



W.P.(MD)No.15560 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED : 11.12.2023

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Orders Reserved On 06.12.2023	Orders Pronounced On 11.12.2023
----------------------------------	------------------------------------

W.P.(MD)No.15560 of 2021

R.Rajeswari

... Petitioner

Vs.

1.The Secretary to Government of Tamil Nadu,
Health and Family Welfare Department,
Chennai – 600 009.

2.The District Collector,
Sivangai District @ Sivagangai.

3.The Deputy Director of Health Services,
Sivangai District @ Sivagangai.

4.Revathi,
The Dean,
District Head Quarters Hospital, Sivagangai.

5.Dr.Balamurugan,
The Medical Superintendent,
District Head Quarters Hospital,
Sivangai.

... Respondents



W.P.(MD)No.15560 of 2021

Prayer:- Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus, directing the respondents 1 to 3 to take suitable disciplinary action against the 4th and 5th respondents and consequently, direct the respondents 1 to 3 to pay an amount of Rs.1,00,00,000/- (Rupees One Crore only) towards compensation to the petitioner and her family members for the unethical and negligent treatment given to the petitioner's husband (late) Ramadoss, which caused death to him.

For Petitioner	: Mr.N.Sathish Babu
For Respondents	: Mr.Veera.Kathiravan Additional Advocate General Assisted by Ms.D.Farjana Ghoushia Special Government Pleader

ORDER

The petitioner, who is the wife of the deceased Ramadoss, has filed this Writ Petition for a direction to the respondents 1 to 3 to pay compensation to her for the negligent treatment given to her husband, which caused his death and for a further direction to initiate disciplinary proceedings against the respondents 4 and 5.



W.P.(MD)No.15560 of 2021

2. The case of the petitioner is that her husband suffered with age related health issues. On 21.06.2021, the petitioner's husband was taken to the fourth respondent Hospital by the petitioner's son. He was admitted in the Hospital and was shifted from one place to another. Finally, he was admitted in the General Ward on 24.06.2021. One of the Staff Nurse attached to the fourth respondent Hospital infused and transmitted Dextrose drug to the petitioner's husband. The petitioner's son found that the expiry date of the bottle containing the drug was over one month back. By the time, this was pointed out, half of the bottle was infused. The petitioner's son questioned the doctors as to how the drug was infused and immediately, the drip was pulled away and it was taken by the Staff Nurse. There was no explanation forthcoming from the doctors. On the same day, the petitioner's husband was shifted to ICU and his health condition started deteriorating.

3. On 27.06.2021, the petitioner's husband died at about 10.50 p.m. The grievance of the petitioner is that the demise of her husband is directly relatable to the negligence on the part of the fourth respondent Hospital, by infusing a drug, whose shelf life has already expired. It is under these circumstances, the present Writ Petition has been filed before this Court.



W.P.(MD)No.15560 of 2021

4. The first respondent has filed a counter affidavit. The relevant portions in the counter affidavit are extracted hereunder:-

"5. I respectfully submit that the patient Ramadoss son namely Venkatesh informed the treating doctor on the day of admission (21.06.2021) that his father Ramadoss is a Known Type 2 Diabetes, Systemic Hypertension, Chronic Kidney disease (CKD), Coronary Artery disease (CAD) with severe left ventricular dysfunction and was on treatment for the above stated diseases. Further the treating doctor after thoroughly examining the patient Ramadoss informed his son namely Venkatesh on 21.06.2021 that in view of his father's advanced age (74 years), multiple comorbid conditions as informed by his son and his present complaints of nausea, vomiting, loss of appetite and urinary incontinence, his father Ramadoss needs inpatient care and evaluation of severity of comorbidities, who also acknowledged the fact that his father's health condition was very labile and he was dangerously ill (DIL) at the time of admission in the fourth respondent hospital on 21.06.2021 at 11.13 A.M. and made over his signature in the acknowledgement form. At the time of admission, deceased Ramadoss was conscious, oriented, BP was 120/80 mm Hg, pulse rate 88/minute and Oxygen saturation (Spo2) in room air was 98%.

6. I respectfully submit that as far as the averments made in paragraph 5 of the affidavit is hereby specifically denied as false,



further the 4th respondent Hospital immediately after the admission of the patient Ramadoss, ordered blood investigations and other medical investigations on 21.06.2021 and the reports revealed that the patient Ramadoss's blood sugar was high (194mgs%) and ECG taken on the day of admission showed features suggestive of old myocardial infarction. A provisional Diagnosis of Uremic Gastritis and dyselectrolytemia was made apart from other comorbidities, further the patient Ramadoss was effectively and intensively treated in the triage ward first and was then transferred to male medical ward for further evaluation and treatment. There was no delay in the management and all his comorbidities and acute illnesses were treated as per guidelines.

