

Case Report

Product Liability of Corporate Negligence

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Abstract: It is a case of three months old female baby, died due to accidental ignition of the incubator in the hospital in which she was kept for her life support. Body was buried with out doing post mortem examination after some financial settlement between doctor and deceased relatives even though manner of death was unnatural. After two days the issue was highlighted in the local media, the police people were entered in to the matter, filed the case and send requisition along with magistrate inquest to us for post mortem examination. The body was exhumed and autopsy was conducted by team of doctors of Kakatiya Medical College, Warangal. After considering every thing cause of death was given as burns, which occurred due to accidental (electrical shot circuit) ignition of incubator. It clearly indicating the negligence of that hospital management (corporate negligence), even though the death was occurred due to ignition of the incubator, proper working condition of that incubator in previous days exclude the product liability of manufacturer.

Keywords: Products, Manufacturer, Doctor, Negligence

INTRODUCTION

Products Liability

Products liability refers to the physical agent which caused the injury or death of the patient during treatment by the doctor. The injury or death of the patient may result from the unexpected by product of faulty, defective, or negligently designed medical or surgical instruments or inadequate operating instructions. In such cases, the manufacturer becomes responsible for injury or death. The doctor must prove that the manufacturer departed from standards of due care, with respect to negligent design, manufacture, assembly, packaging, failure to test and inspect for defects, or failure to warn or give adequate instructions. If the instruments functioned satisfactorily in previous operations or for several previous years in the hospital's possession, it is a proof that it was not defective at the time of supplying. Later, if the instrument develop a defect through ordinary and gradual wear and tear, or if the physician or the hospital misuses the manufacturer's medical products, the hospital or physician owner are liable for the failure to inspect, test and repair such defects. But the manufacturer becomes responsible, if the doctor can prove that the subsequent development of this defect was due to negligent design, structurally inferior component material, or improper assembly. An adequate warning cautions the user to follow directions, and may also notify the risk of disregarding directions.

The manufacturer of medicines and machines has a legal duty to use care in research and development of drugs and machines. The manufacturer is liable, if a patient is injured due to faulty machine. Once the physician has been warned about possible side-effects, the manufacturer has no duty to ensure that the warning reaches the patient under normal circumstances. From the information received from the manufacturer, and other medical sources, the doctor is required to see regularly over it's working condition. Any failure in this regards makes the doctor responsible. The manufacturer, seller or anyone in the chain of sale, may be sued by the buyer, by another user of the product or by some third party, whose bodily injury is caused by the product. The patient has to prove that a defect in production and testing in the product existed; before it left the manufacturer's hands and that the defect was the proximate cause of the patient's injury [1-5].

Corporate Negligence

It is the failure of those persons who are responsible for providing the accommodation, facilities and treatment to follow the established standard of conduct. It occurs when the hospital provides defective equipment or drugs, selects or retains incompetent employees, or fails in some other manner to meet the accepted standard of care, and such failure results in

injury to a patient to whom the hospital owes a duty. In the corporate sector (hospital, nursing home, etc.), where more than one person in more than one level fails to render appropriate service to the patient, may result in some damage to patient. Here the treating doctor and also other category or persons who were negligent will be held responsible. If a hospital knows or should have known, that one of the patients is likely to be a victim of professional negligence by a doctor on its staff, the hospital is liable, even though that doctor is an independent with staff privilege at the hospital. If the doctor is employed by a patient in his private capacity, and the hospital only provides facilities for treatment, the doctor alone is held responsible for any negligence [1-5].

CASE REPORT

On 7/8/2011 we received a requisition along with magistrate inquest from MRO of manchirala for conduction exhumation. Next day we went to the place of burial grave. It was identified positively with the help of relatives. The body was exhumed under the supervision of MRO and police officers .Postmortem examination conducted on that body.

Post Mortem Findings

External

Clothing were absent. Skin shows complete charring. No other external findings were observed.

Internal

Brain was in liquefied condition. Other internal organs also appeared as black mass, due to decomposition.

Routine viscera and samples from earth were collected and send for chemical analysis. No poison was detected. With circumstantial evidence and other findings on the body cause of death was given as death due to ante mortem burns [6].

DISCUSSION

It is a case of three months old female baby, died due to accidental ignition of the incubator in the hospital in which she was kept for her life support. Body was buried with out doing post mortem examination after some financial settlement between doctor and deceased relatives even though manner of death was unnatural. After two day the issue was highlighted in the local media, the police people were entered in to the matter, filed the case and send requisition along with magistrate inquest to us for post mortem examination. The body was exhumed and autopsy was conducted by team of doctors. After considering every thing cause of death was given as ante mortem burns, which occurred due to accidental (electric shot circuit) ignition of incubator in which baby was kept.

CONCLUSION

It clearly indicating the negligence of that hospital management (corporate negligence), even though the death was occurred due to ignition of the incubator, proper working condition of that incubator in previous days excludes the product liability of manufacturer, at the same time doctor has no direct role in her death but as a owner that hospital he has to keep all equipment in proper working condition, other wise he will become responsible.

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