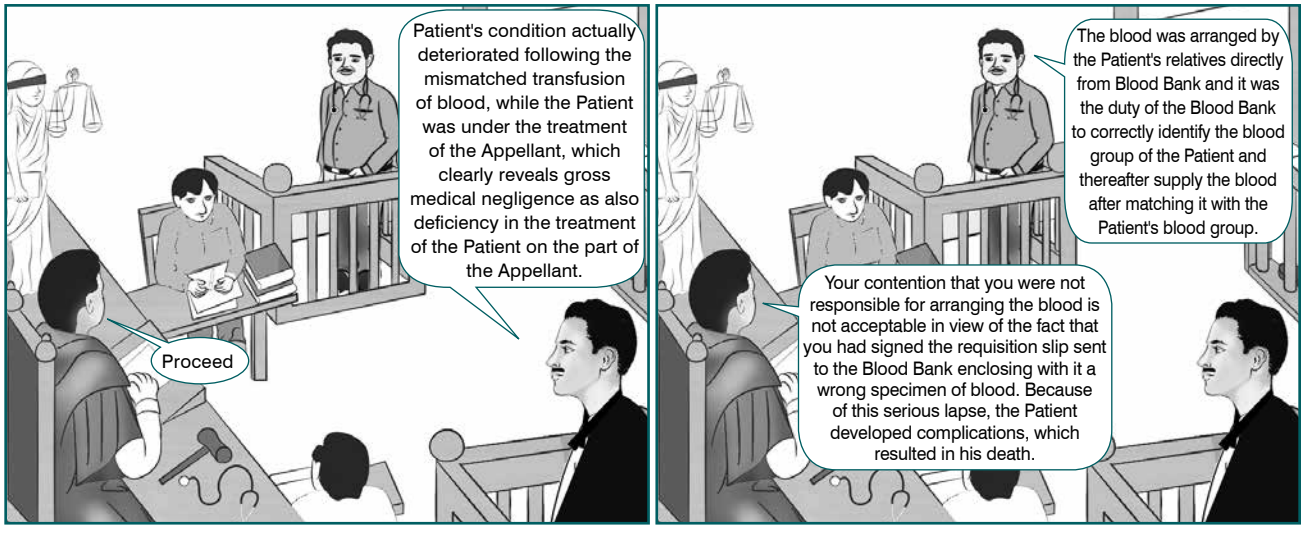
Ipsa Res Loquitur: Wrong Blood Transfusion is a Sure Instance of Medical Negligence



Lesson: Wrong blood transfusion is an error, which no doctor/hospital exercising ordinary skill would have made, and such an error is a sure instance of medical negligence. Counsel for Appellant's contention that Respondent had been unable to produce any medical evidence in support of their case was not tenable because in the instant case, the principle of *ipsa res loquitur* was clearly applicable.

COURSE OF EVENTS

- **14.11.2000:** The Patient, father of Respondent No. 1, fell down from his bicycle and sustained injuries, including a fracture in the neck of the femur. Respondent No. 1 contacted Appellant-Dr A, a Consultant Orthopedic Surgeon attached to Nursing Home A (NH A), on telephone the same night who advised him to bring the Patient for medical examination.
- **15.11.2000:** An X-ray was taken which confirmed fracture neck of the femur and the Patient was admitted in NH A for operation. The Appellant advised before surgery one bottle of blood would be required, which would be provided by NH A. Blood was accordingly supplied.
- **17.11.2000:** Blood transfusion was started and the Patient was operated. The operation was completed by 5.00 p.m.; however, blood transfusion continued even after the surgery. Soon after the blood transfusion, the Patient started frothing from the mouth and complained of difficulty in breathing and shivering.

The next day, he could not urinate and his eyes were deep yellow in color. A Nephrologist examined the Patient and advised that since he might need dialysis and this facility was not available in NH A, the Patient should be shifted to Hospital A, which was done. On request of Hospital A to the Blood Bank attached to it, one bottle of blood of A+ group (blood group of the Patient) was supplied for the Dialysis. The Patient's condition continued to deteriorate and despite being put on a ventilator he passed away on 01.12.2000.