7. I respectfully submit that when the renal parameters of the patient Ramadoss were raised and hyponatremia was present on 22.06.2021, his treatment was modified accordingly and further insulin was added to control the blood sugar of the patient Ramadoss. On 22.06.2021 and 23.06.2021 because of comprehensive treatment his hyponatremia was corrected, blood sugar was controlled and his vital parameters were stabilized and were within normal limits.

8. I respectfully submit that the patient Ramadoss was also suffering from scrotal cellulitis and for which surgeons opinion was obtained on 24.06.2021 and appropriate treatment modification



W.P.(MD)No.15560 of 2021

was done and development of sepsis was averted. On 24.06.2021 immediately after the clinical medical examination of the Ramadoss, when the blood sugar of the patient Ramadoss fell precipitously to (56Mg%), in such circumstances as there is a need to improve the blood sugar, injection 25% Dextrose IV was given.

9. I respectfully submit that the averments made in paragraphs 9, 10, 12 and 16 of the affidavit is hereby specifically denied as false, further in that circumstances even though the patient Ramadoss was given appropriate care by the medical team doctors in the fourth respondent Hospital on 21.06.2021, 22.06.2021 and 23.06.2021 respectively, the patient Ramadoss's general condition did not improve, hence patient Ramadoss was shifted to ICU on 24.06.2021 to monitor blood sugar more closely and to treat scrotal cellulitis. CT scan of chest was ordered by the treating doctor to rule out Viral pneumonia based on the patients prevailing symptoms and signs and CT scan was taken on 24.06.2021 and the decision to take CT scan of chest was not related to dextrose infusion. CT scan chest report revealed he had lung infection (pneumonia) and he was treated accordingly. The health status of the patient Ramadoss during his stay in the fourth respondent hospital was regularly informed to the attenders and they have acknowledged the information conveyed to them on a daily basis in the ICU by signing in the case sheet.



W.P.(MD)No.15560 of 2021

10. I respectfully submit that on 27.06 2021 in spite of the intensive care given by the fourth respondent hospital to the patient Ramadoss, the patient Ramadoss conscious level deteriorated, and later the patient Ramadoss's Blood pressure fell down and inotropes were started, in spite of all the efforts taken by the fourth respondent hospital to save the life of the patient Ramadoss, the patient Ramadoss developed sudden cardio respiratory arrest by 10.20 P.M. On 27.06.2021 as such the patient Ramadoss could not be revived because of the multiple comorbidities suffered by him as stated above the patient, Ramadoss was declared dead on 27.06.2021 by 10 50 P.M. and cause of death were Type 2 diabetes mellitus, Systemic Hypertension, Chronic Kidney Disease, Coronary Artery Disease with severe LV dysfunction, Lower Respiratory tract infection, Volume Overload, Congestive Cardiac failure and sudden cardio respiratory arrest.

11. I respectfully submit that as far as the infusion of dextrose, drug in the fourth respondent hospital medical store with Batch No.2F91406 was received from Tamil Nadu Medical Services Corporation (TNMSC) on 09.12.2019 and the manufacturing date of the batch of Dextrose drug (totally 77 Nos) was 01.06.2019 and the expiry date of the drug in Batch No.2F91406 as on 31.05.2021, further it is not a drug which is used in the clinical management of the patients in the fourth respondent hospital every day, but it is a life saving drug which can be used rarely only as and when it is



W.P.(MD)No.15560 of 2021

necessary, in such circumstances the nurse namely Yogalakshmi, who was recruited during the COVID-19 Pandemic as per the instruction of the second respondent in the proceedings of outsourcing agency Fivestar R.No.153/SVG/FS/SN/2021 dated 17.05.2021 and who joined duty on 19.05.2021, was in nursing duty and attended the deceased.

