under PM&DC Ordinance 1962, it is empowered to take disciplinary action against the registered medical/dental practitioners on violation of code of ethics, professional negligence or infamous conduct. Injured patients who have access to information and seek retribution invariably find themselves entangled in the procedural cobweb weaved by PMDC's rules and regulations. This fact has been demonstrated by many reported incidents of medical neg-

““ *The injured patients who have access to information and seek retribution invariably find themselves entangled in the procedural cobweb weaved by PMDC's rules and regulations.*””

ligence. According to the council's rules, a complainant can lodge compliant against the registered medical/dental practitioner on a stamp paper of Rs10 stating the facts of incident and has to "attach documentary proof". "Complaints should be duly attested by Ist Class Magistrate and signed by two witnesses, with an undertaking, that complainant will appear before the disciplinary committee at his own expenses to record his statement." The Council sends the complaint to the "respondent doctor" for comments. "Comments received from the respondent are forwarded to the complainant and if the complainant is not satisfied with the reply of the respondent doctor, he may file a rejoinder and the case is placed before the disciplinary committee for hearing."

This scenario looks great on paper but when it comes to work glaring flaws become so obvious. On September 27, 2003, Kulsoom, the mother of a minor Ali, wrote to PMDC, narrating the agony of her son. But as her plea was on a plain sheet of paper, it was against the Council's rules. She was told to file the case on a ten-rupee stamp paper with all the "relevant documents". "After four months of futile efforts to get the papers, I just filed the case by attaching the hospital's written refusal," she said. Ali's parents were finally able to put up their case with the Council in February 2004. "We have sent their complaint to Dr M Arshad of LNH for his reply on February 24," said Imam Bakhsh, an official of the Council's legal section. Ali's case highlights the agonizingly slow moving paperwork involved in filing a complaint for medical negligence. It seems that the focus is on getting all the documents in place, rather than resolving the complainants grievances.. Moreover, the Council's disciplinary committee has met only five times in the last two years and decided 24 cases.

D - Medical Malpractice Enquiries - By the Doctors for the Doctors?

Even when enquiries are held in hospitals looking into the incidents of medical negligence, cases of medical malpractice are not likely to get a fair trial because of the nature of the composition of enquiry committees. If a doctor is accused of malpractice, those enquiring into his misconduct are his own colleagues. This is a case of implicit maladministration geared to serve interests of those accused of medical malpractice. "Does it make sense that the health secretary or medical superintendent are assigned to inquire. How they could be judge in their own case?" asks Nasir Maqsood. "You cannot expect independent judgements from them. They are there to protect their colleagues", he argues.

E - Barriers in the Legal Domain

The legal system does not encourage medical malpractice to be brought into the courts. The very fact that only two tort cases involving medical negligence have been decided by the courts in the entire history of the country is a severe indictment of the legal system itself. "For a more than 600,000 rupees claim, you will have to deposit 15,000 rupees in fee, says Nasir Maqsood. The rationale put forward for these exorbitantly high fees is that they serve as deterrence against filing of frivolous cases of medical malpractice. Justice (retd) Dr Ghous Muhammad of Sindh High Court, and present Director General of Sindh Judicial Academy opines "people do not go to courts because they think they would not be given respect. The second important factor is that court procedures are time consuming." Another reason due to which medical malpractice cases do not reach courts has got to do with the choice that people have to make between justice and livelihood. Since all choices are essentially economic, people end up going for continuing sustenance for livelihood, rather than seeking justice for medical malpractice.

F - Tort Litigation -A Weak Link in Law Curriculum

Ironically, lawyers who play a pivotal role in tort litigation are not taught this subject comprehensively and as a result, they are not specialized in this area. About tort litigation, Justice (retd) Dr Ghous says "First reason is lack of awareness among professionals. We have only one paper in the LLB curriculum on tort. That too, is not a complete paper. Law graduates do not come with a clear concept of tort to the field. Lack of emphasis on this subject means that they attach relatively low significance to this subject right from the start and head towards other areas of law once they graduate.

“ Another reason due to which medical malpractice cases do not reach courts has got to do with the choice that people have to make between justice and livelihood. Since all choices are essentially economic, people end up going for continuing sustenance for livelihood, rather than seeking justice for medical malpractice.”

4. Medical Negligence in Pakistan -A Situational Analysis

The absence of strong institutional mechanisms to provide checks and balances in the medical profession coupled with the prevalence of fatalistic tendencies amongst the general public help provide unscrupulous medical professionals a happy hunting ground. From the reported incidents of medical negligence, it seems they are having a field day. Tragically, there is no data available to determine exactly the extent to which medical negligence is prevalent in the country. However, the reported incidents of negligence point out that negligence is taking place in virtually all aspects of medicare. Furthermore, given the economic profile of the majority of the country, and, the shambles that the judicial system of the country is in, it does not require rocket science to arrive at the conclusion that these reported incidents of medical negligence are just the tip of the iceberg and that countless number of medical negligence cases remain unreported. Following are some of the trends that emerge from the reported incidents of medical negligence

A - Technological Lag

Where technology helps saves lives, it can be lethal if not used properly. It goes without saying that mistakes are much more likely to occur when the clinician is inexperienced and when new techniques are introduced. This phenomenon often leads to misreading radiographs and pathology specimens, laboratory errors, and mistakes made in administering radiation therapy - all of which can threaten the safety of patients. In 2002, four patients died in Nishtar Hospital Multan due to a reportedly defective anesthesia machine and doctors' negligence. On June 13, 2003, during dialysis there was a power failure when Sajid was getting dialysis at the Liaquat National Hospital in Karachi. The dialysis technician started operating the machine manually. Sajid's hand caught infection as a result and his hand had to be amputated. For more than once, it has been heard from different quarters that a study should be done on the risk of spreading Hepatitis C infection through improperly sterilized gastroscopes - an instrument that is used to look into an ulcerated patient's stomach.

B - Delayed Response in Critical Situations

In many cases it has been seen that there is a delay in response and

unfortunate patients have to pay a very heavy price - often by losing their lives. Despite Sajid's hand having caught infection due to the improper use of technology, his hand would not have been amputated, had he got help on time. His parents took him to the hospital but the doctor attended him eight hours late resulting in the amputation of his hand. The recent case of Riaz Bibi also reinforces the same point. It is not for the mistake of leaving behind the surgical sponge that the doctor has been punished for, but for the criminally careless response of not attending to the patient and letting her breakdown with gangrened intestines. Nasir Maqsood says that he has "studied causes and found that doctors don't respond in times of need". In the case of obstetrics there is no fixed time for delivery. "If it's during odd hours, doctors will instruct someone in the hospital and will return to the patient at their convenience."

C - Lack of Following Standard Protocols

There are well thought out standard protocols of medical and surgical treatment that are followed everywhere in the world. They are designed to minimize the margin of human error. Nasir Maqsood says again about the activity in a well-run obstetrics ward, "Baby is immediately examined by the neonatologist after birth in routine practice. Here (Govt. health facility) no neonatologist, no pediatrician is found and no protocol is followed. Newborns suffer irreversible brain damage, getting blue and catching anoxia. I have seen cases where even scissors were left in the abdomen. Doctors say counting was not their job, it is the fault of paramedics."

D - Citing of Rules and Regulations to Avoid Emergency Treatment

Emergency care is denied to trauma patients and the primary reason put forward by the medics is that they are tied by the rules and regulations. In trauma cases, time is of basic essence and many reported cases of medical negligence reveal that precious time is lost in discussing legal niceties. A 40-year old doctor from the United States was shot in Karachi on August 18, 2001, and died of blood loss, as the two hospitals where he was rushed to, denied him treatment because of "medico-legal" reasons. According to the father of Usman, a boy who died of unavailability of emergency support at a critical time, "he got a severe head injury between 8 and 9 pm on September 1, 2000 in an accident. He was refused emergency care but given only ordinary first aid by the doctor at trauma center of the Combined Military Hospital, Rawalpindi," for being a "non-entitled patient". Justice Arif Hussain Khilji of Sindh High Court

made the observation in the Dr Riaz Ahmed Memon case in April 2003 that, "Any hospital morally and ethically could not under any circumstances refuse and/or deny to provide emergency medical treatment to a patient, especially if it was of a graver nature..."

E - Low Level of Professional Skills and Casual Attitude

Many a time a low level of professional skills and casual attitudes, or a combination of both, results in the incident of medical negligence. In two reported cases, it was revealed that improper handling of anesthesia resulted in the death of the patients. Captain Tahir Malik got his grandmother operated for a bladder tumor from Osama Clinic in Multan by one Dr Hanif. The old woman died of a cardiac arrest after the operation. "She suffered from a tumor in urinary bladder and was advised operation by Dr Hanif. He carried out operation in his private clinic and shifted her to post-operative ward after half an hour of surgery," the Captain said. Suspecting that his grandmother died of improper anesthesia, Captain Malik went through the 'operation room notes' and was "surprised to see no anesthesia notes were documented".

In another incident, five-year old Mueez Ali was taken to the operation theatre of Liaqut National Hospital in Karachi on May 22, 2004 for extracting puss from his liver. Ali is still in deep coma after two years, suffering a massive irreversible brain damage. On June 4, the hospital's administration called Sarwar and admitted that his son went into coma because of anesthesia overdose.

Dr Naeem's case is that of lack of skills and incompetence. He was taken to the hospital on January 10 last year, at 7:30 am and doctors started performing angioplasty. Moments later the family was told of "some complications during angioplasty" and that the doctors had decided to go for a rescue bypass. At 3:30 pm the family was informed that Dr Naeem has died. The family sought professional opinion from the US on the case and doctors confirmed "it was a good case for bypass and a poor one for angioplasty". The wife of the dead doctor says that the brigadier admitted that "there we went wrong."

