OFFICE OF THE STATE CONSUMER DISPUTES REDRESSAL COMMISISON,
TUIKHUAHTLANG, MIZORAM, AIZAWL.

SCC/1/2017.

IN THE MATTER OF:

1. Shri Lalduhawma,
S/o Denghnuna (L),
R/o Chanmari, Aizawl, Mizoram.

2. Master MalsawmzualaTlau,
S/o Lalduhawma,
R/o Chanmari, Aizawl represented by his father Lalduhawma.

-Versus-

1. The Chairman,
New Life Polyclinic Society.

2. The Managing Director,
New Life Hospital, Chanmari, Aizawl.

3. The Nursing Superintendent,
New Life Hospital, Chanmari, Aizawl.

Advocate for the Complainant : Zoramchhana.
Advocate for the Respondent : Zothansangi Pachuau.

Before
Hon'ble Interim President Dr.Lalthansangi
Hon'ble Member Lalhmingmawia
Hon'ble Member Sanny Tochhawng
Hon'ble Member C.Lalrinkima

Date of Judgment & Order : 11.03.2024

JUDGMENT & ORDER

1. The brief facts of the Complainant's case is that the Complainant No.1 and the deceased J. Zosangzuali were lawfully married on 23/6/2010 at Chanmari Presbyterian Church, Aizawl in accordance with Mizo Christian Custom and the Complainant No.2 is their son who was born on 3/7/2011. The deceased Mrs. J. Zosangzuali was admitted at New Life Hospital run by New Life Polyclinic Society with a case of term pregnancy and the expected date of delivery was 09.11.2016. She was admitted on 12/11/2016 without any health complications. On admission, her vitals were stable. Mrs. J. Zosangzuali delivered a still born baby and she died at the Hospital on 13/11/2016 at 4.30 P.M. The complainant submitted that the deceased J. Zosangzuali was administered Injection Synto (Oxytocin) for more than 8 hours on admission to the hospital and cervix examination was not done on 12.11.2016 or whether caesarean delivery should be performed which resulted in the death of both the deceased and her unborn child. The Opposite Parties have claimed that the deceased had

died due to Amniotic Fluid Embolism (where the amniotic fluid enters the maternal circulation). However, the Complainants alleged that the deceased and her child had died due to the negligence and breach of duty on the part of the Opposite Parties.

2. The Complainants submitted that the Opposite Parties claimed that the deceased J. Zosangzuali died due to Amniotic Fluid Embolism which cannot be accepted and they have a reason to believe that the deceased and her female child had died due to negligence and breach of duty on the part of the Opposite Parties. The complainant believed that –

a) The three prerequisites to have amniotic fluid embolism syndrome are absent in Patient's Case Summary. The symptoms such as shortness of breath, hypotension, shivering, coughing, vomiting were not present. The complainant based his claim from article in Wikipedia on Amniotic fluid embolism.

b) Injection Synto (Oxytocin) was administered on 12/11/2016 at 5.45 PM only was contradicted by the affidavit of Mrs. Marina Lalnunpuii who was admitted in the same Hospital on 12/11/2016 at around 9 AM for delivery of her baby. Mrs. Marina Lalnunpuii in her affidavit claimed that both herself and the deceased J. Zosangzuali were administered Inj. Synto on 12/11/2016 at 1.00 PM. Both of them were taken to Labour room at 2.15 PM.

c) Mrs. Marina Lalnunpuii's water broke heavily and delivered a baby and the deceased J. Zosangzuali was taken out of the Labour room as nothing was coming out from her private part. The Opposite Parties instead of providing medical check up upon the deceased to see whether something had gone wrong, had simply made her wait outside the Labour room without any medical assistance.

d) The deceased J. Zosangzuali was administer Injection Synto (Oxytocin) from 1.00 PM to 2.15 PM on 12/11/2016 and after she was taken out from Labour room, she was administer Inj. Synto (Oxytocin) till 9.00 AM. She was again administered Injection Synto from 6.30 AM to 7.55 AM which the clearly shows the deceased J. Zosangzuali was administered excessive dose of Injection Synto (Oxytocin) to stimulate labour by the Opposite Parties which had caused severe complications leading to her death and the death of her female child.

e) On admission of the deceased J. Zosangzuali to the Hospital on 12/11/2016, she was administered with Injection Synto (Oxytocin) for more than 8 hours, cervix examination was not done on 12/11/2016 to see whether her cervix had change appreciably for vaginal delivery or whether caesarean deliver need to be performed.

f) The medical examinations prior to the admission of the deceased in the Hospital of the Opposite Parties showed nothing was wrong with her and her baby and all her vitals and the vitals of the baby were stable.

3. The case was filed under Section 17 of the Consumer Protection Act, 1986 by the complainant and demanded a compensation from the opposite parties in accordance with the law laid down by the Apex Court in the case of **Sarla Verma vs DTC** reported in (2009) 6 SCC 121. The deceased was working in World Vision India earning a gross monthly emolument of Rs.38,652/- with a net salary in October 2016 as per salary slip for the month of October, 2016. Having regard to the monthly earnings of the deceased, the complainant demanded compensation from the opposite parties as under -

(a) Compensation towards loss of income	-	Rs. 64,45,440/-
(b) Compensation towards loss of love and affection	-	Rs. 1,00,000/-
(c) Compensation towards loss of estate	-	Rs. 1,00,000/-
(d) Compensation towards loss of consortium	-	Rs. 1,00,000/-
(e) Compensation towards funeral expenses	-	Rs. 1,00,000/-
(f) Compensation towards death of female baby child	-	Rs. 30,00,000/-
TOTAL	-	**Rs. 98,45,440/-**

4. The Respondents through Dr. Vanlalsiama Chhangte in their written objection denied the above allegation at para 2 above. The deceased J. Zosangzuali died due to Amniotic Fluid Embolism on 13/11/2016. He had submitted that the condition of Amniotic Fluid Embolism is dependent on certain pre-requite/diagnostic criteria and also submitted that Wikipedia is not a reliable source of medical information and is certainly not a medical authority. However, all the diagnostic criteria given occurred in the deceased J. Zosangzuali –

i) Rupture of Membrane occured at 7.55 AM on 13/11/2016.

ii) Rupture of Uterine or Cervical Veins (This cannot be seen as it is intern organ condition).

iii) Pressure Gradient from Uterus to veins was there as uterine contraction caused membrane rupture.

iv) Shortness of Breath was present so much that she had to be given artificial respiration.

v) Hypotension was so much that her BP was so low that Noradrenaline had to be started immediately.

vi) Shivering, Coughing, Vomiting were not present because the patient collapsed immediately within a minute.