12. I respectfully submit that the averments made in paragraph 7 of the affidavit is also hereby specifically denied as false, further in such circumstances the drug Dextrose was purported to be administered to the patient Ramadoss on 24.06.2021 by the nurse namely Yogalakshmi, but before the V-Track Controller adopter was opened to infuse the Glucose into the body of the patient Ramadoss, the expiry date was identified by the nurse namely Yogalakshmi. Further, the son of the patient Ramadoss namely Venkatesh on seeing this, suddenly came down and forcibly took video through his mobile phone and threaten the public officials that the expired drug was as if infused to patient Ramadoss, in fact no single drop of Expired Dextrose drug in Batch No:2F91406 in Male Medical Ward-I was transfused into the vein of the patient Ramadoss, and that was reinforced by verification of the expired drug in Batch No 2F91406, which contains the full quantity (100ML) of Dextrose Drug, but the son of patient Ramadoss namely Venkatesh with malicious intention, exposed this event to media, without any verification that the expiry drug was



W.P.(MD)No.15560 of 2021

really transfused to the patient Ramadoss or not and without getting any medical report to that effect which resulted in exposing the factless event in media on 24.06.2021 and the patient Ramadoss was able to survive for furthermore 3 days and the patient Ramadoss became drowsy on 27.06.2021 and died due to sudden cardiac arrest on 27.06 2021.

13. I respectfully submit that the attenders of the patient Ramadoss did not make any complaint to the fourth respondent Hospital administration regarding the use of expiry drug namely Dextrose, the expiry drug was never infused and transmitted to patient Ramadoss, before administering the drug Dextrose, the expiry date of the bottle containing the Dextrose was noted, and hence the another Drug Dextrose was administered and transfused to the patient Ramadoss with different Batch No T18028S3 and an expiry date of 31.01.2022."

5. Heard the learned counsel appearing on behalf of the petitioner and the learned Additional Advocate General appearing on behalf of the respondents.

6. The learned counsel for the petitioner submitted that the petitioner's husband was infused with a drug, which had already crossed the



W.P.(MD)No.15560 of 2021

shelf life by one month. Immediately thereafter, the health condition of the petitioner's husband deteriorated and he died on 27.06.2021. The learned counsel for the petitioner in order to refute the claim made by the first respondent in the counter affidavit, produced relevant photographs and also played the video that was taken by the petitioner's son on 24.06.2021. The learned counsel for the petitioner submitted that it is evident that the Dextrose drug was infused and transmitted to the petitioner's husband and half way through, it was found that the expiry date was over one month back and immediately, it was taken away by the Staff Nurse. As a consequence, it was contended that the petitioner lost her husband due to negligence on the part of the respondents 4 and 5.

7. The learned Additional Advocate General appearing on behalf of the respondents submitted that the petitioner's husband was facing a lot of health issues and he was at an advanced age [74 years] with multiple comorbid conditions. It was further submitted that the Dextrose drug is only a drug, which is used to stabilize the sugar level and on finding that the expiry date was already over, it was not administered on the petitioner's husband. Even thereafter, the petitioner's husband was conscious and



W.P.(MD)No.15560 of 2021

oriented till 27.06.2021, 02.00 a.m. Thereafter, the health condition started deteriorating and he became disoriented and was only responding to painful stimuli and ultimately, the petitioner's husband died at about 10.50 p.m., due to cardio respiratory arrest. The learned Additional Advocate General submitted that an enquiry was independently conducted by a Committee that was formed by the fourth respondent and the Committee came to the conclusion that the petitioner's husband did not die due to administering of the Dextrose drug and that he died only because of multiple comorbid conditions suffered by him at an advanced age. The learned Additional Advocate General also placed reliance upon the medical records that were placed before this Court.

8. This Court has carefully considered the submissions made on either side and the materials available on record.

9. This Court while exercising its Writ jurisdiction under Article 226 of the Constitution of India, is not expected to go into the disputed questions of facts and more particularly, when it involves medical negligence. The negligence pointed out must be apparent, since it involves



W.P.(MD)No.15560 of 2021

a specialized field and the Court is not expected to get into the nitty-gritties involved while giving treatment to the patient. While determining medical negligence, the Court must also see if the Doctor had taken due care while giving the treatment and had acted in good faith.

10. In the instant case, the negligence that has been pointed out is that the petitioner's husband was infused and transmitted with Dextrose drug, whose shelf life had already expired. Even in the counter affidavit filed by the first respondent, it is admitted that the drug Dextrose was attempted to be administered on the patient Ramadoss on 24.06.2021 by a Staff Nurse called "Yogalakshmi". This stand taken in the counter affidavit is substantiated by the video that was played before the Court and this video was taken by the petitioner's son in his mobile phone on 24.06.2021. This act on the part of the petitioner's son is also admitted at Paragraph 12 of the counter affidavit filed by the first respondent. The first respondent had taken a stand that not a single drop of the expired Dextrose drug was transfused into the vein of the patient Ramadoss. However, the video that was played before this Court clearly shows that the drug was in fact transfused and half way through, the petitioner's son found out that the