The case of Riaz Bibi is a combination of incompetence, carelessness and that of not following standard protocols of surgical procedures. She was admitted to Cantonment General Hospital, Rawalpindi, as a gynae patient where she had a caesarean operation. A sponge was left in her body, which led to infection and gangrene all over her body. She was discharged from the hospital despite the fact that she was consistently complaining of pain in her abdomen. She was taken to PIMS in Islamabad,

where a exploratory laparotomy was done. After a few weeks in coma, Riaz Bibi died.

F - Avarice of the Medical Professionals

Avarice and greediness of medical professionals also results in cases of medical negligence. Many medical professionals become tools in the hands of pharmaceutical companies at the expense of professional integrity. There develops a tacit understanding between doctors and sale representatives of these companies and they indulge in the practice of multi-pharmacy and prescribing different brands of the same medicine formula in order to satisfy the pressing demands of different companies, wreaking havoc on the health of their patients in the process. The busier they get, doctors do not give proper time to their patients in order to seek information pertaining to their medical history. Time becomes money in its very naked and crude sense. Tragically, there are known cases of medical professionals prescribing veterinary drugs in order to make quick money. A variety of veterinary drugs, especially injection vials, are misused on human beings, says Nadia Khalid, a pharmacist who works in a local drug firm. There are doctors, especially in rural areas, who give high-potency veterinary medicines and steroids to humans. "They can cause heart problems, blood pressure or damage vital organs," says Dr Muhammad Naeem, a private practitioner in Narowal district in Punjab. Shahid Hamid, 28, frequently complained of pain in the kidneys. When Shahid Hamid had himself checked at the General Hospital in Lahore, the doctors told him his kidneys were not working properly because of excessive steroid use. That's when he realized that the drugs prescribed by a 'doctor' in his neighborhood had played havoc with his kidneys. It is tragic to note that, apart from quacks in the rural areas, qualified medical professionals also indulge in the practice of prescribing veterinary drugs. Dr Jaleel Memon, Dr Allah Jurio Wassan, Dr Lajpat Rai and paramedic Anis were arrested after a complaint by the district Pakistan Medical Association president Dr Ali Hassan Nizamani. Also, there are reported incidents of performing unnecessary operations in order to make money. Lieutenant Colonel Sikandar Khan Baloch underwent bypass operation at Doctors Hospital Lahore on February 13, 2001. "I felt angina on the third day of bypass operation and informed my surgeon, Dr Fayyaz H Hashmi." After seeking opinion from other doctors, it was found that Colonel Baloch's condition was not fit for bypass. Baloch had sold his car and some property to pay for the expenses of the bypass.

G - Absence of Medical Ethics from medical curricula

Professional soundness, coupled with a strong moral fiber, makes one a good doctor. Unfortunately, the way MBBS syllabi are designed, there is very little emphasis on the ethical side of this profession. Dr Sher Shah Syed, Central Secretary General of Pakistan Medical Association, admits that medical ethics has no place in our curricula. "In our syllabus, we hardly teach ethics", he laments. "Students are also not interested. They do not want to waste time on a subject which is not important for examination", says Dr Sher Shah Syed.

“ Unfortunately, the way MBBS syllabi are designed, there is very little emphasis on the ethical side of this profession. Dr Sher Shah Syed, central Secretary General of Pakistan Medical Association, admits that medical ethics has no place in our curricula. "In our syllabus, we hardly teach ethics", he laments. ”

5. Conclusion

In the absence of institutional mechanisms to help protect their healthcare rights, with an upbringing in a milieu where fatalistic tendencies are reinforced, an average Pakistani patient is vulnerable to medical negligence - a phenomenon that finds its manifestations in all spheres of medicare activity in Pakistan. Right from family unit to the state, and the non-state actors like pharmaceutical MNC's, there are forces operating against the interests of the Pakistani patient. A great deal of work needs to be done, urgently, and in many directions to protect the interests of the patients and reduce the incidents of medical negligence. Following are some recommendations to put in motion regarding the process involved in this regard.

A - Healthcare Rights Awareness Campaign

An awareness campaign needs to be launched to make people conscious of their healthcare rights. An informed public can play a great role in serving as deterrence against medical negligence. Correspondingly, this would help improve the quality of healthcare service as well. People need to be imparted the conceptual understanding of the 'informed consent' and need to be made aware of the existence of available remedial instruments that can be made use of in the case of medical negligence.

B - Need for Reforming Administrative and Judicial Systems

So far as the issue of medical rights is concerned, administrative and judicial systems are in shambles. The way administrative enquiries are conducted, as is clear from the reported incidents of medical negligence, it is a travesty of justice. A kettle is highly unlikely to call the pot black. There should be some non-medical members on these committees to protect the interests of the patients. Moreover, colleagues of the accused doctors should not be on the administrative committees and they need to be made independent. There should be rather separate consumer courts to dispense justice to the victims of medical malpractice. Exorbitantly high court fees for claim damages need to be done away with or should be charged at the end of the trial.

C - Reforming PMDC Procedures

PMDC needs to be made more proactive. Out of the 23 cases of med-

“ There should be rather separate consumer courts to dispense justice to the victims of medical malpractice.”

ical negligence filed with the Council in 2002, 16 were not taken up because they did not meet its standards. Similarly in 2003, out of 52 cases, 34 were dropped before reaching the disciplinary committee. There are many procedural hurdles like applying on ten rupee stamp paper and attesting of the documents in front of a magistrate. This is the legacy of our colonial past and reflects the colonial mindset and needs to be dispensed with immediately.

D - Improving the Curriculum of Health and Law Professionals

Ethical and tort litigation content of MBBS and LLB coursework needs to be improved respectively. It is of great importance that the medical professional should be conceptually clear about the values that need to be adopted in their profession. Tort law is ignored area and only partially taught to the law professionals. Improved content in this regard would help give them better understanding of medical negligence litigation.

E - Clarification of Law to Doctors Vis-à-vis Emergency Situations

Many cases of medical negligence occur because doctors are caught up in labyrinths of legal puzzles. It is important that, through awareness campaigns, they may be made clear on this issue and told about observations such as "Any hospital morally and ethically could not under any circumstances refuse and/or deny to provide emergency medical treatment to a patient, especially if it was of a graver nature..." (Justice Arif Hussain Khilji of Sindh High Court)

“ Tort law is ignored area and only partially taught to the law professionals. Improved content in this regard would help give them better understanding of medical negligence litigation.”

6 References

The following texts were used during the preparation of this paper

1. De-Mystifying Medical Malpractice Cases -- A Consumer Guide to California Medical Malpractice Litigation John D. Winner, San Francisco. <http://www.johnwiner.com/articles/40.html>
2. An overview of medical malpractice and the tort reform debate
Cecilia Loh
3. Medical Malpractice: A Comprehensive Analysis. Vasanthakumar N. Bhat - Publisher: Auburn House. Place of Publication: Westport, CT. Publication Year: 2001.
4. Ethics, Law and Medical Practice. Kerry J. Breen, Stephen M. Corderner , Vernon D. Plueckhahn
Publisher: Allen & Unwin. Publication Year: 1997.
5. Families, Patients, and Physicians in Medical Decision-making: A Pakistani Perspective. Moazam F, The Hastings Center Report. Volume: 30. Issue: 6. Publication Year: 2000. p-28

Annex I: Court Judgement in Riaz Bibi Medical Negligence Case

In The Court of Senior Civil Judge Rawalpindi

1. Riaz Bibi wife of Lal Zameer Resident of Dhaman Sayadain Post Office Sadar, Tehsil and District Rawalpindi Presently hospitalized in Pakistan Institute of Medical Sciences Hospital (Bed No. 5, Intensive Care Unit), in an unconscious state, since June 27, through her husband Lal Zameer son of Shah Zareen as her next friend.
2. Lal Zameer Son of Shah Zareen Resident of Dhaman Sayadain, Post Office Sadar, Tehsil and District Rawalpindi.

Plaintiffs

Versus

1. Dr. Ghazala, Medical Officer, Cantonment General Hospital, Rawalpindi.
2. Cantonment General Hospital, through its Medical Superintendent (M.S), Rawalpindi.
3. Cantonment Board, Rawalpindi, through its Executive Officer.

Defendants

**SUIT FOR DAMAGES AND COMPENSATION
FOR THE RECOVERY OF FIFTY MILLION RUPEES
RS. 50,000,000/-)**

**IN THE COURT OF AMJAD IQBAL RANJHA
CIVIL JUDGES 1ST CLASS RAWALPINDI.**

Suit No. 347/2002

Date of Institution: 24.07.2001

Date of decision: 13.12.2005

1. Riaz Bibi (DECEASED) wife of Lal Zameer
SURVIVED BY FOLLOWING LEGAL HEIRS

- a) Lal Zameer Son of Shah Zareen (husband)
- b) Imtiaz Bibi wife of Umer Gul (Major - daughter)
through her real father and lawful attorney
- c) Nagina Bibi daughter of Lal Zameer (Minor-daughter)
- d) Liaquat Khan son of Lal Zameer (Minor-Son)
- e) Nadir Khan son of Lal Zameer (Minor-son)
- f) Yaseen Khan son of Lal Zameer (Minor-Son)
Through their real father and guardian at leitum

All resident of Dhaman Syadian, Post Office Sadar, Tehsil and District Rawalpindi.

2. Lal Zameer Son of Shah Zareen Resident of Dhaman Sayadian, Post Office Sadar, Tehsil and District Rawalpindi.

.....Plaintiffs

Versus

1. Dr. Ghazala, Medical Officer, Cantonment General Hospital, Rawalpindi.
2. Cantonment General Hospital, through its Medical Superintendent (M.S), Rawalpindi.
3. Cantonment Board, Rawalpindi, through its Executive Officer.