5. The respondents further submitted that the explanation of the Doctor clearly states the timing and subsequent dosing of oxytocin with standard medical textbook quotes. The discharge summary may miss some of the events as it is only a summary. However, all these events were recorded by nurses in their reports. Also the use of syntocinon is not a critical event as the dose of syntocinon is as per protocol and well within normal limits.

6. The deceased J. Zosangzuali and Marina Lalnunpuii were taken to Delivery room and nothing came out from the private part of the deceased. Dr. Lalhmingliana (Gynaecologist) had examined her and artificial rupture of membrane was attempted, but failed due to high station of fetus. As the patient is not in active labour she was shifted to labour room from delivery room after examination by Doctor and there was no need to have medical check up as the best was already done at the delivery table by the Gynaecologist. The fact that Injection Synto was started at 5.45 PM, status of contraction known by the nurses on duty, a phone communication between nurses on duty and Dr.Lalhmingliana and that Injection Synto was stopped at 9 PM. Misoprostol applied at 10.30 AM totally ruled out that the allegation that "she was taken back to her bed without providing any medical checkup".

7. The Respondents also submitted that the deceased J. Zosangzuali was administered Injection Synto from 1.00 PM to 2.15 PM on 12.11.2016 was taken to labour room and again administered till 9 AM and again from 6.30 AM to 7.55 AM and is not denied. However, the dosage of Injection Synto is well within normal accepted limit according to the standard medical Text Book. Many other patients are also admitted for delivery and the same protocol is used. Also the side effects and complications of higher dose of syntocinon is excessive uterine contractions, increase heart rate, rapid labour, hypertension, etc. which in her case, there was no adequate contractions and that is the reason why synto injection had to be restarted on the second day again, showing that there are no signs of over dosage of the syntocinon. Therefore, the allegation that the sudden death and complications are due to excessive dose of Injection Syntocinon is denied.

8. According to the Patient's Case Summary No.16/17665 furnished to the Complainant No.1 by the Opposite Parties, the deceased J.Zosangzuali was admitted to New Life Hospital, Chanmari, Aizawl on 12.11.2016 at 08:31:32 AM. She was diagnosed with Amniotic fluids Embolism syndrome causing DIC and distributive shock. The deceased was admitted with a case of term pregnancy Induction. P1+0+1+1+1.LMP with the expected date of delivery of 09/11/2016. On admission, vital were stable. Cerviprime gel was applied at 9.30 am and Inj.Synto 2.5 was started at 5.45 pm. Contraction was not forceful and Dr. Lalmingliana (Gynaecologist) at 9 pm and Injection Synto was stopped. Tab. Misoprostol 25mg applied at 10.30 pm. Fetal heart was good and Injection Synto was administer at 6.30 AM. At 7.55 AM, her membrane was ruptured and shifted to Labour Room and cervix examination done OS-6 cms. After 10 seconds, she had one episode of seizure with abnormal breathing maintain airway and CPR was started. At 7.56 AM, the doctor was informed and called attended and put on Cardiac Monitor and Oxygen High Flow with Ambu Mask was given and continued CPR. At 8 AM Dr. Vanlalsiama and Dr. Lalhmingliana were informed and intubation was done at 8.15 AM, Injectin Norad, Injection NAHCO3 was started. She was treated conservatively and USG done FHR not present and explained to patient parties and shifted to ICU for close observation. Patients prognosis was poor HR-168/m, BP-101/49mm of hg. Coagulation sent blood Haemolysed 2 times. 2 Units of PRBC and 6 units FFP was given. At 9.30 AM,

Contraction, crowning of head and a dead female baby was delivered vaginally. RMLE done. Placenta delivered. Bleeding per vagina++. At10.20 AM bleeding continue and Inj. Prostodin given and USG was done. Vaginal examination done and decreased bleeding at 11 AM HR-149/m and BP not recordable. AT 1.30 PM patient on sudden cardiac arrest, CPR done, Injection Atropine was given and revied at 1.40 PM HR-142/m. At 2 PM Hr-144/m abd BP not recordable. At 2.50 PM complaints of bleeding. Injection Synto, Injection Methergine was given . At 4.30 ON Gr-0, BP0, SpO2-0. No resuscitation done as requested by her husband and declared clinically dead at 4.30 PM on 13.11.2016.

Arguments:

9. The Learned Counsel for the Complainants in his argument, while reiterating the facts in the complaint, mainly argued that the Opposite Parties had administered excessive dose of oxytocin which leads to the death of the mother and the unborn child. It was submitted that the deceased J. Zosangzuali was admitted to the hospital of the Opposite Parties without any complications. Points for Determination were submitted by the Ld. Counsel of the Complainant that –

1) *Whether the Opposite Parties are negligent towards the deceased J. Zosangzuali and her unborn child?*
2) *Whether the deceased J.Zosangzuali and her unborn child died due to the result of negligence on the part of the Opposite Parties.*