W.P.(MD)No.15560 of 2021

expiry date was already over for the drug. The petitioner's son was questioning the Staff Nurse about this and she immediately, removed the bottle and took it away. The petitioner's son questioned the duty doctor about this and he was explaining the petitioner's son that nothing will happen/no adverse impact will take place just because the drug has been infused, as its shelf life had expired one month back. On going through the materials that were placed before this Court, it is quite evident that the incident had taken place on 24.06.2021 and the Dextrose drug was in fact transfused into the vein of the patient Ramadoss and half way through, it was taken away. Unfortunately, the respondents had concealed this fact and they have taken a stand as if not a single drop was administered and transfused to the patient Ramadoss.

11. The next issue to be considered is as to whether this transfusion resulted in the death of the petitioner's husband.

12. On going through the medical records, it is seen that the petitioner's husband was conscious, oriented and afebrile from 24.06.2021 till 27.06.2021, 02.00 a.m. Therefore, it is clear that the transfusion of the



W.P.(MD)No.15560 of 2021

drug did not cause any immediate set back to the health condition of the petitioner's husband. It must be borne in mind that the Dextrose drug is administered only for stabilizing and maintaining the sugar level and it is more in the nature of a substitute for sugar. It is also seen that the Dextrose drug, that is said to have been transfused, is 25% Dextrose, which means that the balance 75% is water. This drug is not in the nature of a medicine to treat any ailment and it is only in the nature of stabilizing and maintaining the blood sugar level in a patient.

13. The death summary that is available in the medical records shows that the petitioner's husband died on 27.06.2021 at about 10.50 p.m. due to cardio respiratory arrest. There is nothing to show that such cardiac arrest was occasioned only due to transfusion of the Dextrose drug on the patient Ramadoss. Hence, there is no live link or proximate cause between the Dextrose drug that was transfused to the patient Ramadoss and the reason for his ultimate demise on 27.06.2021 at 10.50 p.m. If the cause of death of the petitioner's husband is relatable to the administering of Dextrose drug, whose shelf life had already expired, this Court would have applied *Res ipsa loquitur* principle. Unfortunately, no such material is available to that



W.P.(MD)No.15560 of 2021

effect and no medical literature has been placed before this Court to show that administering the Dextrose drug after the expiry date, leads to cardiac arrest. Hence, it is not possible for this Court to attribute negligence on the part of the respondents for the demise of the petitioner's husband.

14. The only negligence that can be deciphered from the materials available before this Court is that on 24.06.2021 a Staff Nurse namely, Yogalakshmi administered the drug on the patient Ramadoss and half way through, the petitioner's son found that the drug had crossed the expiry date. This certainly caused a lot of anxiety and mental agony to the petitioner's son. The duty doctor was consoling the petitioner's son that even by administering the Dextrose drug after the expiry date, it will not cause any adverse impact on the patient. This explanation is more in the nature of an excuse for the negligent act on the part of the Staff Nurse, who administered this drug on the patient Ramadoss. This act cannot be said to be an error of professional judgment and it is a clear case of negligence in utilizing a drug after the shelf life of the drug had expired. To that extent, this Court is inclined to attribute negligence on the fourth respondent and direct payment of compensation on this ground. While doing so, this Court has taken into



W.P.(MD)No.15560 of 2021

consideration the principles that were restated in the recent judgment of the

Hon'ble Apex Court in **CPL Ashish Kumar Chauhan vs. Commanding Officer and others** reported in **2023 SCC Online SC 1220 : 2023 (6) MLJ 8 (SC)**.

15. In the light of the above discussion, there shall be a direction to the respondents to pay compensation of a sum of Rs.1,00,000/- to the petitioner, within a period of six weeks from the date of receipt of a copy of this order.

16. In the result, this Writ Petition is disposed of with the above direction. No costs.

Index : Yes
NCC : Yes
Speaking order
SMN2

11.12.2023



W.P.(MD)No.15560 of 2021

To

WEB COPY

- 1.The Secretary to Government of Tamil Nadu,
Health and Family Welfare Department,
Chennai – 600 009.
- 2.The District Collector,
Sivangai District @ Sivagangai.
- 3.The Deputy Director of Health Services,
Sivagangai District @ Sivagangai.



WEB COPY



W.P.(MD)No.15560 of 2021

N.ANAND VENKATESH, J.

SMN2

Pre-delivery order made in

W.P.(MD)No.15560 of 2021

11.12.2023