.....Defendants

**SUIT FOR DAMAGES AND COMPENSATION
FOR THE RECOVERY OF FIFTY MILLION RUPEES.**

JUDGMENT

1. Brief facts of the instant suit as gleaned from the pleadings are that Riaz Bibi Plaintiff No: 1 (since died) along with her husband Lal Zameer, plaintiff no. 2 instituted the captioned suit on 24.07.2004 for the recovery of Damages and Compensation with the averment that deceased plaintiff No. 1 due to Gynae problem was admitted in the Cantonment General Hospital i.e. defendant No. 2 owned by defendant No. 3 where on 02.06.2001 she under went Caesarean Section, conducted by defendant No. 1 and consequently she gave birth to a male baby. It is averred that despite the said surgery she continued to

feel pain in abdomen. She complained of pain to defendant No. 1 and to her staff but no special attention was paid and ultimately she was discharged from the Hospital on 11.06.2001. She went to Tayyab Poly Clinic for ultrasound examination and according to the ultrasound report likelihood of presence of sponge in side the abdomen of plaintiff No. 1 was shown. The finding of the report was confirmed by the second ultrasound examination conducted by Shahnaz Ultrasound Center. She went to the defendants with the said reports and requested for treatment but she was treated harshly and callously consequently she approached the Pakistan Institute of Medical Sciences Hospital (PIMS). The doctors of the PIMS on her examination reached at the conclusion that there is a foreign body (sponge)

Riaz Bibi etc Vs Dr, Ghazala etc

—

in the abdomen of plaintiff No. 1. It is alleged that protracted presence of sponge in the abdomen resulted into development of sepsis and gangrene and consequently on 14.06.2001 exploratory laparotomy was conducted in the said hospital followed by another surgery on 15.06.2001 for resection of gangrenous portion.

3. It is alleged that due to negligence and incompetence and carelessness of defendant No. 1 the plaintiff has suffered a severe mental and bodily pain. It is alleged that on account of negligent and careless act of the defendant, the plaintiff No. 1 and her entire family have suffered great mental and physical shock, pain agony and trauma. It would be pertinent to mention here that during the pendency of the suit Riaz Bibi original plaintiff No.1 died whereupon her children joined as plaintiffs for being her legal heirs. They have claimed the following damages:-

a) Expenses incurred by the plaintiff No. 2, on the treatment of plaintiff No. 1, drugs, medical tests, logistics etc.

Rs. 200,000/-

b) Mental and physical ordeal and suffering, past and future mental and physical pain, trauma, agony, future medical expenses of the plaintiff No. 1, damages and compensation.

Rs. 30,000,000/-

- c) Mental and physical suffering of the plaintiff No. 2, pain, trauma, agony, loss of income, damages and compensation.

Rs. 19,800,000

Total : Rs. 50,000,000/-

4. On the other hand the defendants have contested the suit by filing written statements wherein the following facts have been admitted:-
- 1) That Riaz Bibi (since died) original plaintiff No. 1 was surgical operated by defendant No. 1(Caesarean Section) on 02.06.2001 and discharged on 11.06.2001.
 - 2) Complaint of pain whereupon she was referred to "Shehnaz Ultrasound".
 - 3) That the defendant No. 1 is an employee of defendants No.2 and 3.
 - 4) That defendant No. 1 conducted Caesarean Section in the course of employment of defendant No. 2.
 - 5) The defendants have categorically denied the allegation of negligence in medical treatment of the plaintiff by the defendants. The defendant No. 1 submitted that operation of the plaintiff was conducted successfully and patient never made any complaint

Riaz Bibi etc...Vs. Dr. Ghazala etc.

-

of un-usual pain and she was discharged from the hospital. In view of her satisfactory health; the defendant No. 1 is not responsible if the case of the plaintiff has been mis-handled at Tayyab Poly Clinic or any other hospital. The patient was brought to the Cantonment. General Hospital and she was advised to be seat immediately to "Shehnaz Ultrasound" as the said facility was not avaiable in the said Hospital. She came back and was re-examined and observed that ass acute panereathitis resulting into pancreatic-cyst. The foreign body appears to have been shown due to classification in the re-crossed fatty tissue i.e. collection/deposition of calcium in dead fatty tissue; She denied the retention of sponge in side the abdomen of the patient. The patient was taken by her husband from one hospital to other rashly and negligently against her advice which has resulted into mishandling of the case by an un-

experienced doctor.

6. The defendant's No. 2 and 3 submitted that they are not responsible for the negligent acts of defendant No. 1. It is further submitted that from the Ultrasound report the presence of a mass in epigastria area has been

Riaz Bibi etc...Vs. Dr. Ghazala etc.

-

shown but that area was not touched during Caesarean Section they denied the allegation that was per the Ultrasound reports possibility of presence of sponge has been indicated. Mishandling of the case has been done by the staff of the PIMS. All the defendants have prayed for the dismissal of the suit with costs for being false and frivolous. Upon the divergent pleadings of the portions the following issues have been framed on 26.03.202:-

ISSUES

1. Whether the plaintiff has no cause of action? OPD.
2. Whether the suit is bad for mis-joinder and non-joinder of necessary parties? OPD.
3. Whether the suit is frivolous and vexatious and the defendants are entitled to special costs under section 35-A CPC? OPD.
4. Whether the defendant No. 1 acted negligently in treatment and operation of the plaintiff Mst. Riaz Bibi in the hospital? OPP.
5. Whether the plaintiffs are entitled to recover Rs. 50,000,000/- from the defendants as damages/compensation? OPP.
6. Relief.
7. The plaintiff has produced four witnesses plus documents Exh1 P1 to Exh-p137. On the other hand the defendant No. 1 herself appeared as D.W.1 whereas defendants No. 2 and 3 led no rebuttal evidence. Now my issue wise findings are as under.

Riaz Bibi etc...Vs. Dr. Ghazala etc.

ISSUE NO.4.

- 8- It is contention of the plaintiff that surgical operation of Riaz Bibi deceased has been performed negligently by the defendant No. 1 as she left a foreign body i.e. sponge in the abdomen of the victim. The defendants have denied the factum of negligence. To prove the con-

tention the plaintiffs have examined four witnesses. Dr. Syeda Batool P.W.1 deposed that on 14.06.2001 she did exploratory laprotomy of the victim in PIMS and through the surgery she removed sponge from the abdomen. There was multiple puss in the interior abdominal wall moreover there was a lot of problem in the intestines. In view of critical condition of the patient she was shifted to I.C.U. She opined that death of the victim is result of infection of wound. She produced operation note Exh. P.2. P.W.2 deposed that on 13.06.2001 he did Ultra Sono Graphy of the abdomen of Riaz Bibi and found presume of a big mass in side the abdomen. He produced Ultrasound report Exh. P.3. P.W.3 deposed that she also did ultrasound of the victim vide report Exh.P.4 and

Riaz Bibi VS Dr. Ghazala etc.

-

found presence of big mass in umbilical region. P.W.4 deposed that his wife Riaz Bibi died leaving behind two daughters and three sons and husband. He got admitted his wife in the Cantonment General Hospital for delivery of child on 31.05.2001. Defendant No. 1 along with his operation team did C-Section consequently a male child named Yasin was born. He reiterated the contents of the plaint by deposing that defendant No. 1 left sponge in the abdomen of his wife and consequently she under went corrective surgery at PIMS on 14.06.2001. He incurred medical expenses to the tune of Rs. 200,000/- on the second operation due to negligence of the defendants. The death of the victim is result of carelessness and professional negligence of the defendants. He further deposed that due to death of his wife education loss has been caused to her daughter as she could not continue her education because she had to look after the new born baby. He produced cash memo as Exh. P.9 to Exh.P.137 regarding medical expenses. P.W.5 who is associate professor of Gynae deposed that he has seen the medical reports according to which foreign body/swabs have been removed from the abdomen. He further deposed that wound was infected on account of sponge left in the body. The death of the

Riaz BibiVs.....Dr Ghazala etc.

-

deceased most probably has happened due to gangrenous infection. 9. Defendant herself appeared as D.W.1 and deposed that on 31.05.2001

she started treatment of the victim in her own Supervision in Maternity Ward of the Cantonment Hospital. She performed successfully Caesarean Section and consequently a healthy child was born to the Victim. She was discharged from the hospital on full recovery of health. On 13.06.2001 the victim visited the emergency ward and complained of pain in abdomen. She examined and found presences of a big mass in the abdomen. She obtained test of the patient including Ultrasound. According to the Ultrasound report a disease of acute pancreatitis was identified. The treatment of the said disease was to be given by the Surgical Specialist but he was not available consequently the patient was referred to R.G.H. She treated the patient very carefully and compassionately.

10. From the pleadings as well as evidence of the parties it is admitted position that first surgery

Riaz BibiVs.....Dr Ghazala etc.

-

i.e. C-Section was performed by defendant No. 1. The defendant No. 1 in her own statement admitted that after operation the patient came to her and made complaint of abdominal pain. She also admitted that according to the Ultrasound report presence of big mass in the abdomen was identified. Operation notes Exh.P.2 Proves that second Surgery of the victim was performed by P.W.1 at PIMS and sponge was removed. It is also proved that multiple puss was drained. There is an indication in the Exh.P.2 that it was a case of post operation sepsis. Moreover a sponge was recovered from the abdominal. Ultrasound reports Exh.P.3 and Exh.P.4 tendered in evidence of statement of P.W.2 and P.W.3 also proves the presence of big mass in umbilical region. Report Exh.P.3 also indicates the probability of retention of swabs in the abdomen. All the above mentioned oral as well as medical evidence has gone un rebutted and un-challenged in cross examination. D.W.1 did not cross examine the P.Ws where from it can be safely inferred that statements of the P.Ws are true. During cross examination by defendant No. 2 the P.W.1 has been suggested that actually there was a Pancreatic in the abdomen but no oral as well documentary evidence.