10. From the deposition of the Opposite Parties No.1 Dr. Lalhmingliana, it can be seen that the deceased J.Zosangzuali was under his care (i.e., his patient) from the beginning of her pregnancy. Though the expected date of delivery was 09/11/2016, she was admitted to the hospital only on 12/11/2016 without any specific reason but delay was on the advice of the doctor i.e., the Opposite Parties No.1. Thereafter, Oxytocin was administered to her for a period of 8 hours. The said Opposite Parties No.1 had stated that he had left the patient to attend other patients who are in the out-patient department downstairs. At 7:56 AM in the morning of 13/11/2016, the deceased J.Zosangzuali had one episode of seizure and it was handed over to the Opposite Parties No.2 Dr. Vanlalsiama Chhangte. The said Opposite Parties No.2 on his cross examination had, however, stated that the deceased J. Zosangzuali was administered Oxytocin for only 3 hours and 15 minutes which is contradictory to the statement of the Opposite Parties No.1. The Opposite Parties No.2 had also stated that when the deceased J. Zosangzuali was admitted to the hospital on 12/11/2016. However, the Opposite Parties No.1 was informed by the Nurse @9:00 PM wherein he was probably at his house. The contradictory statements made by the witnesses for the Opposite Parties clearly show that they are trying to escape the liability by giving false statements. The Opposite Parties No.2 also clearly deposed that Oxytocin was administered to the deceased J. Zosangzuali in the morning of 13/11/2016 @6:30 AM and though he was present at the relevant time, the Opposite Parties No.1 was not present to provide care to the deceased J.

Zosangzuali though he was the only qualified doctor to perform caesarean section upon the deceased alleging that the deceased J. Zosangzuali was administered Oxytocin injection at excessive dose. In fact, the National Consumer Disputes Redressal Commission in the case of **Baby Geetha & Others. versus Cosmopolitan Hospitals (P) Ltd. & Ors.** reported in (2006) 3 CPJ 89 while awarding Rs.4.5 Lakhs with interest @10% per annum from the date of filing had based its decision on the relevant provisions of William Obstetrics (19th Edition) at page 486 available at page No.172 of the compilation that "*...The mother should never be left alone while an oxytocin infusion is running. The goal of oxytocin administration is to effect uterine activity that is sufficient to produce cervical change and fetal decent while avoiding uterine hyper stimulation and fetal distress. Oxytocin is a powerful drug, and it has killed or maimed mothers through uterine rupture and even more babies through hypoxia from markedly hypertonic uterine contractions. It should be employed for no more than a few hours; if, by then, the cervix has not changed appreciably and if predictably easy vaginal delivery is not imminent, caesarean delivery should be performed".* The said extracted portion was also duly accepted by the Opposite Parties No.1 in his cross examination. Therefore, it is clear that the Opposite Parties are negligent in providing duty of care to the deceased J. Zosangzuali and her unborn child.

10. The Ld. Counsel for the Complainants also submitted that while the Opposite Parties have vehemently denied that the deceased J. Zosangzuali died as a result of their negligence, the evidence on record goes to show that J. Zosangzuali was admitted belatedly in the hospital by the Opposite Parties No.1 who was consulted from the beginning of her pregnancy. The said reason for the delay was not explained to the deceased nor it was explained in the evidence led by the Opposite Parties. It is also clear from the statements given by the Opposite Parties that there was no attempt for caesarean section though the deceased shows no sign of progressive labour. Moreover, the Opposite Parties No.1 who had given treatment to the deceased had stated that Oxytocin was administered to her for 8 hours and the OP No.2 had again administered Oxytocin in the morning of 13/11/2016 from 6:30 AM till the deceased had seizure. This clearly goes to show that Oxytocin as intravenously given to the deceased for more than 10 hours. The National Consumer Disputes Redressal Commission in the case of *Dr. Indu Sharma versus Indraprastha Apollo Hospital & Ors.* had held that none managing of the dosage of syntocinon (oxytocin) carefully was held to be a ground of medical negligence. In fact, the said judgment had quoted the relevant portion of William Obstetrics at para 19 which is reproduced herein below:

> *"One characteristic of intravenous oxytocin is that when successful, it usually acts promptly, leading to noticeable progress with little delay. Therefore, the drug needs not to be used for an indefinite period of time to stimulate labour. It should not be employed for more than a few hours, if, by then the cervix has not changed appreciably and if predictably easy vaginal delivery is not imminent, caesarean delivery*

should be performed. On the other hand, oxytocin should not be used to force cervical dilation at a rate that exceeds the normal".

Further, the said judgment had also indicated the use of oxytocin during induction of labour which is reproduced herein below:

"Use of Oxytocin during Induction of labour:

The induction of labour by means of Oxytocin/Syntocinon should be attempted only when strictly indicated for medical reasons rather than for convenience. Administration should only be under hospital conditions and qualified medical supervision.

When Syntocinon is given for the induction and augmentation of labour, it must only be administered as an intravenous infusion, preferably by means of a motor-driven variable speed infusion pump, and not by subcutaneous, intramuscular or intravenous bolus injection. Administration of oxytocin at excessive doses results in uterine over stimulation which may cause foetal distress, asphyxia and death, or may lead to hypertonicity, tetanic contractions or rupture of the uterus. Thus, the use of Oxytocin (Syntocinon) reduces the supply of oxygen to the infants brain, and the powerful and numerous contractions give the baby less time to recover because of the decreased interval between each contraction wherein the baby replenishes his/her oxygen supply. The loss of oxygen to the brain alone is sufficient to cause serious brain damage leading to hypoxic event".

11. On the other hand, the Ld. Counsel for the Opposite Parties submitted that the Complainant's witness No.1 namely Lalduhawma stated in his cross examination that he is a teacher in Govt Middle School, Chanmary, however he does not know the meaning of the medical terms which he has mentioned in his affidavit. He stated that he does not know the meaning of Amniotic Fluid Embolism nor any knowledge regarding administering injection Synto. During the initial stage of pregnancy his wife consulted gynecologist Dr Lalhmingliana from the same hospital. The Complainant's witness No.1 also stated that his wife had a miscarriage in the month of August 2021 however he does not know the reason for miscarriage. He stated that his wife died due to the reasons beyond the control of the Doctors. And that there was negligence on the part of the Doctor of the hospital. From the statements made by the Complainant's Witness No 1. the said witness is a school teacher and has no medical background to understand and acknowledge the condition of his wife. The averment that the Doctors are negligence is not proved from the statements of the Complainant's witness No 1 due to his lack of medical knowledge and he also did not understand the medicine administered on the deceased J Zosangzuali in order to form an opinion on Injection Synto.