According to the death certificate issued by Hospital A, one of the causes of death was "history of mismatched blood transfusion". It was asserted that while the blood group of the Patient was A+, the blood which was transfused to him at NH A was of B+ group as per the report of the Blood Bank, which supplied the blood on the basis of enclosed blood specimen sent with the requisition slip. It was affirmed that the Patient's condition deteriorated following the transfusion of B+ blood, while the Patient was being treated by the Appellant, which clearly reveals gross medical negligence and deficiency in the treatment of the Patient on the part of the Appellant as also NH A.

Respondent No. 1 filed a complaint before the State Commission on grounds of medical negligence and deficiency in service and requested that the Appellant and NH A be ordered to jointly and severally pay Rs. 6 lakhs as compensation.

Appellant filed a written rejoinder disputing the allegations. He stated that as an Orthopedic Surgeon, he had operated successfully on the Patient and no complaint regarding the surgery was made by Respondent No. 1. As far as the arrangement for transfusion of blood was concerned, it was arranged by the Patient's relatives from Blood Bank and it was the duty of the Blood Bank to identify the blood group of the Patient and supply the blood after matching it with the Patient's blood group. He further stated that it is the duty of doctors and paramedical staff in the operation theater of the Nursing Home to carefully verify the name and blood group of the Patient before transfusion. He stated that the Patient subsequently developed other complications like urination problems, etc., which were not due to any medical negligence or deficiency in service in operating the Patient and, therefore, the allegations of medical negligence and deficiency in service are baseless.

ORDER OF THE STATE COMMISSION

The State Commission after hearing the parties allowed the complaint and held the Appellant guilty of deficiency in service and medical negligence in terms of Section 2(g) of the CP Act, 1986 on the following counts:

"(i) OP No. 2 (Appellant before the National Commission) failed to ascertain the blood Group of the deceased before sending the sample to the Blood Bank despite the fact that there was a reliable document with the complainant's relatives in respect of blood group of the deceased though the Complainant had drawn attention of OP No. 2 to the said document.

(ii) OP No. 2 failed to mention the blood group of the deceased while sending sample to the Blood Bank with a requisition, which is otherwise mandatory.

(iii) OP No. 2 committed gross negligence by accepting and transfusing a blood group other than A+ve, which was the deceased's confirmed blood group.

(iv) OP No. 2 failed to follow instructions contained in the Issue Document of Blood Bank where caution is printed on the Poly Bag containing Blood that in case of any reaction, the Surgeon/Physician must send sample of patient's blood, a small sample of the blood transfused, patient's symptoms evident on transfusion."

The State Commission ordered OP No. 2 to pay a compensation of Rs. 5,28,000/- and Rs. 10,000/- as costs to Respondent No. 1. NH A (OP No. 1 before the State Commission) was also ordered to pay a compensation of Rs. 10,000/- for negligence and deficiency in service for failing to carry the correct blood sample of the Patient to the Blood Bank. OP No. 2 as well as NH A were directed to pay the above amount within 30 days from the date of communication of the order, failing which it was to carry interest at the rate of 12% per annum.

Aggrieved only the Appellant (i.e., OP No. 2 before the State Commission) filed this first appeal.

THE APPELLANT'S ALLEGATIONS

The learned Counsel for the Appellant alleged that the State Commission had given an erroneous finding of medical negligence since his responsibility was that of an Orthopedic Surgeon and the surgery was successfully conducted by him. Provision of blood was the responsibility of the concerned Nursing Home as also the Blood Bank to cross check the blood group with the blood required and mention these requirements in the requisition slip sent to the Blood Bank. In case of any deficiency in doing so, it was the Nursing Home (i.e., OP No. 1 before the State Commission) and the Blood Bank, which were responsible. It was further stated that Hospital A issued a death certificate without carefully considering the facts and, therefore, gave several reasons for the cause of death but it nowhere mentioned that it was because of the faulty surgery. Respondent No. 1 did not produce any expert medical evidence or person to prove his case. The Appellant was a consulting doctor who had been called to NH A to conduct the surgery and was not a regular member of its staff. For any negligence committed by the Nursing Home and its staff in not confirming the blood group before sending it to the Blood Bank, the Appellant could not be held responsible.