Riaz BibiVsDr. Ghazala etc.

-

In support of this plea has been produced. The witness has also been suggested that actually the death of the patient has happened on account of negligence and carelessness by the staff of PIMS but no cogent, convincing and affirmative evidence has been produced in support of this suggestion. The nutshell of the above discussion is that I have come to the irresistible conclusion that negligence has been committed by defendant No.1 in the treatment of the patient by retaining the sponge in side the abdomen which resulted into infection of the wound and consequently she was subjected to second Surgery. Resultantly this issue is decided in favour of the plaintiff and against the defendants.

ISSUE NO. 5

11. Initially this suit has been instituted by Riaz Bibi, wronged person herself and by her husband Lal Zameer, plaintiff No. 2 for the recovery of compensation for the mental and physical pain and suffering of the plaintiffs

Riaz BibiVsDr. Ghazala etc.

—

institution of the suit Riaz Bibi passed away whereupon the children of the deceased joined as plaintiffs. It has been maintained by the defense counsel that in view of the death of Riaz Bibi victim the cause of action has ceased to exist as an action for personal wrong is not maintainable after the death of the wrong. Maxim "Actio Personalis Mortum Cum Persona". I feel my self inclined to be in agreement. It is observed that death of the victim has extinguished the liability in tort and under the law of tort the death of a party wronged or wrong doer discharge the liability in tort.

12. It is un disputed fact that present plaintiffs are husband and children of Riaz Bibi deceased. Fatal Accident Act 1858 enacts an exception to the Rule "Actio Persoalis Mortum Cum Persona". Under this Act if the death of a person is caused by wrongful act, neglect or default which would have entitled him to maintain an action and recover damages in respect hereof, the parties causing injuries is liable to an action or suit for damages. Such action is to be for the benefit of the wife, husband, parents and children of the person whose death has been

Riaz Bibi etcVs.....Dr. Ghazala etc.

so caused. The suit of the plaintiffs is treated as a suit under the Fatal Accident Act. As already held vide my finding on issue No.4 that death of the predecessor of the plaintiffs is result of negligence of defendant No.1 so the plaintiffs are held entitled to recover the compensation from the defendants. Admittedly the defendant No. 1 is an employee of defendants No.2 and 3 and she has committed the negligence in the course of employment of the defendants hence defendants No.2 and 3 cannot escape the liability as they are vicariously liable to pay the damages for the act of defendant No. 1. The defendants are held liable to pay the damages severally and jointly.

13. Under the Islamic Law if a person dies due to intentional, un-intentional, unlawful, neglectful act or by mistake then the legal heirs of the victim are entitled to the compensation which is known as "Diyat" According to the Government Notification the value of the "Diyat" for the year 2001 i.e. year of death of the victim is Rs. 2,69,176/-. The plaintiffs are held entitled to the compensation under the following heads:-

Riaz Bibi etcVs.....Dr. Ghazala etc

- a) Compensation for loss of life of the deceased- Rs. 2,69,176/-
 - b) Compensation for funeral Expenses- Rs. 50,000/-
 - c) Damages in favour of Lal Zameer plaintiff No.2, husband of the deceased for the loss of association and loneliness under the head of "Consortium" Rs. 100,000/-
 - d) Damages in favour of the children for the loss of education com-
fortthey would have enjoyed if their mother has lived at the rate
of Rs. 100,000/- for each child total- Rs. 200,000/-
 - e) Composition for the medical expenses incurred on the treatment
of deceased - Rs. 200,000/-
14. The plaintiffs are held entitled to recover Rs. 11,19,176/- with the profit at the rate of Rs. 10/- per annum from the date of Judgment till the recovery of the amount.

RELIEF

15. The suit of the plaintiffs is decreed with costs with the direction to the defendants to pay Rs. 11,19,176/- with profit at the rate of Rs. 10/- percent per annum from the date of Judgment till the

recovery of the amount jointly and severally. Decree sheet be drawn accordingly.

-sd-
(Amjad Iqbal Ranjha)
Civil Judge Ist Class Rawalpindi.

Announced:

13.12.2005

Certified that this Judgment comprises of 14 pages and each page has been dictated, read, corrected, initialed and signed by me.

-sd-
Civil Judge Ist Class
Rawalpindi

Annex II: Riaz Bibi Case: A Chronology

May 31, 2001

Riaz Bibi 36, wife of Lal Zameer and mother of four children was admitted to Cantonment General Hospital, Rawalpindi for maternity. Taxi driver Lal Zameer was and is the sole breadwinner for the entire family, residing in Saddar area of Rawalpindi.

June 02, 2001

Riaz Bibi underwent a cesarean section to give birth to her fifth child and third son. The infant was healthy. However, the lady doctor who conducted the operation negligently left abdominal sponge in the body of Riaz Bibi. The patient got seriously infected and gangrene spread all over her body.

June 11, 2001

Riaz Bibi was discharged from the hospital despite the fact that she was consistently complaining of the agonizing pain in her stomach for entire nine days, she remained in hospital but no one was there to help her.

June 13, 2001

Owing to immense and continuous pain in her stomach, Riaz Bibi was brought for an ultrasound in a private clinic, where the presence of a big mass in her abdomen was revealed. The report of the ultrasound was examined to doctor who conducted the operation. The same was verified by another sonologist on the directions of the said doctor but she refused to treat the patient and forced her to leave the hospital. The patient was thereafter, taken to Rawalpindi General Hospital and then Shifa International Hospital and was declined to offer any help by the hospitals due to her precarious condition.

June 14, 2001

The patient was thus admitted to Pakistan Institute of Medical Sciences (PIMS) in a critical condition where her exploratory laparotomy (corrective surgery) was done on the same day and the sponge was removed from her abdomen.

June 15, 2001

Riaz Bibi underwent another surgery for resection of gangrenous portions. However, the condition of the hapless patient did not improve and she went into coma.

June 2001

This case of gross medical negligence was picked up by TheNetwork for Consumer Protection when a news report revealing the incidence published in a newspaper. Lal Zameer (husband of the victim), when contacted by TheNetwork showed his firm resolve to take legal action against the negligence committed by the doctor. He sought legal and technical help from TheNetwork, which the organization undertook to provide.

July 23, 2001

A suit for recovery of damages and compensation was filed by Lal Zameer, the husband of the patient for and on behalf of her ailing wife. According to legal provisions the following compensations were claimed in the suit.

1. Past and future medical expenses, treatment expenses, pharmaceutical expenses
2. Past and future income loss
3. General damages for pain and suffering
4. Past and future domestic assistance
5. Interest on past damages

Soon after filing of the case in the court, the defendants were summoned accordingly.

August 27, 2001

The case took a critical turn when Riaz Bibi died after remaining in coma for 11 weeks. The Court directed the plaintiffs to amend the plaint by incorporating legal heirs of Riaz Bibi in the instant case.

September 2001

The plaint was amended and was submitted when the judicial vacations ended.

January 22, 2002

Written statement was filed by the doctor, five months after submission of amended plaint.

January 24, 2002

Written statement was submitted by the Hospital and Rawalpindi Cantonment Board.

March 26, 2002

Issues were framed by the Court and the plaintiffs were directed to produce the evidence. There had been numerous hearings but the evidence of the plaintiff was not recorded.

July, 2003

A petition was filed in the Honorable High Court to seek direction for the speedy and expeditious disposal of the trial since the proceedings of the case were dead slow. The High Court passed direction to dispose off the case within a period of six months but unfortunately proceedings lingered on and ordered six months were passed without any further development.

January 2004

The Consumer Complaint Cell of TheNetwork after expiry of the given time HC again knocked the High Court door for the second direction. High Court took serious note of the fact and second direction was issued for the disposal of case within next six months. As a result of the second direction, civil court started hearings on day to day basis and the process of evidence started at a brisk pace. The prosecution witnesses Dr Saeeda Batool Mazhar of PIMS, who removed the sponge from the body of the patient and Dr Tayyab of Tayyab Poly Clinic who did the ultrasound of the patient with a report of foreign element in the body, got their evidences recorded.

Dr Sher Shah Syed, Secretary General, Pakistan Medical Association, Karachi appeared as an expert witness in the instant case and got his statement recorded supporting the version of the plaintiff. He made it clear before the court that the life of Riaz Bibi could be saved if the sponge could be removed from the body timely.

The statement of Lal Zameer, the plaintiff was also recorded.

The case took 91 court hearings. The defendants played hide and seek with the Court and failed to appear on different occasions. The court

twice struck off the right of cross examination of Dr Ghalaza and once of Cantonment General Hospital. Revision petitions challenging the orders of trial court of striking the right to cross examine the witnesses were filed in LHC Rawalpindi Bench, but were dismissed.

December 13, 2005

The judgment of the Riaz Bibi case was announced and the suit was decreed in favour of Lal Zameer and his children. The Court held the doctor, Dr Ghazala Sadiq, Cantonment General Hospital Rawalpindi negligent by leaving an abdominal sponge in abdomen of Riaz Bibi while conducting caesarean section. The Court directed Dr Ghazala Sadiq, Cantonment General Hospital and Rawalpindi Cantonment board to pay Rs 1.19 million as damages and compensation to the plaintiffs severally and jointly. "I have come to irresistible conclusion that negligence has been committed by Defendant No 1 (Dr Ghazala) in the treatment of the patient by retaining a sponge in the abdomen, which resulted into the infection of wound and was consequently subjected to second surgery", the judge remarked in detailed verdict.