12. The Learned Counsel for the Opposite party also submitted, on extracting the cross-examination of the witnesses, that the Complainant's witness No. 2 namely Dr. B.

Lalduhawma, who is presently working as a Doctor in Civil Hospital, Aizawl as Senior Gynecology stated in his examination that he is qualified gynecologist having MD in Gynecology and has experience of about 12 years in gynecology and that he has gone through the medical document of the present case issued by New Life Hospital, Aizawl. He also stated that unless the uterus contracts the baby would not come out, with the progress of labour, there may be possibility of uterine rupture and that amniotic fluid embolism can happen at any time during labour and if such is the case, proper monitoring and documentation is necessary as it may not be possible to detect it immediately. Even without rupture of the uterus there may be aminiotic fluid embolism. Even after examination of the internal organ it may not be always possible to ascertain the cause of death. He further stated that Injection Synto may not be the cause of membrane rupture and the rupture of membrane and leakage of fluid is natural in some cases even before arrival in the hospital. Synto injection is given for uterine contraction. Due to uterine contraction, there may be membrane rupture but it is not in all cases. In high risk cases Misoprostol medicine may be administered. Misoprostol is a high risk medicine and it should be administered as a last resort for induction of labour and that in his view, there is nothing wrong in administering Synto if the woman failed to respond to Misoprostol. Injection Synto might have been given to augment labour after administration of Misoprostol and the treatment varies from patient to patient.

13. It is further submitted that the Counsel for the opposite parties was given only one opportunity to cross examine the said witness and upon cross examination of the said Complaint's witness No 2 who already stated that he has gone through all the stages of treatment that was given to the deceased J. Zosangzuali in his examination, the Complainant's witness No 2 stated that, "from the record, I have not seen any procedural lapse on the part of the Doctor of the hospital" and " the line of treatment given by the doctor of the hospital was good". It is necessary to state that during his examination by counsel for complainants, the complainant's witness No 2 stated that after going through the record of the deceased the cause of her death is purely due to amniotic fluid embolism. However, the concerned members and the then President failed to record such statements.

14. The Learned Counsel also submitted that the opposite parties witness No.1 Dr Vanlalsiama Chhangte, Anesthesiologist stated in his cross examination that the oxytocin injection was started on the deceased J. Zosangzuali at 5: 45 PM on 12.11.2016 and it was stopped at 9 PM. On 12/11/2016 the deceased J. Zosangzuali was administered oxytocin injection for exactly 3 hrs and 50 minutes. The opposite parties witness No.1 stated that he does not know the dosage of the oxytocin to be administered upon the patient as on today as he is an Anesthesiologist. The deceased J. Zosangzuali upon admitted to the hospital on 12/11/2016 was in good condition and all her vitals were stable. When Dr. Lalhmingliana was informed at 9:00 PM by the nurse, however, the contraction was not forceful. Dr. Lalhmingliana was probably at his house. Oxytocin was again given to the patient in the

morning on 13/11/2016 at 6:30 AM. The Opposite Parties witness No 1 stated that he was present during the relevant time. He denied to the suggestion that the patient was the exclusive patient of Dr. Lalhmingliana. In the year 2016, there were other visiting Gynaecologist in the hospital. However Dr Lalhmingliana was the only full time Gynaecologist. The opposite parties witness No 1 stated that he usually do not performed caesarean section upon the patient. At the relevant period i.e. 2016 all the caesarian section upon the pregnant mother were performed by the Gyenecologist. At the time of membrane ruptured and when the patient was shifted to the labour room the Gynecologist Dr. Lalhmingliana was not present which was around 7:55 AM and shortly the patient had on episode of seizure. The opposite parties witness No 1 stated that he was called upon by the nurse on duty to attend the patient J. Zosangzuali at the labour room as soon as she had seizure and abnormal breathing. He stated that he cannot recalled the time when Dr. Lalhmingliana came after the patient collapsed with seizure but he came immediately as soon as possible. The patient already collapsed when Dr. Lalhmingliana arrived at the hospital. He also stated in his cross examination that he cannot answered to the suggestion put to him on which nurse are qualified to give medical treatment in the absence of a doctor. The opposite parties witness No 1 stated that even if resuscitation was done at the request of the complainant the patient J. Zosangzuali would still be dead after the patient's heart rate was zero, SpO2 was zero at ICU and ECG was flat. He further stated in his cross examination that he cannot say that had Dr. Lalhmingliana performed caesarian section upon the deceased J. Zosangzuali she would not have died of Amniotic Fluid Embolism as Amniotic Fluid Embolism may happen even during caesarian section. He further stated in his cross examination that he does not know whether oxytocin injection administered excessively can effect the heart rate of the feotus but it can increase the heart rate of the mother. He does not know the normal hour for administered oxytocin upon the patient at present he is not practicing this line of medicine which is obstetrics. He stated that he used to prescribe/recommend oxytocin injection before he obtained Post Graduate Degree i.e prior to 2005. At present, he does not use oxytocin to induce labour but he does use it during post operation and post delivery till today at operation theater during caesarian section. He denied to the suggestion with evidence (Examination in Chief) submitted by him is a paraphrase to the statement of Dr Lalhmingliana. He also denied to the case/suggestion that the patient was beyond saving at the time when she entered under his care as critical patient are often saved. Upon reexamination, the opposite parties witness No.1 stated that he does not prescribe oxytocin injection for induction of labour after the year 2006 as he is not a gynecologist. However, he sometimes use oxytocin injection during and post operation as he is an Anesthesiologist for caesarean section and also stated that the nurse can give medication as per the verbal/written prescription and also in emergency situation.

