
(2006) 11 MP CK 0028
In the Madhya Pradesh High Court
Case No : F.A. No. 43 of 1995

State of M.P. and Others

APPELLANT

Vs

Krishna Kumar Kushwaha

RESPONDENT

Date of Decision : 06-11-2006

Acts Referred:

Citation : (2006) ILR (MP) 1645 : (2007) 2 MPLJ 279

Hon'ble Judges : A.K. Mishra, J

Bench : Single Bench

Advocate : Sudesh Verma, for the Appellant;

Final Decision : Dismissed

Judgement

Arun Mishra, J.

This appeal has been preferred by the State of M.P. and others aggrieved by the judgment and decree dated 12-9-1994 passed by District Judge. Mandla, in civil suit No. 3-B/93 passing a decree for a sum of Rs. 25,000/- on account of medical negligence in imparting anti allergic injection without testing reaction to the Plaintiff-Respondent K.K. Kushwaha owing to which his radial nerve was damaged and he suffered disability to the extent of 20%.

Plaintiff-Respondent K.K. Kushwaha has filed a suit for claiming compensation of Rs. 4,50,000/- against the Appellants on the averments that on 13-7-1989 he went to the Government hospital in connection with treatment of a boil on his left leg. His name was entered in the OPD register and after investigation certain injection and medicines were prescribed. An injection called otcism was also prescribed which was taken to the room of Nurse concerned in the Govt, hospital. Without testing the anti allergic injection was applied in the right hand due to which it became senseless. Plaintiff K.K. Kushwaha again reported on 15-7-1989 but no treatment was given. On 17-7-1989 he went to the main hospital, he was admitted as an indoor patient till 9-8-1989. Condition of his right hand did not improve. He was referred for further treatment to Jabalpur.

Still improvement was not made. He has incurred 40% disability in respect of that a certificate was issued by Medical Board on 6-12-1989. Compensation of Rs. 4,50,000/- was claimed. Age of Plaintiff-Respondent was 25 years. His engagement was broken. Chances of proper marriage have gone.

The Defendants in their written statement denied the negligence on the part of Ms. Sandhya Chakrabarty, Nurse, applied an injection in negligent manner. However, medicines were prescribed on 13-7-1989 to the Plaintiff, he was admitted on 17-7-1989 in the hospital for treatment of his right hand. Plaintiff was not entitled for any compensation. On 13-7-1989 tablet septron was

The trial Court has found that injection was in fact applied by the Nurse Sandhya Chakrabarty without testing the allergic reaction. As soon as the injection was applied right hand became senseless, radial nerve was damaged. The trial Court has relied upon the statement of K.K. Kushwaha (P.W. 1). Ram Kumar (P.W. 2). Sandhya Chakrabarty (D.W. 2) was unable to state whether she had injected octism. however, she had admitted that she was on duty on 13-7-1989. Her statement that she took due precaution before applying the injection has been disbelieved. A decree for a sum of Rs. 25,000/- has been passed by the trial Court, Consequently, this appeal has been preferred by the State of M.P. and others. Yet another appeal F.A. No. 44/95 was preferred by Plaintiff-Respondent K.K. Kushwaha for enhancement; that has been dismissed for want of prosecution and non compliance of the order in the year 2003. no restoration has been filed by Respondent.

Shri Sudesh Verma, learned GA for the Appellants, has submitted that the finding recorded by the trial Court with respect to negligence is incorrect. The suit ought to have been dismissed.

It is clear that octism injection was prescribed, however, from the hospital trigon injection was supplied to be administered to the Plaintiff. It is apparent from medical advice (Ex. P. 10) issued by Cadila Chemicals Ltd. that there is likelihood of allergy being caused by applying trigon injection, thus, trial Court has lightly concluded that it was necessary to test for allergy which was not done by Nurse Sandhya Chakrabarty, the negligence is clear immediately the right hand became senseless on applying the injection, for the treatment of that the Plaintiff was admitted as an indoor patient in the hospital for more than 20 days. The various documents regarding the treatment that were available in hospital have not been produced by the Defendants. Thus, the finding that has been recorded is based on overwhelming evidence, is not shown to be perverse in any manner.

Thus, I find that no case is made out to interfere in this appeal filed at the instance of the Defendants-Appellants. Appeal being devoid of merit, is hereby dismissed. Parties to bear their own costs as incurred.

Appeal dismissed.