Annex III: Tales of pain

Sad stories of people and their families who have suffered at the hands of doctors in Pakistan, highlighting the need for a collective action to minimise the horrors of medical negligence

Rescue bypass

Dr Naeemullah Sheikh, a medical practitioner, died during a "rescue bypass" on January 10, 2004 at the Armed Forces Institute of Cardiology in Rawalpindi.

"He felt some stomach pain and visited AFIC where ECG test showed some irregularity though it disappeared later. However, he stayed there for further diagnosis on the advice of doctors," says Mrs Riffat Naeem.

Doctors suggested angiography. Dr Naeem was taken to the hospital on January 10 at 7:30 am. Doctors called his wife in the cath lab at 9:30 am informing her that all the three vessels of Dr Naeem were blocked and they were going for angioplasty.

"Naeem was pale, not very responsive and I was unable to understand black and white lines appearing on the monitor that doctors showed me," says Riffat.

Moments later family was told of "some complications during angioplasty" and that the doctors had decided to go for the rescue bypass. At

“ Moments later family was told of "some complications during angioplasty" and that the doctors had decided to go for the rescue bypass. At 3:30 pm the family was informed that Dr Naeem has died. It was despite the fact that doctors used to tell intermittently that "two vessels had been corrected and work was going on the third one," said Riffat Naeem. ”

3:30 pm the family was informed that Dr Naeem has died. It was despite the fact that doctors used to tell intermittently that "two vessels had been corrected and work was going on the third one," said Riffat Naeem.

The family sought professional opinion from the US on the case and doctors confirmed "it was a good case for bypass and a poor one for angioplasty".

When inquired about this, Dr Naeem's surgeon, a brigadier, told the family that "he opted for angioplasty on Naeem's own insistence".

Riffat says the brigadier admitted that "there we went wrong" when asked as to why they opted for angioplasty when it was a good case for bypass. She says colleagues of her late husband term his death as "clinical murder". *She claims bypass was carried out on her husband's dead body.*

Non-entitled

"My son Usman Farooq, 17, died for the want of immediate medical care," says Mohmmad Farooq.

Narrating the sad incident, Farooq said, "Usman got a severe head injury between 8 and 9 pm on September 1, 2000 in an accident."

He was refused emergency care but given only ordinary first aid by the doctor at trauma center of the Combined Military Hospital, Rawalpindi, for being a **"non-entitled patient"**.

"Rushed to District Headquarters Hospital, Usman had already suffered deadly delay in getting care necessary in such cases," the father said.

His CT scan was done at 12 pm at a private clinic since DHQ had no such facility. The head surgery was carried out after 2 am on September 2. His parents were told after some hours that their son is brain-dead. "We shifted him to Shifa Hospital in Islamabad but all efforts proved futile," said Farooq.

Almost three-and-a-half years after the incident, Farooq is determined to make negligent doctors accountable. *"I have knocked every door and will keep seeking justice till death. Usman will never come back but I want to make sure no other Usman meets his fate."*

Stubborn surgeon

Akhtar Shahzad works as junior clerk in a government college in Tank in North West Frontier Province. His wife was operated in the tehsil headquarters hospital for gallbladder stones by Dr Arshad Ali.

"Dr. Arshad operated my wife for gallstones and damaged her com-

mon bile duct. Bile leakage in abdomen caused severe pain for a week. The doctor tried to cover up his negligence by putting a drain and tried to convince me that he had not done anything wrong."

Shahzad says despite his requests for referring his wife to some other hospital, Dr Arshad referred her to another doctor in the same hospital that prolonged the suffering of the couple. The medical specialist sided with his colleague and condemned Shahzad "for creating fuss".

In an effort to repair the "damaged duct", Dr Arshad further messed up the things. "She got jaundice and was de-hydrated".

Out of utter despair Shahzad brought his wife to PIMS, Islamabad. It was revealed after her recovery from jaundice that she will have to undergo a major surgical procedure for almost nine hours to restore her chances of a normal life.

"Dr M A Zahid at PIMS saved life of my wife." However, surgeon Arshad back in Shahzad's home town still says "he was right and doctors at PIMS were totally wrong". The young woman escaped a near-death.

Crippled by specialist

Two years ago, Abdul Ghafoor's wife suffered compound fracture on the hand. He went to Tanveer Hospital in G-9 Islamabad, a private clinic. Dr G M Malik, former head of orthopaedic department at Pakistan Institute of Medical Sciences, was practicing there after retirement.

Ghafoor's wife was operated and plates were fixed that were to be removed after an year. Dr G M Malik again broke the healed fracture while removing the plates.

"He misguided us while discharging us in hurry and saying everything was okay," says Ghafoor. "He didn't take X-ray and told my wife to start using the hand."

Ghafoor says his wife was obviously not able to do any work with a broken hand. They contacted Dr Malik who sent them to a physiotherapist who charged them Rs200 daily for a month.

Without any sign of improvement, the Ghafoors contacted other doctors who confirmed that the hand was fractured and a gap was taking place on the fracture line.

"After prolonged suffering and disturbed life at home, we contacted Dr Khalid Aslam at Shifa International who had to re-operate on January 12, 2002.

"Dr Aslam helped us get through the ordeal with sincere advice and on January 7 this year he removed plates from my wife's hand.

"Can someone tell me who will compensate our suffering, mental

and material worries and our disturbed life," questions Ghafoor.

No anesthesia notes

Captain Tahir Malik is a doctor serving in Pakistan Army. He got his grandmother operated for a bladder tumor from Osama Clinic in Multan by Dr Hanif. The old woman died of a cardiac arrest after the operation.

"She suffered from a tumor in urinary bladder and was advised operation by Dr Hanif. He carried out operation in his private clinic and shifted her to post-operative ward after half an hour of surgery," the Captain said. "She started complaining of restlessness and chest pain, which was brushed away by duty doctor as 'routine post-operation restlessness'."

Dr Malik says condition of restlessness persisted and at last by 5 am he pressed the duty doctor for her ECG. To his shock, the post-op ward had no ECG machine and it was brought from some other hospital.

"It was revealed after ECG that my grandmother had already suffered a massive heart attack. We shifted her to ICU of Nishtar Hospital and despite efforts of the doctors she couldn't survive."

Dr Malik suspects his grandmother suffered because of improper anaesthesia.

"I went through the 'operation room notes' and was surprised to see no anaesthesia notes were documented." He says his purpose of narrating his grandmother's ordeal is only to "help those who may become the next victim of greedy doctors".

Annex IV: Riaz Bibi case in Media

KERALANEXT.COM

NEW

Death due to doctor's negligence Family awarded damages by court

Posted : Tuesday, December 13, 2005

KN News Desk
BY Kumar Choudhary
ISLAMABAD: Rawalpindi Civil Judge Amjad Iqbal Raza has ordered a doctor to pay Rs 1.119 million as compensation to a woman after a surgical sponge was left in her abdomen during a caesarean operation.

The court issued the orders in a petition against a woman who had been treated by Dr Ghazala Sadiq of the General Hospital and discharged her from the hospital after a few days despite consistently complaining of the pain in the abdomen.

The prosecution produced five witnesses, including from Shehnaz Ultrasound, Dr Saeeda Batool M: Medical Association and Lal Zameer, the plain

Batish Mahmood Tipu, the counsel for Mr Zameer, said that the case will be a trendsetter in Pakistan's history. He said that the medical providers can be held accountable.

Riaz Bibi was admitted to the Cantonment Hospital for a caesarean operation. The sponge left in her abdomen was later discharged from the hospital. The presence of big mass in her abdomen was reported in the ultrasound report.

<http://www.keralanext.com/>

The patient was admitted to Pakistan Institute of Medical Sciences (PIMS) after 15 days of the operation in a critical condition where an exploratory laparotomy was done the same day.

Riaz Bibi died after seven weeks in coma in intensive care ward of PIMS.

The family in the process had sold every asset they

Riaz Bibi, wife of Lal Zameer, aged 36, mother of 4 children, was admitted to Cantonment General Hospital, Rawalpindi on 31-05-2001 and she delivered a baby boy after Caesarean operation. The family was joyous and looking forward to happy times.

They had spent years of hard labour to build a small house and buy the car which Lal Zameer drove for hire as their only source of income. Their happiness, however, was short lived.

The lady doctor who conducted the operation had left a sponge in Riaz Bibi's body and discharged her from the hospital after a few days despite consistently complaining of the pain in the abdomen.

An ultrasound conducted in a private clinic showed the presence of a big mass in the abdomen. The report was taken to Dr. Ghazala Sadiq, the obstetrician, but instead of looking at it she forced Riaz Bibi to leave the hospital. Riaz Bibi was taken to Rawalpindi General Hospital where doctors declined to offer any medical help.

The patient was admitted to Pakistan Institute of Medical Sciences (PIMS) after 15 days of the operation in a critical condition where an exploratory laparotomy was done the same day.

Riaz Bibi died after seven weeks in coma in intensive care ward of PIMS.

The family in the process had sold every asset they

Daily Mirror Sri Lanka

Tragedy in wraps ● A case of medical negligence?



Her healthy foot was amputated by accident

had including the house and the taxi. Lal Zameer had contacted a hospital in the city to sell one of his kidneys to pay for the expenses in the intensive care ward of the hospital where she lay in coma.

The case of Riaz Bibi, a victim of criminal medical negligence, was picked by the Network for Consumer Protection from a news report published in daily "Dawn" reported in June 2001. Lal Zameer was determined to take legal action against the doctor and requested the Network for help.

The ensuing litigation was spread over four years and five months, comprising 91 dates of hearings. The judgment was announced on 13-12-2005 and the suit was decreed in favour of Lal Zameer and his children. The Court directed Dr. Ghazala Sadiq, Cantonment General

Hospital and Rawalpindi Cantonment Board to pay Rupees 1.19 million as damages and compensation. In Riaz Bibi's death we have the first successful medical negligence case in the country. It is hoped that it will lead to citizen consumers' demand of their rights.