15. Further, the Learned Counsel for the opposite parties stated that the opposite parties witness No.2 namely Dr Lalhmingliana stated in his cross examination that he was the

Chairman of New Life Polyclinic Society. The hospital was established in 2009 till 2018. He was the only Gynecologist in 2009 till 2018. The deceased person came to him for consultation right from the beginning. The deceased patient was admitted on term pregnancy period (40 weeks) Expected date of delivery was 10/11/2015 and she was admitted in the hospital on 12/11/2016. The reason for the delay was done on the advice of the Doctor. Admission was done in his presence and that Oxytocin was given for 8 hrs by the Doctor. During the whole time the OPs witness No.2 was in the hospital but attending other patients in the OPD downstairs. He was relying on William Obstetrics 20th Edition. He had administered oxytocin firstly on the first day which can go on till the 3rd day. He agrees with what had been written in the literature of William's Obstetrics 19th Editon which is reproduced below: *...The mother should never be left alone while an oxytocin infusion is running. The goal of oxytocin administration is to effect uterian activity that is sufficient to produce cervical change and fetal descent while avoiding uterian hyper stimulation and fetal distress. Uterian contraction must be evaluated continually and oxytocin discontinued if contractions must be a 10 minute period or last longer than 1 minute, or if the fetal heart rate decelerates significantly. When hyperstimulation occurs, immediate discontinuation of the oxytocin nearly always corrects the disturbances, preventing harm to mother and foetus."* At page 487 available at page No 173 of the compilation. *"Oxytocin is a powerful drug, and it has killed or maimed mother, through uterine rupture and even more babies through hypoxia from markedly hypertonic uterian contractions."* At page 487 available at page 173 of the compilation.*" ...It should be employed for no more than a few hours: if, by then, the cervix has not changed appreciably and if predictably easy vaginal delivery is not imminent, caesarian delivery should be performed. On the other hand, oxytocin should not be used to force cervical dilation at a rate that exceeds normal. Ready resort to caesarean delivery in cases where oxytocin fails in which there are contradictions to its use has served to appreciably diminish perinatal mortality and morbidity".* He further stated that the nurses are qualified to administer treatment in my absence. The deceased had one episode of seizure at 7:56 AM on 13/11/2016. He stated in his cross examination that he was not involved with the patient after the patient had seizure. It was handed over to Dr. Vanlalsiama, specialist in Anaesthetic who was also managing director of New Life Hospital at that time. She was admitted to ICU and at that time she was still in labour for about half an hour. As per the medical certificate issued by the hospital there was no indication that the patient was not fit for caesarean. In his cross examination, the OPs witness No.2 stated that he cannot say that if the caesarean was performed upon J. Zosangzuali she would have been alive today. She does not have any complication at the time of admittance to the hospital. Amniotic Fluid Embolism occurs when Amniotic Fluid enters the blood stream. The said witness stated in his cross examination that he does not know whether over dosage of oxytocin can cause vein rupture. He was the only full time qualified doctor to perform caesarean section in my hospital, there are also visiting doctors. However, he does not know whether the visiting doctors were present at that time. He further stated that in his statement he has stated that

on 13/11/2016 that the heart rate is zero (0) blood rate is zero (0) SPO zero meaning that she is clinically dead at 4:30 PM. He admitted that in his statement no resuscitation was done as per husband's request, if resuscitation was done the result will be the same. Upon re-examination, he stated that the patient was admitted to the hospital after two days from the date of expected delivery date because she had previously delivered the child in vaginal delivery (normal). Normal delivery of the child during a term pregnancy between 37-42 weeks is possible in normal circumstances. Caesarean section is usually performed when the previous child birth is done with caesarian section or when there is complication, like hyper tension, diabetes or heart problem in the case of the mother or fetal distress. He still practice giving oxytocin injection to the patient with the same dosage when he has given at that time. The incident happened only this time during his whole experience. The dosage of oxytocin as he practice is starting with 2.5 units in RL 500 solution starting with 5 m u/min then increased by 5m unit in every hour upto 20 m units. He added that the maximum dosage need not reach if there is contraction. At the same time, internationally accepted book William's Obstetrics 20th Edition said it can increase upto 42m u/mim.

16. Lastly, the Ld. Counsel for the opposite parties argued that that copies of the statements of the treating doctors and nurses alongwith relevant nursing charts and documents annexed along with the Written Statements clearly shows the manner in which medicines were administered on the deceased patient J. Zosangzuali and the care given to her. The allegation of the Complainant that if caesarian was done, the life of the baby girl and her mother would have been saved is totally false as this would amount to unethical practice since the patient had a normal vaginal delivery. The condition of the baby before the sudden collapse of the deceased patient was normal as recorded in the nursing notes. However, as the mother is in severe distress and extremely low BP as well as low oxygen coagulopathy the baby unfortunate died in the womb. The turn of events and sequences of the sudden collapse and death of the patient is indicative of amniotic fluid embolism. A team of specialist doctors who took care of the patient are highly qualified and despite of their best efforts to save the life of deceased J. Zosangzuali and her baby, they had failed though their intentions was to heal and the doctors cannot be blamed as they provided the requisite care at all given times since no doctor can assure life to his patient but can only attempt to treat his patient to the best of his ability which was being done at present case as well.

17. The Ld. Counsel for the opposite parties enumerated several criteria to regulate medical negligence cases for determining whether a medical professional is guilty of medical negligence by Hon'ble Apex Court in the case of **Kusum Sharma & Qrs vrs. Batra Hospital & Medical Research** which were the guiding principle for this case also. **V N Shrikhande vrs. Anita Sena Fernandes (2011)**; *"In this case, the Supreme Court had held that in cases of medical negligence, no straitjacket formula can be applied for determining as to when the cause of action has accrued to the consumer. Each case is to be decided on its own facts. In the effect of negligence on the doctor's part or any person*

associated with him is patent, the cause of action will be deemed to have arisen on the date when the act of negligence was done. If, on the other hand, the effect of negligence is latent, then the cause of action will arise on the date when the patient or his representative-complainant discovers the harm/injury caused due to such act or the date when the patient or his representative-complainant could have, by exercise of reasonable diligence discovered the act constituting negligence. No cure/ no success is not negligence. **Dr. M Kochar vs Ispita Seal-** *In this recent case, the National Consumer Dispute Redressal Commission (NCDRC) was confronted with the issue of failure in IVF procedure. The complainant in the case complained of failure in IVF procedure and demanded compensation from the doctor on account of medical negligence. The National Commission, in the case held that "No cure/ success is not a negligence", thus fastening the liability upon the treating doctor unjustified."* That the Supreme Court in a celebrated judgement in **Jacob Mathew vs State of Punjab** held that simple lack of care, an error of judgement or an accident, is not a proof of negligence on the part of the medical professional.

