

IN THE PUNJAB AND HARYANA HIGH COURT AT
CHANDIGARH

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CWP-13418-2017 (O&M).
Date of Decision: 09.10.2023.

HASSAN MOHD. AND OTHERS

.. Petitioners

Versus

STATE OF HARYANA AND ANOTHER

... Respondents

CORAM: HON'BLE MR. JUSTICE VINOD S. BHARDWAJ.

Present: Mr. Abhimanyu Singh, Advocate, and
Mr. Rahul Noorie, Advocate,
for the petitioner.

Mr. Pankaj Mulwani, D.A.G, Haryana.

VINOD S. BHARDWAJ, J. (ORAL)

Prayer made in the present writ petition is for seeking directions to the respondents to compensate the petitioners for negligence of the respondents in not taking care of the deceased Firdosh as a result of which she died.

The facts contained in the present petition are to the effect that the deceased Firdosh was suffering from a psychiatric problem for which the petitioner No.1 had approached the respondent Medical College. She was admitted by the doctors of the hospital for treatment and was allotted a bed on the 5th floor of the hospital. It is further averred that as the mental condition of the deceased was not good, the hospital ought not to have

allowed her a bed on the 5th floor. A request was made by the petitioner to change the bed as the same was adjacent to the ramp. No action was taken thereupon. As the medical (mental) condition of Firdosh deteriorated, she jumped from the 5th floor of the hospital as a result whereof she died. An FIR No.341 of 2016 was registered against the officers of the medical college for their negligence in not taking proper care and not shifting Firdosh to the ground floor despite a request having been made. Negligence of the doctors was noticed by the Sub Divisional Magistrate, Ferozepur Jhirka, District Mewat, in his reported submitted about the incident dated 23.10.2016.

Written statement dated 20.07.2017 had been filed on behalf of respondent No.2, wherein it was admitted that Firdosh wife of Hasan Mohd. was admitted to the Psychiatry Ward of the respondent Medical College with complaints of anxiousness, restlessness and decreased appetite. She was admitted after psychiatric services vide Registration No.55398 on 21.06.2016. Bed No.25 had been provided to the deceased and that the said bed was not adjacent to any window or grill but was third from the window.

The treatment was extended to her as per the acceptable norms for the diagnosis. She, however, jumped from the Ward No.16 on 23.06.2016 resulting in immediate death. The FIR No.341 dated 24.06.2016 was registered under Section 304-A of the India Penal Code. A cancellation report in this regard was submitted on 07.11.2016 to the higher authorities. Hence, no case of negligence or dereliction of duty was made out against the respondent Medical College. Photographs reflecting the status of bed

No.25 and all other details including the treatment extended to the deceased were duly appended.

Notwithstanding the reply having been filed on 20.07.2017, no replication/rejoinder was filed. Subsequent details and additional affidavits were also furnished. The contentions raised therein had not been controverted.

I have heard the learned counsel for the petitioners and have gone through the documents appended along with the present petition.

Apparently, the case at hand relates to suicide committed by deceased Firdosh wife of the petitioner No.1. Further, a mere factum of death is not sufficient to come to a conclusion that there was negligence on the part of the respondent authorities. It has been informed that the Psychiatry Ward itself is situated on the 5th floor and there was no occasion or reason for the respondents to have shifted the patients of a particular ward to any other bed in a different ward. This is in addition to the denial that any such request as has been claimed by the petitioners has ever been made.

Negligence, wherever claimed and compensation demanded on account thereof, is an issue of fact which is required to be established. The circumstances of the case do not prima facie establish that any negligence has been committed. It would thus always remain a disputed question of fact which cannot be delved into at this stage. The present petition is accordingly dismissed at this stage.

Liberty is, however, granted to the petitioners to have recourse to the alternative remedies available to them in accordance with law to pursue their claim.

The period during which the present petition has remained pending before this Court shall be taken into consideration while computing the limitation.

October 09, 2023
raj arora

(VINOD S. BHARDWAJ)
JUDGE

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