This case is relevant to Sri Lanka where a number of medical negligences have been reported, including inadvertent amputation of limbs. The victims came from poor background; they have no resources to go to courts. The example of the Network for Consumer Protection, Pakistan is a reminder to civil society organizations in Sri Lanka to take up cases of medical negligence to courts for redress and compensation. For details visit www.thenetwork.org.pk

Magazines

The POST

December 17, 2005

Main News

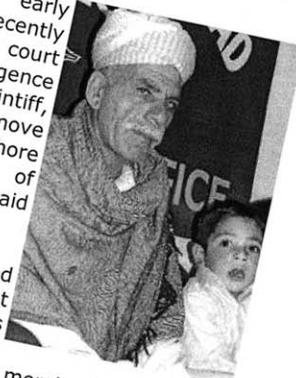
Back Issues

Today

Riaz Bibi medical negligence case : Plaintiff to move LHC for more compensation

Staff Reporter

ISLAMABAD: Demanding early suspension of the doctor recently convicted by Rawalpindi civil court in Riaz Bibi medical negligence case, Lal Zameer, the plaintiff, Friday said he would move Rawalpindi bench of the Lahore High Court for enhancement of compensation amount to be paid to him.



Rawalpindi civil court had ordered the Rawalpindi Cantonment Hospital and doctor to pay Rs 11,19,175 as the compensation to the aggrieved family that lost their member Riaz Bibi due to negligence of a female medical doctor during a caesarian operation at Rawalpindi General Hospital.

But Lal Zameer considered the compensation amount, ordered by the court, too little to make up for his damages, saying he had spent a huge amount for the treatment of my wife.

The plaintiff, during a press conference in Islamabad Friday, asked the government to expedite the judicial process of the cases regarding the negligence of the doctors. The court issued the orders in a petition against a female doctor who operated on a woman, Riaz Bibi, and left a surgical sponge in her abdomen in May 2001. The court held that the patient was negligently treated by Dr Ghazala Sadiq and ordered the payment of compensation money to husband of deceased, Lal Zameer, and children.

The prosecution produced five witnesses, including Dr Waseem from the Tayyab Poly Clinic, Dr Shehnaz from Shehnaz Ultrasound, Dr Saeeda Batool Mazher from PIMS, Dr Sher Shah Syed from the Pakistan Medical Association and Lal Zameer, the plaintiff.

Batish Mahmood Tipu, the counsel for Zameer, told reporters after the verdict that the case would be a trendsetter in Pakistan's history. He said the verdict would



3 **The Nation** SATURDAY, DECEMBER 17, 2005

Speedy justice to medical negligence victims demanded

BY FAZAL SHER

ISLAMABAD - The husband of Riaz Bibi, a victim of doctor's negligence, on Friday demanded of the government to introduce an effective mechanism for providing speedy justice to the victims of medical slackness in the country.

Addressing a news conference here at Rawalpindi and Islamabad Press Club, Lal Zameer said that Rawalpindi district court has provided justice to him and his five children but it took four and a half years of the family to reach the stage.

"The court has provided me justice after more than four years

therefore government should introduce speedy way for the decision on such cases," he added.

Narrating his ordeal, Zameer, a poor taxi driver, said that he had admitted his wife in Cantonment General Hospital Rawalpindi for maternity on May 31, 2001 where she underwent a caesarean section. He alleged that the lady doctor Ghazala Sadiq conducted the operation negligently and left abdominal sponge in her body.

An ultrasound in a private clinic revealed the presence of big mass in the abdomen of the patient but the lady doctor who had conducted the operation refused to treat the patient despite seeing

the ultrasound report, he added. Zameer informed that the lady doctor again forced hapless Riaz Bibi to leave the hospital.

He asserted that after this the patient was admitted to PIMS in a critical condition and than she expired due to long presence of surgical sponge in her abdomen after remaining in coma for eleven weeks.

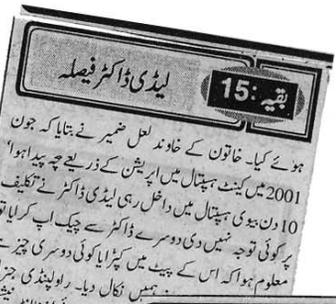
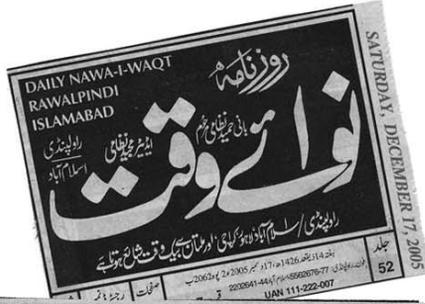
The husband of the victim said that he had filed a case against the lady doctor, the hospital board and cantonment board to seek damages and compensation after her death.

After four and half years of proceeding the Civil Judge Rawalpindi,

and the Rawalpindi Cantonment Board, as damages.

His family suffered mentally and financially because of the negligence of the doctor, he said, adding that the defendants could go up to the supreme court to challenge the sentence awarded by the lower court.

Zameer said he had taken his pregnant wife to the Cantonment General Hospital on May 31, 2001, where she underwent a caesarean section. Dr Ghazala Sadiq was the doctor who performed the operation.



پیٹ میں کپڑا بھول جانے والی ڈاکٹر کی خلاف عدالت نے فیصلہ دے دیا

لیڈی ڈاکٹر کو 11 لاکھ 19 ہزار جرمانہ دوبارہ آپریشن سے کپڑا نکالا گیا، مریضہ جاں بحق ہو گئی

حکومت علاج معالجے میں غفلت کے مرتکب ڈاکٹروں کی خلاف قانون سازی کرے، رولپنڈی کی پولیس کی کارروائی

اسلام آباد (دقیقہ نگار) حکومت مریضوں کے علاج کے لیے سپریم کورٹ تک جانا پڑا تو جائیں گے۔ ان خیالات کے تحت ڈاکٹروں کے خلاف مؤثر کارروائی کرے، لیڈی ڈاکٹر کی غفلت سے مریضہ کی موت ہو گئی، کلکتہ میں پٹی رو گئی تھی اور وہ موت کے منہ میں چلی گئی، عدالت نے ہمارے حق میں فیصلہ دے دیا ہے، انصاف کے لیے سپریم کورٹ تک جانا پڑا تو جائیں گے۔ ان خیالات کا اظہار ریاض بی بی (مرحومہ) کے خاندان لال ضمیر میٹ ورگ تنظیم کے لیڈر کبیر لورن کے وکیل نے میاں پولیس کلب کیمپ آفس میں پولیس کانسٹبل سے خطاب کرتے ہوئے کیا۔

لیڈی ڈاکٹر فیصلہ صفحہ 6 بقیہ 15



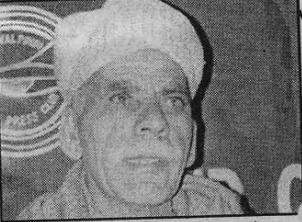
طبی غفلت کیس کا فیصلہ 4 سال میں ہو امدن باہر اور گاڑی بھی بک گئی

جزیرہ ہسپتال راولپنڈی کی لیڈی ڈاکٹر مریضہ ریاض بی بی کے پیٹ میں آتش بھول گئی جس کی موت ہو گئی تھی

زیر التوا مقدمات کے جلد فیصلوں کیلئے طریقہ کار وضع کیا جائے، مدعی لال ضمیر اور باطنش محمود کی پولیس کارروائی

اسلام آباد (خبرنگار) پاکستان میں طبی غفلت کے باعث خواتین کی اموات میں اضافہ ہو رہا ہے۔ طبی غفلت کے زیر التوا مقدمات کے جلد از جلد فیصلوں کو یقینی بنایا جائے۔ ان خیالات کا اظہار ایڈووکیٹ باطنش محمود نے زرخیز روز ریاض بی بی طبی غفلت کیس کے مدعی لال ضمیر کے بیان میں کیا۔

باقی صفحہ 6 بقیہ نمبر 34



لال ضمیر پولیس کانسٹبل سے خطاب کر رہے ہیں۔

باقیہ نمبر 34 // باطنش محمود

ہر نو زرخیز روز پولیس کانسٹبل میں لال ضمیر نے بتایا کہ 31 دسمبر 2001 کو میری بیوی ریاض بی بی (مرحومہ) کینیوٹ میں لڑائی لڑنے کے باعث طبی غفلت کے باعث جاں بحق ہو گئی تھی۔ اس نے ڈاکٹر کی اس غفلت کی خلاف ورزی کا فیصلہ ہونے میں 4 سال کا عرصہ گزارا ہے۔ اب عدالت نے موروثی مقدمات کے جلد فیصلوں کیلئے طریقہ کار وضع کیا جائے، مدعی لال ضمیر اور باطنش محمود کی پولیس کارروائی

بقیہ نمبر 34

40 ڈاکٹر غفلت

تیسری ستمبر

کوساڑھے چار سال انتظار کے بعد انصاف ملا انہوں نے کہا کہ 31 مئی 2001ء کو کنٹونمنٹ بورڈ ہسپتال راولپنڈی کے میٹرنٹی آپریشن کیلئے لایا گیا اور جہاں ڈاکٹر نے غفلت کی وجہ سے اس کی پیٹ میں اسٹنچ چھوڑ دیا جب مریضہ کے پیٹ میں درد ہوا اور ڈاکٹر کو بتایا گیا جس پر ڈاکٹر نے شدید درد کی حالت میں ہسپتال سے فارغ کر دیا بعد ازاں اسے پھر ہسپتال میں داخل کر دیا جہاں ایک ہفتے کے بعد ریاض بی بی انتقال کر گئی۔ انہوں نے الزام عائد کیا کہ اس کی بیوی کی موت ڈاکٹر کی غفلت سے ہوئی جس پر اس نے عدالت میں لال ضمیر کے ٹیپ جودی ٹیسٹ درک سے نسلک میں سے کی اور ساڑھے چار سال کے عرصے میں اس کے بعد سول جج احمد اقبال رانجھا نے 13 کواکامات جاری کئے کہ وہ مشہور کے طور پر آکرے انہوں نے کہا کہ اسے انصاف تو مل سکا مگر اس کی طبی غفلت کے زیر التواء جلد از جلد فیصلوں کو جتنی جلد ممکن ہے اسے دیا جائے۔