Judgment:

18. We have perused the material records available and arguments of both the Ld. Counsels of the Complainants and the Respondents. As submitted by the Ld. Counsel of the Complaint that *(1) Whether the Opposite Parties are negligent towards the deceased J. Zosangzuali and her unborn child?* And *(2) Whether the deceased J. Zosangzuali and her unborn child died due to the result of negligence on the part of the Opposite Parties,* we also considered the matter in this line.

19. Both parties had produced witnesses and are also cross-examined and re-examined as necessary. We find it pertinent to mention that the Learned .Counsel for the OPs had alleged in her argument that the concerned members and the then President failed to record statements made by the Complainant's Witness No.2. However, the statements of the witnesses are *Read Over and Affirmed to be Correct* before signing the statement. Likewise, the said witness was made to read his statements given under oath before putting his signature and it is to be noted that no relevant points in the statement was omitted by this Commission. Therefore, we find that it is a serious allegation made by the Learned Counsel for the opposite parties against the concerned members and the then President of this Commission. This Commission noted that the court room behaviour of the Learned Counsel of the Respondents speak for itself and it is noteworthy to put on record the disrespect shown to the then President and Members of this Commission by the Learned Counsel of the Respondents. In the case of **U.P. Sales Tax Service Association v Taxation Bar Association (1995)**the Hon'ble Supreme Court held that, *"It is fundamental that if rule of law is to have any meaning and content, the authority of the court or a statutory authority and the confidence of the public in them should not be allowed to be shaken, diluted or undermined. The courts of justice and all tribunals exercising judicial functions from the*

highest to the lowest are by their constitution entrusted with functions directly connected with the administration of justice. It is that expectation and confidence of all those, who have or likely to have business in that court or tribunal, which should be maintained so that the court/tribunal perform all their functions on a higher level of rectitude without fear or favour, affection or ill-will. Casting defamatory expressions upon the character, ability or integrity of the judge/judicial officer/authority undermines the dignity of the court/authority and it would tend to create distrust in the popular mind and impedes confidence of the people in the courts/tribunals which is of prime importance to the litigants in the protection of their rights and liberties. The protection to the judges/judicial officer/authority is not personal but accorded to protect the institution of the judiciary." The **Bar Council of India Rules on Advocates Duty towards Court** prescribes that "*An advocate must maintain a respectful attitude while at court and shall respect the dignity of the judicial office that the survival of a free community is endangered if an advocate doesn't show respect or recognises the dignity of the judicial officer. It potentially lowers the spirit of the court.*" Various Consumer Commissions have been set up *quasi judicial* as prescribed in Consumer Protection Act by the statute of Parliament of India, showing disrespect amounts to undermining Parliamentary statutes and is intolerable.

20. The Complainants had produced medical expert as witness namely Dr. B. Lalduhawma. However, the said witness stated in his cross-examination that there were no procedural lapse on the treatment provided by the OPs and that the line of treatment given by the doctors were good. We are of considered view that just by looking at the medical document, as stated by the witness himself, would not be suffice to conclude whether there were treatment procedural lapse in the instant case. He also admitted that Injection Synto is a powerful drug and that it should be administered with utmost care. Therefore, this Commission cannot wholly rely on the statement of the expert witness produced by the Complainant. The testimony of the expert witness turned in favour of the Opposite Parties just to protect his professional colleagues from prosecution rather than finding out the truth. In the light of the judgment of **V. Kishan Rao vs. Nikhil Super Speciality Hospital & Anr. [(2010) 5 SCC 513]** wherein the Hon'ble Supreme Court held that the Consumer Forum can permit experts evidence but it is not bound by the view expressed by the expert because medical negligence is a mixed question of law and facts which is required to be resolved by the Forum.

21. In the instant case, the deceased J. Zosangzuali was administered oxytocin for a period of 3 hours 50 minutes as admitted by the Opposite Parties witness No.2 namely Dr. Vanlalsiama in para No.4 of his cross-examination and Dr. Lalhmingliana, Opposite Parties witness No.1 stated in para No.9 of his cross-examination that oxytocin was administered for a period of 8 hours which brings doubt upon the duty of care provided to the deceased as per the contradictory statements made by the said witnesses. Therefore, it was the case of not

managing dosage of Injection Synto while it should have been administered carefully. As per para 19 in William Obstetrics, it is stated as extracted below:

"One characteristic of intravenous oxytocin is that when successful, it usually acts promptly, leading to noticeable progress with little delay. Therefore, the drug needs not to be used for an indefinite period of time to stimulate labour. It should not be employed for more than a few hours, if, by then the cervix has not changed appreciably and if predictably easy vaginal delivery is not imminent, caesarean delivery should be performed. On the other hand, oxytocin should not be used to force cervical dilation at a rate that exceeds the normal".

22. Further, the said judgment of the National Consumer Disputes Redressal Commission in the case of **Dr. Indu Sharma vrs. Indraprastha Apollo Hospital & Ors. (supra)** had also indicated the use of oxytocin during induction of labour which is reproduced herein below:

"Use of Oxytocin during Induction of labour:

The induction of labour by means of Oxytocin/Syntocinon should be attempted only when strictly indicated for medical reasons rather than for convenience. Administration should only be under hospital conditions and qualified medical supervision.

When Syntocinon is given for the induction and augmentation of labour, it must only be administered as an intravenous infusion, preferably by means of a motor-driven variable speed infusion pump, and not by subcutaneous, intramuscular or intravenous bolus injection. Administration of oxytocin at excessive doses results in uterine over stimulation which may cause foetal distress, asphyxia and death, or may lead to hypertonicity, tetanic contractions or rupture of the uterus. Thus, the use of Oxytocin (Syntocinon) reduces the supply of oxygen to the infants brain, and the powerful and numerous contractions give the baby less time to recover because of the decreased interval between each contraction wherein the baby replenishes his/her oxygen supply. The loss of oxygen to the brain alone is sufficient to cause serious brain damage leading to hypoxic event".

