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# MEDICO-LEGAL NEWSLETTER

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## SUPREME COURT OF INDIA
## ARUN KUMAR MANGLIK VS CHIRAYU HEALTH AND MEDICARE PRIVATE LTD
## DATE OF ORDER: 9 JANUARY, 2019

### Facts of the case:

Mrs. Madhu Manglik, about 56 years of age, (the "Patient") on 14 November, 2009, was diagnosed with dengue fever. The report of the pathological laboratory, Glaze Pathology, reported the following state of health: "RBC-4.21 Million/cmm Hb-12,1 gm/d/ TLC-1900/Cmm Platelet Count 1.79 lakh/cmm Dengue Ns 1 Antigen – Positive." The Patient was admitted at the ICU of the hospital on the next day. Patient was afebrile accompanying signs of dengue fever including headache, body ache and a general sense of restlessness. Patient had a prior medical history which included catheter ablation and paroxysmal supra ventricular tachycardia suggestive of cardiac complications.

Upon admission, basic investigations were carried out. The blood report, together with the accompanying clinical examination indicated the following position:
"Hb 13.4 TLC 3000/Cumm, Platelet count 97000/cumim, PS for MP no malarial parasite seen Blood urea 21 mg% Serum bilirubin img% SGPT 521 U/L, SGOT 105Mg/dl ELECTROLYTE Sodium 140 meq/L Potasium 4.0 meq/L Ex R4 Urine test normal Ex R6 10.00 am – Pulse-88/min, Bp. 130/88 mm Hg Temp. A febrile c/o Pain in abdomen (p-128/min), mildly febrile BP – 110/70 mm Hg." Since the Patient was complaining of abdominal discomfort, an ultrasonography of the abdomen was carried out.

On the date of admission, the Patient was sinking, her blood pressure was non-recordable, extremities were cold and the pulse was non-palpable. In the meantime, the patient was placed on a regime of administering intravenous fluids. The administration of 2500ml of fluids was planned over the course of 24 hours. Between 7 am and 6 pm, she was administered about 1200 ml of fluids. The Patient developed bradycardia and cardiac arrest. Faced with this situation, the treating doctors administered about 1.5 litres of extra fluids. Fluids and colloids were administered for increasing the blood pressure.

Since the blood pressure of the Patient did not improve, she was administered ionotropes (dopamine & non-adrenaline). At 6.45 pm, the patient suffered a cardiac arrest. Her cardiac levels were monitored. At 6.55 pm she was examined by Dr C C Chaubey.

Belatedly, at 7.15 pm, another blood sample was taken, which indicated the following results:-
"Hb – 8.1/d/ TLC-7,400/Cumm Platelet count 19000/cmm Ex R 10 Total protein- 3.9 gms% A/G Ratio – 2 SGOT 169 IU/L"

At 8 pm, the patient had a cardiac arrest. She was declared dead at 8.50 pm. A complaint of medical negligence was instituted before the Medical Council of India.

## Allegations of the Complainant

1. (i) The patient was admitted to the hospital with a reported case of dengue in a stable condition;
2. (ii) The hospital and the treating doctors failed to follow the protocol in treating dengue;

(iii) The line of treatment was contrary to established guidelines, formulated by the WHO, titled "Dengue Guidelines for Diagnosis, Treatment, Prevention and Control";
(iv) Except for the blood sample which was taken at about 7.30 am, thereafter HCT levels were not tracked until cardiac arrest after 6 pm;
(v) Platelet levels which stood at 1,79,000 on 14 November 2009 had recorded a steep decline and stood at 97,000 on 15 January 2009 when she was admitted to the hospital;
(vi) Admittedly, fluids were administered to the patient as a part of the treatment protocol;
(vii) The administration of fluids ought to have been accompanied by regular monitoring of blood levels which would have indicated that there was a precipitous decline in the platelet counts and in the HCT levels;
(viii) Plasma leakage, hemorrhagic fever or dengue shock syndrome are likely concomitants in the trajectory of such a disease;
(ix) In the absence of regular monitoring, treating doctors were guilty of medical negligence;
(x) The fact that she was administered aspirin was disclosed to the treating doctors at the time of admission, which is satisfactorily established by the medical records of the case.

## Defences of the Doctors

(i) The patient had fever from several days but was stable at the time of admission;
(ii) The patient did not go into a situation of a dengue shock syndrome or hemorrhagic fever during the course of the day when she was admitted to the hospital;
(iii) In such a situation, no requirement of regular monitoring of HCT was warranted in accordance with the guidelines which have been prescribed by the Directorate of National Vector Borne Diseases Control Programme (DNVBDCP);
(iv) The above guidelines, which have been prescribed by the Union of India under the National Rural Health Mission, would indicate that it is only in a situation involving dengue hemorrhagic fever or dengue shock syndrome that further steps would be necessary;
(v) The fluids administered to the patient did not require a monitoring of the blood more than twice a day and it was only in the evening that the HCT levels were required to be evaluated;
(vi) The patient had prior cardiac complications for which she had been on an aspirin regime prior to admission to the hospital. She was carefully monitored by a team of doctors at hospital;
(vii) The treatment protocol which was followed was consistent with the guidelines which have been prescribed both by WHO as well as by the National Vector Borne Diseases Control Programme;
(viii) The patient in the present case had prior complications and the treatment which was administered followed an established protocol.

The Patient was evidently suffering from abdominal discomfort and hospital authorities were required to closely monitor her condition. In failing to do so in a timely manner, the treating doctors were unable to meet the standard of reasonable care expected of medical services.

The issue is not whether the Patient had already entered a situation involving haemorrhagic fever or a dengue shock syndrome when she was admitted. The real charge of medical negligence stems from the failure of the hospital to regularly monitor the blood parameters of the patient during the day. Had this been done, there can be no manner of doubt that the hospital would have been alive to a situation that there was a decline progressively in the patient's condition which eventually led to cardiac arrest.

The standard of care has to be judged in the light of knowledge available at the time of the incident and not at the date of the trial. Also, where the charge of negligence is of failure to use some particular equipment, the charge would fail if the equipment was not generally available at that point of time.

In the practice of medicine, there could be varying approaches to treatment. There can be a genuine difference of opinion. However, while adopting a course of treatment, the medical professional must ensure that it is not unreasonable.

In the present case, the record which stares in the face of the adjudicating authority establishes that the critical parameters of the patient were not evaluated. The simple expedient of monitoring blood parameters was not undergone. This was in contravention of WHO guidelines as well as the guidelines prescribed by the Directorate of National Vector Borne Diseases Control Programme. It was the finding of the Medical Council of India that while treatment was administered to the patient according to these guidelines, the patient did not receive timely treatment. It had accordingly administered a warning to the doctors to be more careful in the future. The doctors failed to provide medical treatment in accordance with medical guidelines, therefore failed to satisfy the standard of reasonable care as per the Bolam case. Blood test had to be done by the doctors, but stating that the Patient party denied it is not acceptable.

There is no basis for recording a finding of medical negligence against the Director of the hospital. Hence, while the finding of medical negligence against the hospital would stand confirmed, the treating doctor would not be personally liable.

Even though the Patient was not employed, it is now well settled by a catena of decisions of this Court that the contribution made by a non-working spouse to the welfare of the family has an economic equivalent.

The Hon'ble Supreme Court directed that the Patient's family shall be entitled to receive an amount of Rs. 15 lakhs by way of compensation from the hospital.