اسلام آباد ملتان فرگنٹ اور لندن سے بکے شائع ہو رہا ایلا اردو اخبار

2276861-2276846 (فون) 2276823-2276847 (فیکس) E-mail: ausaf@dsl.net.pk

www.dailyausaf.com

اعلیٰ صحافتی اوصاف کا علمبردار

روزنامہ اوصاف

DAILY AUSAF ISLAMABAD

چیف ایڈیٹر: مشتاق خان

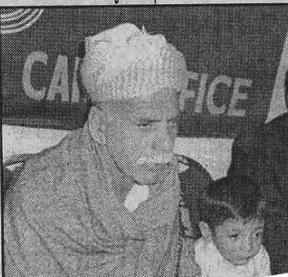
پتہ: 14، قلعہ 1426، 17، مئی 2005ء، 3، 2062، ب سٹات 14، 7، 97

ڈاکٹر کی غفلت کے باعث انتقال کر نیوالی خاتون کے ورثاء کو 11 لاکھ روپے ادا کرنا حکم

بہنزل ہسپتال کی لیڈی ڈاکٹر نے زچگی آپریشن کے دوران ریاض بی بی کے پیٹ میں اسٹنچ چھوڑ دیا تھا

خاتون پھر ہسپتال میں دم توڑ گئی، عدالت نے ہر جانے کا حکم دیا ہے، لال ضمیر

اسلام آباد (خصوصی رپورٹر) کنٹونمنٹ بہنزل ہسپتال راولپنڈی کی لیڈی ڈاکٹر کی غفلت کے سبب میری بیوی کے پیٹ میں آپریشن کے دوران اسٹنچ چھوڑ دیا گیا جس کے باعث اس کی موت واقع ہوئی، پرائیویٹ ٹیکسٹ سے لٹرا ساؤنڈ کروانے کے بعد اسٹنچ کا انکشاف ہوا ڈاکٹر سے رابطہ کرنے پر ہسپتال سے فارغ کر دیا گیا جس پر سول جج احمد اقبال کی عدالت میں ڈاکٹر کے خلاف دعویٰ دائر کیا گیا دوران سماعت ڈاکٹر کی غفلت ثابت ہو گئی اور عدالت نے کنٹونمنٹ بورڈ کو مشہور کے طور پر ریاض بی بی کے ورثاء کو گیارہ لاکھ روپے ادا کرنے کے احکامات جاری کر دیئے۔ ریاض بی بی کی بی بی کے شوہر لال ضمیر نے اسلام آباد پریس کلب میں پریس کانفرنس کے دوران کہا کہ انہوں نے کہا کہ ابھی اس دوران کے 5 بچوں باقی 5 بچے نمبر 0



خاتون کی ہلاکت گنتونمنٹ ہسپتال انتظامیہ کو 11 لاکھ روپے ادا کرنا حکم

لیڈی ڈاکٹر کی غفلت کے باعث لال ضمیر کی بیوی ریاض بی بی زچگی کے دوران جان بحق ہو گئی تھی

ورثاء کو انصاف کیلئے 4 سال انتظار کرنا پڑا گھر بھی بک گیا، متوفیہ کے شوہر لال ضمیر کی پریس کانفرنس

اسلام آباد (خبر نگار خصوصی) سول جج راولپنڈی ایچ اقبال رانجھا نے لیڈی ڈاکٹر کو زچگی کے دوران خاتون کی ہلاکت کا ذمہ دار قرار دیتے ہوئے کنٹونمنٹ ہسپتال اور کنٹونمنٹ بورڈ کو زور سنانے کے طور پر 11 لاکھ 19 ہزار روپے ادا کرنے کا حکم دیا۔ متوفیہ ریاض بی بی کے شوہر لال ضمیر نے گزشتہ روز پریس کانفرنس کے دوران انصاف ملنے پر خوشی کا اظہار کرتے ہوئے بتایا کہ 31 مئی 2001 میں ریاض بی بی کو ہسپتال لایا گیا لیکن لیڈی ڈاکٹر نے غفلت کا مظاہرہ کرتے ہوئے اس کے پیٹ میں اسٹنچ چھوڑ دیا جس کی موت کا باعث بنے لال ضمیر نے بتایا کہ اسے انصاف کیلئے ساڑھے 4 سال انتظار کرنا پڑا اس دوران بچوں کی پڑھائی چھوٹ گئی مکان بک گیا اور بچوں کی پرورش کیلئے کسی بھی چھٹی پڑی

اسلام آباد راولپنڈی اور لاہور سے بکے شائع ہونے والا صحافتی اخبار

ABC (فون) 2276861-2276846 (فیکس) 2276823-2276847 E-mail: jinnah@dsl.net.pk

www.dailyjinnah.com

اعلیٰ صحافتی اوصاف کا علمبردار

روزنامہ جینا

DAILY JINNAH ISLAMABAD

چیف ایڈیٹر: نازک ملک

پتہ: 14، قلعہ 1426، 17، مئی 2005ء، 3، 2062، ب سٹات 14، 7، 97

برلال ضمیر کے وکیل پاملش نیچو نے تفصیلات کے بتاتے ہوئے کہا کہ ریاض بی بی کو اپریل 2001ء کو کنٹونمنٹ ہسپتال راولپنڈی میں ایک میٹرنی آپریشن کے لئے لایا گیا جہاں آپریشن کے دوران لیڈی ڈاکٹر غزالہ نے غفلت کا سونے اسی وقت اس کے پیٹ میں چھوڑ دیا یا بیویٹ اسٹائڈ کروانے کے بعد جب مریضہ کے اموجوگی کا انکشاف ہوا تو ڈاکٹر نے مریضہ کا انکار کرتے ہوئے اسے جبری طور پر ہسپتال یا بعد میں مریضہ کو پز میں داخل کر دیا گیا گو سے میں رہنے کے بعد چل بسی انہوں نے جوگی میں لال ضمیر کو اپنے گھر اور گاڑی لے گئے ہمت نہ ہاری انہوں نے کہا کہ ساڑھے چار برس کے طویل عرصے اور بعد بالآخر سول جج راولپنڈی امجد ہشت ہا مرتبہ قرار دیا اور کہا کہ ان کی پیشہ وارانہ غفلت اور لاپرواہی کے باعث مریضہ کو اپنی جان سے ہاتھ دھونے پر لال ضمیر نے کہا کہ پیسے انسان کا نعم البدل نہیں ہو سکتے انہوں نے کہا کہ ایسے ڈاکٹر کا لائسنس کیسٹل ہونا چاہیے ایک سوال کے جواب میں انہوں نے کہا کہ ایسی ہم ہائی کورٹ میں بھی اپیل دائر کریں گے۔



غفلت کے مرتکب ڈاکٹروں کیخلاف فوری انصاف کی فراہمی یقینی بنائی جائے
لیڈی ڈاکٹر کی غفلت سے مرنے والی مریضہ کے شوہر کی ساڑھے چار سال بعد انصاف فراہمی پر پریس کانفرنس

اسلام آباد (خبرنگار) کنٹونمنٹ جنرل ہسپتال راولپنڈی میں لیڈی ڈاکٹر کی غفلت سے جاں بحق ہونے والی مریضہ کے شوہر کو ساڑھے چار برس کے طویل عرصے بعد انصاف مل گیا جس میں عدالت نے مذکورہ لیڈی ڈاکٹر، کنٹونمنٹ ہسپتال اور کنٹونمنٹ بورڈ کو شوہر پر جوہر کے درجاء کو گیارہ لاکھ انیس ہزار روپے ملانا، کسٹور مراد اکرنے کا حکم جاری کیا ہے۔

اسلام آباد میں سماجی تنظیم دی نیٹ ورک کے کوآرڈینیٹر ایاز کیانی کے ہمراہ متاثرہ مریضہ کے شوہر لال ضمیر نے پریس کانفرنس میں حکومت سے مطالبہ کیا کہ وہ طبی غفلت کے شکار افراد یا ان کے درجاء کو اورزاں اور فوری انصاف کی فراہمی کو یقینی بنانے کے لئے ایک موثر طریقہ کار وضع کرے اس موقع پر بانی صفحہ 66 بقیہ نمبر 66



بیوی پیٹ میں اسٹیج رہنے کے باعث چل بسی، لال ضمیر

لیڈی ڈاکٹر نے غفلت کی، پیٹ سے اسٹیج نکالنے کی بجائے مریضہ کو ہی ہسپتال سے خارج کر دیا

