

Case Regarding PAE

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Arunaben D Kothari and others v/s Navdeep Clinic and others. State Consumer Disputes Redressal Commission of the Government of Gujarat, Ahmadabad, Gujarat, India. Complaint 77 (1993) decided on 5-8-1996. Consumer Protection Reporter 9:20, 1996 (3).

Dinesh Chand Kothari died during an operation. The surgeon during preoperative assessment referred him to a cardiologist who took an electrocardiogram (ECG) and declared him fit for surgery. The patient developed cardiorespiratory arrest halfway through the surgery. He was again seen by the same cardiologist but by then, the patient was dead and the cardiologist issued a death certificate. No postmortem was performed.

The court observed that the cardiologist, in preoperative check, found his blood pressure (BP) to be 150/100 mmHg and ST-T changes in the anterolateral leads in ECG. As the surgery in this case was not a life-saving emergency, further investigations and treatment should have been advised before declaring him fit for the operation. The anesthetist was also duty-bound to assess the patient's condition for anesthesia and more so in view of the ECG changes and blood pressure of 150/100 mmHg. The court mentioned that the cause of death should have been found and postmortem should have been done. The police should be informed in such cases of unexplainable death during operative procedure.

The court found the surgeon to be vicariously liable in selecting the cardiologist and anesthetist of his choice. The court computed the total compensation of ₹ 415,000/-. The apportionment of the liability of the surgeon was 30%,

for the cardiologist it was 60%, and for the anesthetist it was 10%. Navdeep Clinic was exonerated.

Note: The patient should be asked for optimization of the comorbid conditions and “the patient is fit” is misnomer. It is the discretion of the anesthiologist to accept the case or not and it should not be by the order or fitness of the physician or cardiologist.

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