

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

LPA-1927-2019 (O&M)

Date of decision:- 20.02.2020

Tarun Saini and another

...Appellants

Versus

Govt. of Punjab through its Chief Secretary, 6th Floor,
Secretariat-1, Sector-1, Chandigarh and others

...Respondents

CORAM: HON'BLE MR. JUSTICE RAVI SHANKER JHA, CHIEF JUSTICE
HON'BLE MR. JUSTICE ARUN PALLI

Present:- Mr. K.D. Saini, Advocate,
for the appellants.

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RAVI SHANKER JHA, C.J. (ORAL)

This appeal has been filed by the appellants being aggrieved by an order dated 05.09.2019 passed by the learned Single Judge in CWP-24539-2019.

The writ petition was filed by the appellants before this Court seeking compensation of ₹ 1,25,00,000/- on account of death of appellant No. 1's wife. It is alleged in the petition that on 30.10.2018, appellant No. 1's wife delivered a baby at 6.00 PM at Civil Hospital, Sangrur. It is further alleged that after delivery of the baby, on account of complications, appellant No. 1's wife was referred to Rajendra Hospital, Patiala for further treatment with respiratory support in ambulance without deputing any doctor. It is further alleged that appellant No. 1's wife reached Rajendra Hospital, Patiala on 30.10.2018 at 10.00 PM. Thereafter, she again suffered certain complications and was ultimately declared dead on 31.10.2018 at 5.45 AM owing to cardiac arrest and excessive bleeding.

Learned counsel for the appellants in reference to the case summary prepared by the doctors at Rajendra Hospital, Patiala alleges that death of appellant No. 1's wife occurred on account of medical negligence on the part of the doctors at Civil Hospital, Sangrur. It is submitted that had appellant No. 1's wife been properly treated at Civil Hospital, Sangrur and thereafter referred to Rajendra Hospital, Patiala alongwith a competent doctor, she would not have succumbed to the medical complications she was faced with. It is alleged that the death certificate issued by the hospital indicates that appellant No. 1's wife died on account of amniotic fluid, embolism, eclampsia, septicemic shock and septicemia. It is submitted that in such circumstances, the learned Single Judge should have directed the payment of compensation to the appellants on account of medical negligence. But instead, the learned Single Judge disposed of the writ petition granting liberty to the appellants to pursue the claim as regards compensation before an appropriate forum. For the issue raised by the appellants regarding medical negligence could only be determined after leading evidence and conclusive proof of medical negligence at the hands of the doctors concerned, the aspect which could not be gone into or adjudicated by this Court.

Having heard learned counsel for the appellants, we are of the considered opinion that no fault can be found with the conclusion recorded by the learned Single Judge as the issue of medical negligence, if any, and the person responsible for the same can only be decided after adducing extensive evidence and recording a finding in this regard which is not permissible in exercise of powers under Article 226 of the Constitution of India.

In the circumstances, we affirm the order passed by the learned Single Judge and dispose of this appeal granting liberty to the appellants to pursue their case, if so advised, before an appropriate forum.

(RAVI SHANKER JHA)
CHIEF JUSTICE

(ARUN PALLI)
JUDGE

20.02.2020
Anodh

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No