ڈاکٹر کا لائسنس کیمنسل کیا جائے، سستے انصاف کیلئے طریقہ وضع کیا جائے، ایاز کیانی

اسلام آباد (کنٹونمنٹ رپورٹر) کنٹونمنٹ جنرل ہسپتال راولپنڈی کی لیڈی ڈاکٹر کی غفلت سے جاں بحق ہونے والی مریضہ ریاض بی بی کے شوہر لال ضمیر نے گذشتہ روز اسلام آباد پریس کلب کیسپ آفس میں پریس کانفرنس سے خطاب کرتے ہوئے کہا کہ اس کی بیوی کو 31 مئی 2001ء کو کنٹونمنٹ ہسپتال راولپنڈی میں میٹرنی آپریشن کے دوران لیڈی ڈاکٹر غزالہ نے سیدہ غفلت کا مظاہرہ کرتے ہوئے اسٹیج اس کے پیٹ میں چھوڑ دیا جب مریضہ ریاض بی بی نے درد کی شکایت کی تو لیڈی ڈاکٹر نے اس کا سمانہ کرنے کی بجائے جبری ہسپتال سے خارج کر دیا جب میں بیوی کا پرائیویٹ کلینک سے الٹا ساؤنڈ کروایا تو معلوم ہوا کہ مریضہ کے پیٹ میں اسٹیج رہ گیا ہے جب الٹا ساؤنڈ کی رپورٹ لیڈی ڈاکٹر غزالہ کو دکھائی تو انہوں نے مریضہ کا علاج کرنے سے انکار کر دیا انہوں نے کہا کہ بیوی کو میں



نے ہر ہسپتال میں داخل کر لیا جہاں پریڈاکٹروں نے آپریشن کے ذریعے ریاض بی بی کے پیٹ سے اسٹیج اور ایک لیٹر پیپ نکالی ریاض بی بی کو آئی سی یو میں داخل کر دیا گیا جہاں پر کچھ دنوں کے بعد ریاض بی بی جاں بحق ہوئی انہوں نے الزام لگایا کہ اس کی بیوی کے زچگی کے آپریشن کے دوران ڈاکٹر غزالہ نے اسٹیج اس کے پیٹ میں ہی چھوڑ دیا تھا جس کی وجہ سے اس کی موت واقع ہوئی انہوں نے کہا کہ پز ہسپتال میں ریاض بی بی کے داخلہ کے دوران ہی اس نے نیٹ ورک این جی او کے وکیل پاملش نیچو کے ذریعے لیڈی ڈاکٹر غزالہ کے خلاف مقدمہ دائر کر دیا تھا جس پر سول عدالت راولپنڈی نے ڈاکٹر غزالہ اور راولپنڈی کنٹونمنٹ ہسپتال کو 11 لاکھ 19 ہزار ایک سو 75 روپے کا جرمانہ کیا ہے نیٹ ورک کے ایگزیکٹو کو آڈیٹور یا ایاز کیانی نے کہا ہے کہ ڈاکٹر کا لائسنس کیمنسل کیا جائے، سستے انصاف کیلئے طریقہ وضع کیا جائے

Patient's heirs win Rs 1.119m damage suit against doctor

BY LAMIA ZIA

ISLAMABAD - Finally, after five years, the family of Riaz Bibi, who fell prey to negligence of a doctor during a caesarean, won a legal battle against a doctor.

Deciding a compensation suit filed in 2001, Civil Judge Rawalpindi, Amjad Iqbal Ranjha Tuesday directed the guilty doctor, Ghazala Sadiq to pay Rs 1.119 million as compensation to the heirs of Riaz Bibi.

Riaz Bibi died due to negligence of the lady doctor when the later left a surgical sponge in her abdomen during the course of a caesarean operation in May 2001. The compensation amount would be given to the children and husband of the victim, the court ordered.

Decreasing in favour of Lal

Zameer, the husband of victim, the court held Ghazala Sadiq of Cantonment General Hospital for showing negligence during the treatment of the patient who left a sponge (surgical instrument) in her abdomen.

The verdict came after conclusion of evidences statements and final arguments by the counsels of the both sides. The prosecution produced five witnesses including Dr Waseem from Tayyab Poly Clinic Rawalpindi, Dr Shehnaz from Shehnaz Ultrasound Rawalpindi, Dr Saeeda Batool Mazher from PIMS, Dr Sher Shah Syed from Pakistan Medical Association, Karachi and Lal Zameer, plaintiff himself.

The defence council could not produce a single witness.

mood Tipu, lawyer of Lal Zameer, after the verdict said that the case will prove as a trendsetter in the history of Pakistan. The negligence case was initially taken up by The Network for Consumer Protection. The Network Executive Coordinator Ayaz Kiani said, "It is a valuable experience for The Network as how to activate the judicial system to provide access to justice to citizen-consumers for their day-to-day concerns of public health."

Riaz Bibi, 36, wife of Lal Zameer and mother of five children was admitted in Cantonment General Hospital, Rawalpindi as a patient on May 31, 2001, where she had a caesarean operation.

to this negligence the patient was seriously infected and gangrenes spread all over her body.

She was later forced to get discharged from the hospital. An ultrasound in a private clinic revealed the presence of big mass in the abdomen of the patient but the lady doctor, who conducted the operation, refused to treat the patient despite seeing the ultrasound report.

After being declined to offer medical help from two more hospitals, the patient was admitted to PIMS in a critical condition.

where a laparotomy was performed. The patient, however, did not survive and expired due to the presence of surgical abscess in her abdomen after becoming a coma for eleven

Negligent doctor ordered to pay Rs 1.12m

ASIM RANA

ISLAMABAD: Making a momentous verdict in a case of medical negligence that claimed life of a patient, a Rawalpindi civil court on Tuesday ordered Rs 1.12 million compensation to the heirs of the deceased.

Judge Amjad Iqbal Ranjha directed Dr Ghazala Sadiq of the Cantonment General Hospital to pay the amount to the family of Riaz Bibi, who died due to her negligence. Dr Sadiq left a surgical sponge in Ms Riaz's abdomen during a caesarean operation in May 2001.

The case was initially reported in the press and was forthwith taken up by The Network for Consumer Protection, an organisation safeguarding the consumer rights in Pakistan.

The verdict came after the recording of evidences and final arguments by the counsels of both sides.

The prosecution produced five witnesses Dr Waseem from the Tayyab Poly Clinic, Rawalpindi; Dr Shehnaz from the Shehnaz Ultrasound, Rawalpindi; Dr Saeeda Batool Mazher from PIMS; Dr Sher Shah Syed from the Pakistan

Medical Association, Karachi, and Lal Zameer, plaintiff and husband of the deceased.

The defence council could only produce a single witness, Dr Ghazala herself. Prosecutor Batish Mahmood Tipu said that the case would be a trendsetter in the history of Pakistan and hoped other such cases would also be disposed of soon.

Network Executive Coordinator Ayaz Kiani said the case was one of the few pieces of public interest litigation in the country. "It is a valuable experience for The Network on how to provide citizens an access to justice for their day-to-day concerns of public health," he added. Riaz Bibi, 36, mother of five children, was admitted to a Cantonment General Hospital, Rawalpindi as a patient on May 31, 2001, where she had a caesarean operation. Dr Ghazala Sadiq, who conducted the operation, left abdominal sponge in her body negligently. Due to this negligence, the patient got seriously infected and gangrene spread all over her body.

An ultrasound in a private clinic revealed the presence of a big mass in the abdomen of the patient but Dr Sadiq refused to treat the patient despite seeing the report.

Post
14/12

Wednesday, December 14, 2005

The Statesman 5

Court decrees Rs1.1m compensation on medical negligence

Statesman Report

ISLAMABAD: Rawalpindi Civil Judge Anjad Iqbal Ranzha awarded an amount of Rs1.1 million as compensation to the heirs of a deceased patient on Tuesday.

The court awarded the money to pay husband and children of Riaz Bibi, who died due to a doctor's negligence who left a surgical sponge in her abdomen during the course of a caesarean operation in May 2001.

Decreeing in favour of Lal Zameer, the husband of victim and his children, the court held that the patient was negligent treated by a Doctor Ghazala Sadiq of Cantonment General Hospital who left a sponge (sur-

gical instrument) in the abdomen of the patient.

The negligence case was initially reported in the press and was forthwith taken up by The Network for Consumer Protection, the pioneer organisation safeguarding the consumer rights in Pakistan.

The verdict came after conclusion of recording of evidences and final arguments by the counsels of the both sides. The prosecution produced five witnesses in all, including Dr Waseem from Tayyab Poly Clinic Rawalpindi, Dr Shehnaz from Shehnaz Ultrasound Rawalpindi, Dr Saeeda Batool from PIMS, Dr Sher Mazher from Pakistan Medical Association, Karachi and Lal Zameer, plaintiff himself.

Riaz Bibi, 36, wife of Lal Zameer and mother of five children was admitted in Cantonment General Hospital, Rawalpindi as a gyne patient on May 31, 2001, where she had a caesarean operation.

The lady doctor Ghazala Sadiq, who conducted the operation negligently left abdominal sponge in her body. Due to this negligence the patient got seriously infected and gangrene spread all over her body. She was later forced to get discharged from the hospital. An ultrasound in a private clinic revealed the presence of big mass in the abdomen of the patient but the lady doctor, who conducted the operation refused to treat the patient despite seeing the ultrasound report.



TheNetwork
for Consumer Protection

40-A Ramzan Plaza, G-9 Markaz,
Islamabad - Pakistan, P.O.Box 2563
Tel: +92-51-2261085 Fax: +92-51-2262495
e-mail: main@thenetwork.org.pk
website: www.thenetwork.org.pk

“ Despite the reporting of a large number of medical negligence cases, there has never been sustained effort on the part of civil society to put in place institutional and organizational checks and balances to deal with this issue in an effective manner. Complexity of the issue, however, requires that it is understood in its entirety through situational analysis of the interaction of all the actors involved in the healthcare process. Many health professionals and the public have a general, but hazy, understanding of what medical negligence is and as to how the law defines it. Therefore, this paper attempts to create conceptual understanding of this issue by laying out the legal basis of 'medical negligence', by putting this concept in its historical perspective, narrating a brief overview of some of the known and documented cases of medical negligence in Pakistan. ”