23. Moreover, in his cross-examination, the OPs witness No.2 namely Dr. Vanlalsiama stated as extracted herein:

"3. The oxytocin injection was started on the deceased J. Zosangzuali at 5:45 PM on 12.11.2016 and it was stop at 9:00 PM"

"5. I do not know the dosage of the oxytocin to be administered upon the patient as on today as I am Anesthesiologist"

"6. The deceased J. Zosangzuali upon admitted to our hospital on 12.11.2016 was in good condition and all her vitals were stable"

The Opposite Parties witness No.2 namely Dr. Vanlalsiama in his cross-examination stated as extracted below:

"7. When Dr. Lalhmingliana was informed at 9:00 PM by the nurse, however, the contraction was not forceful. Dr. Lalhmingliana was probably at his house. While the OPs witness No.1, in the contrary, stated that *"During this whole time I was in the hospital but attending other patients in the OPD downstairs".*

"14.At the time of membrane ruptured and when the patient was shifted to the labour room the Gynecologist Dr. Lalhmingliana was not present which was around 7:55 AM and shortly the patient had one episode of seizure"

"17. It is a fact that the patient already collapsed when Dr. Lalhmingliana arrived at the hospital".

24. We are of considered view that while the deceased patient was administered oxytocin, the concerned Gynecologist was expected to monitor her closely and carefully. The OP No.1, in his cross-examination, also admitted with what had been written in the literature of William Obstetrics as extracted below:

".. The mother should never be left alone while an oxytocin infusion is running. The goal of oxytocin administration is to effect uterian activity that is sufficient to produce cervical change and fetal descent while avoiding uterian hyper stimulationand fetal distress. Uterian contraction must be evaluated continually and oxytocin discontinued if contractions must be a 10 minute period or last longer than 1 minute, or if the fetal heart rate decelerates significantly. When hyperstimulation occurs, immediate discontinuation of the oxytocin nearly always corrects the disturbances, preventing harm to mother and foetus." At page 487 available at page No 173 of the compilation..*"Oxytocin is a powerful drug, and it has killed or maimed mother, through uterine rupture and even more babies through hypoxia from markedly hypertonic uterian contractions."* At page 487 available at page 173 of the compilation..*"..It should be employed for no more than a few hours: if, by then, the cervix has not changed appreciably and if predictably easy vaginal delivery is not imminent, ceasarian delivery should be performed. On the other hand, oxytocin should not be used to force cervical dilation at a rate that exceeds normal. Ready resort to caesarean delivery in cases where oxytocin fails in which there are contradictions to its use has served to appreciably diminish perinatal mortality and morbidity".*

25. The Opposite Parties witness No.1 namely Dr.Lalhmingliana, being the only full time Gynecologist for the Opposite Parties and having treated the deceased since the beginning of

her pregnancy, was expected to monitor the deceased closely especially after having known her critical condition of having seizure and to provide due care. However, he had stated in his cross-examination as extracted below:

> *"16. I was not involved with the patient after the patient had seizure. It was handed over to Dr.Vanlalsiama, specialist in Anaesthetic who was also the managing director of New Life Hospital at that time.*
>
> *17. She was admitted to ICU and at that time she was still in labour for about half an hour.*
>
> *18.As per the medical certificate issued by the hospital there was no indication that the patient was not fit for caesarian".*

26. It is surprising to find that the Gynecologist was not involved in such a critical situation of the patient and was able to leave her when she was still in labour, under the care of only the Anesthetist. This clearly shows negligence towards the patient and that duty of care was not provided when it was very much understandable of the care and instant medical attention required by the deceased patient. Moreover, he had stated that there was no indication that the patient was not fit for caesarian. If so, we are also shocked to find that all possible remedies were not taken by the concerned doctor to save the life of the patient and her unborn baby even to the extent that emergency C-section could be performed if there was no indication that she was not fit for it. In this context, reference is made from the judgment in **Kusum Sharma & Ors. vs Batra Hospital and Medical Research Centre &Ors. [(2010) 3 SCC 480]** wherein the Hon'ble Supreme Court discussed the breach of expected duty of care from the doctor, if not rendered appropriately, it would amount to negligence. It held that, if a doctor does not adopt proper procedure in treating his patient and does not exhibit the reasonable skill, he can be held liable for medical negligence.

27. With regards to the question of medical negligence and breach of duty of care towards patients, the Hon'ble Supreme Court in two cases namely **Dr.Laxman Balakrishna Joshi vs. Dr.Trimbak Bapu Godbole &Anr.** [AIR 1969 SC 128] and *A.S Mittal vs. State of U.P* [AIR 1989 SC 1570], it was laid down that when a Doctor is consulted by a patient, the Doctor owes certain duties to his patient which are (a) a duty of care in deciding whether to undertake the case; (b) a duty of care in deciding what treatment to give; and (c) a duty of care in the administration of that treatment. A breach of any of the aforesaid duties may give a cause of action for negligence and on that basis, the patient may recover damages from the doctor.

28. It is also to be noted that the statement of the Opposite Parties No.1 made under oath and the notes of the doctors and nurses annexed at Annexure -1 by the OPs in their written statement are contradictory to each other. We are of the considered view that the aforesaid

notes annexed was only an afterthought and that the statement made under oath is to be accepted.