REJOINDER OF THE RESPONDENT

Learned Counsel for Respondent No. 1 stated that the Appellant could not take the plea that the blood was arranged for the Patient by his relatives and it was the responsibility of the relatives, the concerned hospital and the Blood Bank to ensure that a correct requisition slip was sent. There was evidence that the requisition slip dated 16.11.2000 to the Blood Bank was signed by the Appellant stating that 1 unit of blood for the Patient was required and a specimen blood sample attached. There was no mention of the Patient's blood group on the requisition slip. The blood sample was

cross-checked in the Blood Bank and found to be of B+ group and blood of B+ group was sent. It was clear that the Appellant had signed the requisition slip without verifying whether the correct blood specimen had been sent and whether any blood group was mentioned. Considering these facts and the death certificate, which confirmed that one of the causes of death was "mismatched blood transfusion", the same was rightly attributed by the State Commission to the Appellant's medical negligence.

OBSERVATIONS OF NCDRC

From the evidence on record, it was clear that a requisition slip was sent to the Blood Bank for blood transfusion required during and after the surgery and specimen attached to it was not of the Patient but of some other Person. Hence, the blood sent by the Blood Bank did not match with the Patient's blood group leading to serious complications contributing to his death. Appellant's contention that he was not responsible for arranging the blood was not acceptable as he had admittedly signed the requisition slip sent to the Blood Bank enclosing with it a wrong specimen of blood. Because of this serious lapse, the Patient developed other complications following the blood transfusion relating to his liver and kidney functions because according to medical literature, there was a relation between transfusion of mismatched blood and renal, urinary and liver problems.

Also, the Counsel for Appellant's contention that Respondent had not produced any medical evidence in support of their case was not tenable because in this case the principle of *ipsa res loquitur* was applicable.

Moreover, the Counsel for Respondent No. 1 had brought to their notice judgments of the National Commission in *Dr. Kam Inder Nath Sharma & Ors. V. Satish Kumar & Ors. [II (2005) CPJ 75 (NC)] and Dr. K. Vidhyullatha v. R. Bhagawathy [I (2006) CPJ 136 (NC)] as also of the Hon'ble Supreme Court in Post Graduate Institute of Medical Education & Research v. Jaspal Singh & Ors. [II (2009) CPJ 92 (SC)]* in support of the contention, which had concluded that wrong blood transfusion is an error, which no doctor/hospital exercising ordinary skill would have made, and such an error is a sure instance of medical negligence.

ORDER OF NCDRC

Considering the facts of this case and respectfully following the judgment of the Hon'ble Supreme Court as also of this Commission, which were relevant in the instant case, NCDRC agreed with the finding of the State Commission that the Appellant was guilty of medical negligence.

This first appeal was found to have no merit and was dismissed and the Appellant was directed to comply with the order passed by the State Commission and pay the amount of Rs. 5,38,000/- (i.e., Rs. 5,28,000/- as compensation and Rs. 10,000/- as cost) to Respondent No. 1.

REFERENCE

1. NCDRC First Appeal No. 175 of 2006; Order dated 29.01.2013.

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Asymptomatic COVID Infection Rate High

A meta-analysis involving 95 studies with around 30,000,000 individuals has shown that the pooled percentage of asymptomatic COVID-19 infections was 0.25% in the tested population and 40.5% in people with confirmed COVID infection.

The meta-analysis included 29,776,306 tested individuals. Among these, 11,516 had asymptomatic infection. The pooled percentage of asymptomatic infections among the tested subjects was 0.25%. The percentage was found to be higher among nursing home residents or staff, air or cruise ship travelers, and pregnant women, in comparison with the pooled percentage, in an analysis of different study populations. Additionally, the pooled percentage of asymptomatic infections among the confirmed cases was 40.5%. The percentage was again higher among pregnant women, air or cruise ship travelers, and nursing home residents or staff, at 54.11%, 52.91% and 47.53%, respectively. The findings are published in *JAMA Network Open…* (*Source: Medscape*)