

**Shantaram Gaokar v. State of Goa & Ors.**  
**MOOT PROBLEM NO. 3**

Mrs. Tara Gaokar and Shantaram Gaokar, were a married in the year 2008, and resided in Saleli village in Sattari. Shantaram Gaokar was a farmer and used to sell agricultural produce in the wholesale market in Valpoi. Mrs. Tara Gaokar, was unable to conceive a child. The couple was however, always optimistic and prayed to god for a miracle.

On 30<sup>th</sup> August, 2018, Mrs. Tara Gaokar, wife of Mr. Shantaram Gaokar, was admitted in the Government Maternity Hospital, Sakhali, in Goa. Against the normal gestation period of 38 to 40 weeks, she delivered a premature female baby in the 29<sup>th</sup> week of pregnancy. The baby weighed only 1250 grams at birth. The infant was placed in an incubator in the intensive care unit for about 25 days. The baby was administered 90-100% oxygen at the time of birth and underwent blood exchange transfusion a week after birth. The baby had apneic spells during the first 10 days of her life. She was under the care of Dr. Dinesh Teli, Neopaediatrician and Head of Department of Neo Natology Unit, and Dr. Mahesh Naik, a doctor at the hospital, which is established and run the State of Goa. The mother and the baby were discharged on 23<sup>rd</sup> September, 2018. The discharge card summary read as follows:

*“Mother confident; Informed about alarm signs; 1) to continue breast feeding, 2) To attend post natal O.P. on Tuesday.”*

However, the mother and the baby visited the hospital on Saturday, 29<sup>th</sup> September, 2018, instead of Tuesday, for follow up.

Again, the baby and the mother visited the hospital on 30<sup>th</sup> October, 2018, at the chronological age of 9 weeks. Follow up treatment was also administered by Dr. Mahesh Naik, at home during home visits. The baby was under his care for 4 weeks to 13 weeks of chronological age. The only advice given by the Dr. Mahesh Naik was to keep the baby isolated and confined to the four walls of the sterile room so that she could be protected from infection. The doctor completely overlooked the well known medical phenomenon that a premature baby who has been administered supplemental oxygen and has been given blood transfusion is prone to a higher risk of a disease known as ‘Retinopathy of Prematurity’ (ROP), which in the usual course of advancement makes a child blind. Dr. Mahesh Naik, the Government doctor, checked up the baby at his private clinic, when the baby was 14-15 weeks of chronological age and did not suggest a check up for ROP.

The baby lost her eye sight for life. The parents of the baby were devastated when they came to know of the loss of sight. This was their only child, after ten years of marriage. Mr. Shataram Gaokar, blamed the hospital and doctors for this gross negligence. He expressed his desire to sue the Government and the doctors for compensation. An NGO named Common Cause for Goa, assisted Shantaram in meeting the doctors. When they met Dr. Mahesh Naik and Dr. Dinesh Teli, they told him that his wife had not done

Jan 2019

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proper follow up soon after discharge. The doctors also informed him that at the time of delivery and management, no deformities were manifested and that Mrs. Tara Gaokar, was given proper advice which was not followed. It was further stated that all precautions were taken by the doctors attending to her, even against ROP by mentioning in the discharge summary.

Mr. Shantaram Gaokar ,with the financial assistance of the NGO, filed a Complaint in the National Consumer Disputes Redressal Commission for Compensation of Rs. 2,00,00,000/- on account of medical negligence.

Argue.

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