29. To succeed medical negligence claim, it is necessary that the complainant has to prove three elements whereby a doctor owes a duty of care to a patient and as a consequence of that duty, there is breach of the duty and the patient suffers injury. Reference may be made to the observations made in the case of Spring Meadows Hospital &Anr vs. Harjol Ahluwalia through K.S Ahluwalia &Anr. [(1998) 4 SCC 39] as follows:

> *"Very often in a claim for compensation arising out of medical negligence a plea is taken that it a case of bona fide mistake which under certain circumstances may be excusable, but a mistake which would tantamount to negligence cannot be pardoned. In the former case a court can accept that ordinary human fallibility precludes the liability while in the latter the conduct of the defendant is considered to have gone beyond the bounds of what is expected of the skill of a reasonably competent doctor."*

30. There is no amount that could be just and adequate to decide the value of the life of a human being. As held in the case of *Dr. Indu Sharma vs Indraprastha Apollo Hospital &Ors. (supra), "Human life is most precious, it is extremely difficult to decide on the quantum of compensation in the medical negligence cases, as the quantum is highly subjective in nature. Different methods are applied to determine compensation."*

31. We have also taken into consideration the Supreme Court Guidelines in Medical Negligence in the case of **Jacob Mathew v. State of Punjab and Another (2005) 6 SCC 1:AIR 2005 SC 3180** utmost care have been taken while arriving at the decision by Member of this Commission. The important elements in the literature of William's Obstetrics that "*...On the other hand, oxytocin should not be used to force cervical dilation at a rate that exceeds normal. Ready resort to caesarean delivery in cases where oxytocin fails in which there are contradictions to its use has served to appreciably diminish perinatal mortality and morbidity"* is not considered while administering Oxytocin at 6.30 A.M.

32. Thus, in the instant case, we are of considered view that administering Injection Synto (oxytocin) about 8 hours did not aid the deceased J. Zosangzuali to stimulate the labour. The treating Gynaecologist examined her and artificial rupture of membrane was attempted, but failed due to high station of fetus. Employing Oxytocin for 8 hours is already long enough to determine whether easy vaginal delivery is not imminent. Apparently, the best option at that time was to employ caesarean delivery. Administering Oxytocin again in the next morning is negating the criteria regulating medical negligence cases by the Hon'ble Supreme Court in **Kusum Sharma v. Batra Hospital & Medical Centre (Supra)** that "*4. A medical practitioner would be liable only where his conduct fell below that of the standards of a reasonably competent practitioner in his field."* Being considered a highly qualified specialist

doctor, he is expected to possess in-depth knowledge for the drug he uses upon his patient. It was an act of negligence.

33. In addition, we are of considered view that the delay or non-performance of C-section upon the deceased patient when the Gynecologist himself stated that there was no indication that she was unfit for the operation was an act of omission, thus negligence. Moreover, the non-involvement of the OP No.1, as per his statement, when the deceased patient was shifted to ICU but while she was still in labour is an act of omission and breach of duty of care owed to the deceased patient, thus negligence.

34. Finally, we are of considered view that, in the instant case, due to the acts and omissions of the Opposite Parties, that there was negligence towards the deceased J. Zosangzuali and her child and that the Opposite Parties are liable to pay damages in terms of compensation to the Complainants for the loss suffered as a result of the negligence on their part.

35. For award of compensation, we are of the considered view to allow a lump sum award of compensation of Rs.43,48,480/- (Rupees forty three lakhs forty eight thousand four hundred eighty only), which according to us is just and proper. Considering the loss suffered by the Complainants of losing their loved ones i.e. the wife and child for the Complainant No.1 and the mother and sister for the Complainant No.2, therefore, the Complainants deserve for justifiable compensation.

Order:

36. Considering the unfortunate and peculiarity of this case in which, a father lost his wife and his daughter and where a son lost his mother and his sister, therefore considering the entirety and our foregoing discussion, we partly allow this Complaint and pass the order.

37. The opposite parties are held responsible for medical negligence in this case, we, therefore, fix total compensation of Rs.43,48,480/- (Rupees forty three lakhs forty eight thousand four hundred eighty only); reference is being made as per the multiplier method adopted by **Sarla Verma Vrs. Delhi Transport Corporation & Anr. [(2009) 6 SCC 121]** and **National Insurance Company Limited Vrs. Pranay Sethi & Ors. [2017 SCC Online SC 1270]** it may be followed in the instant case and the amount of compensation payable to the Complainants by the OPs are indicated herein below:

(a) Compensation towards loss of income (one-third of loss of income x 15)	- Rs.21,48,480/-
(b) Compensation towards loss of love and affection	- Rs.50,000/-
(c) Compensation towards loss of estate	- Rs.50,000/-
(d) Compensation towards loss of consortium	- Rs.50,000/-
(e) Compensation towards funeral expenses	- Rs.50,000/-
(f) Compensation towards death of female baby child	- Rs.20,00,000/-
Total	- Rs.43,48,480/-

(Rupees forty three lakhs forty eight thousand four hundred eighty only)

38. Further, the New Life Hospital is no longer in operation and the New Life Polyclinic Society is running the Hospital or not is unknown to this Commission. However, the Doctors of the Opposite Parties No.1 and Opposite Parties No.2 are practicing in the Ebenezer Medical Centre; the amount so awarded shall be deposited in the Mizoram State Consumer Disputes Redressal Commission, Aizawl within 90 days from the date of receipt of this order.

39. If the order is not complied within 90 days, the Opposite Parties are liable to pay interest @ 9% per annum, till payment of the compensation awarded.

40. Report the compliance by 18th June, 2024.

Given our hands and seal of this Commission on this 11th March 2024.

Sd/ DR.LALTHANSANGI
INTERIM PRESIDENT

Sd/- LALHMINGMAWIA
MEMBER

Sd/-SANNY TOCHHAWNG
MEMBER

Sd/- C.LALRINKIMA
MEMBER

Memo No.SCC/1/2017 : Dated Aizawl, the 12th March 2024.
Copy to :

1. Zoramchhana learned counsel for the complainant
2. Zothansangi Pachuau, learned counsel for the respondent.
3. Shri Lalduhawma S/o Dengruma(L) Chanmari, Aizawl
4. The Chairman New Life Polyclinic Society & Others Aizawl.
5. The Minister, Food Civil Supplies and Consumer Affairs, Govt. of Mizoram,Aizawl
6. The Chief Secretary, Govt. of Mizoram, Aizawl
7. The Secretary, Food Civil Supplies and Consumer Affairs, Govt.of Mizoram,Aizawl
8. Zonet Cable TV Network/LPS Vision Production/Doordarshan Kendra to kindly broadcast in the news item.
9. Vanglaini Newspaper/Zozam Times – to kindly publish in the newspaper.

(LALMUANSANGA RALTE)
REGISTRAR