Vimal Kumar
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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Date of decision: 31.10.2017

RSA No.5191 of 2016 (O&M)

State of Haryana through Collector District Ambala & another

...Appellant

Vs.

Rajo Devi & others

...Respondents

CORAM: HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr. Indresh Goel, Additional Advocate General, Haryana.

RAJIV NARAIN RAINA, J. (ORAL)

The possibility and the causal connection between the sterilization operation and the death of the plaintiff-respondent's husband, a government employee cannot be ruled out beyond any reasonable doubt. The sterilization operation may have appeared to be an insignificant procedure, but from the medical point of view all contra indicative factors should have been ruled out by the medical team and mere clinical examination may not have been enough and the procedure even when consent was given ought to have been carried out with due care and caution by the Doctors in an admitted case where the cause of death was due to gastric peptic perforation in the stomach. Doctors could have performed a simple test by endoscopy to rule out any ulcer in the stomach and then evaluated it effect on the decision to sterilize the patient.

I have read the deposition of DW-1 Dr. Suresh Kansal with the assistance of Mr. Indresh Goel, Additional Advocate General, Haryana and I

am not impressed with his contention that there was no connection between peptic ulcers and what followed and resulted into death of the Government employee four days' after the sterilization operation.

I have no ground to interfere with the concurrent findings of fact recorded by the Courts below in a suit for damages when opinion has been formed after appreciation of the medical evidence on file. The Civil Judge (Junior Division), Ambala in her judgment and decree dated 23.09.2015 and the District Judge, Ambala in appeal have considered not only the facts and circumstances and the operation and post operative care, but law on the subject as well including the judgments of the Supreme Court and the High Court and the medical treatment file produced by the Government in the trial. The concurrent finding recorded is that the Doctors did not conduct the medical check-up with due caution and, therefore, it cannot be said that they were no element of negligence in following the medical procedure usually required to be addressed by medical experts in the operation theatre putting the patient volunteering to the surgeon's knife.

As a result, I find no justification in interfering with the impugned judgment and decree in appeal. No question of law arises for consideration on the second appeal side of this Court. Accordingly, the instant appeal is dismissed being devoid of merit and substance.

31.10.2017 **[RAJIV NARAIN RAINA]**
Vimal **JUDGE**

Whether speaking/reasoned: *Yes*
Whether Reportable: *No*