MEDICOLEGAL MATTERS

PEDIATRICIAN IN DELIVERY ROOM

Cheran B

Prevention is better than cure. A message given tothe patients earlier, is now applicable to doctors too.

Understanding a patient as a consumer gains importance in the present scenario. Times have changed; nine years after the introduction of Consumer Protection Act 1986, from 1995 with VP Shantha's case, doctors were brought into the ambit of Consumer Protection (CP) Act.

Earlier, patients were not winning the cases against doctors and the compensation was very meagre in the few cases they won. Now, in 2020, situations are changing all over India. Doctors lose one in two cases filed against them and awarded compensation which runs to an average of thirty lakhs per case. Hence, doctors have to be very vigilant and cautious.

Recent amendments in CP Act add fuel to fire and following are the few amendments causing great concern to the doctors:

1. Patients can file the cases in their place of residence. If a patient hailing from Assam, got treated at Delhi, he can file the case in Assam itself. Earlier he could file the case only where the hospital was located. This makes it necessary for doctor to travel to far off places to attend the medicolegal cases.
2. Compensation up to one crore can be claimed in the local court where the patient resides. Only when the compensation exceeds one crore, the case has to be transferred to the state capital. For this amount patients need not pay 10% stamp duty.
3. Judges may not always be the presiding officers in Consumer Forums, it can be chaired by social activists and others.

Thus, doctors are at cross roads and have tough times ahead.

* Consultant Pediatrician and Advocate, Chennai.

email : drcheranb@yahoo.in

In this issue one such case is analysed. This is a case which had been filed in one of the District Consumer Forums in Tamil Nadu. The treatment had taken place in one of the primary care hospitals in the private sector. The hospital is run by an obstetrician and surgeon together. Among the private healthcare facilities, 30% are taken care of by multispeciality tertiary care hospitals and remaining 70% are managed by the primary care or middle level order hospitals run by small team of doctors.

Brief case details is given below

A pregnant woman was admitted with labour pain around 1.00 am. The doctor on duty administered drug infusion to assist delivery. Though labour pains persisted and the woman was crying in pain, labour did not progress.The obstetrician attended to the patient at 8.00 am, 7 hours after admission to the hospital. Though there were indications for caesarean section, family did not give the consent for caesarean. Obstetrician hurriedly shifted the patient to the operation theatre and delivered the baby by forceps application. There were few lapses here. In the urgency, obstetrician did not brief the family members or obtain proper consent. Pediatrician was not present to attend to the baby during delivery. When the baby got discharged, the prognosis was not discussed and there was no clear follow up advice. Now the child is 7 years old and cannot stand, talk, and is also having recurrent seizures. The child was under the care of pediatrician for the last 7 years. Parents' concern was that no opinion was obtained from neurologist and they were reassured that their child would recover after 5 years. When the parents sought second opinion from another pediatrician, his opinion was different and they got the feeling that there was an element of negligence in the care their child.

Reply from the obstetrician to the court

1. Pregnant woman got admitted for delivery after a delay of one week.
2. Proper intrapartum monitoring was done with electronic foetal monitoring till delivery.
3. There were clear indications for caesarean section, because she was a primi with post dated pregnancy,

mobile head and meconium stained liquor. But her family members were not willing for caesarean and the pregnant mother was also expressing her unwillingness for caesarean to the team of doctors, whenever this option was discussed with her. Hence forceps delivery was done.

4. The baby's head was never lying outside and there were no forceps marks on the head of the baby as claimed by the family members

Order of the court

The following lapses were found on the paediatrician's side.

1. He was not present during this difficult delivery to attend the baby
2. No proper counselling on prognosis and follow up plans were provided to the family, though the pediatrician followed up the child for 7 years.
3. Parents presumed that the child would recover in due course, in the absence of counselling.

Court found the pediatrician to be negligent.

1. Pediatrician should have been present during difficult delivery
2. Parents were not properly counselled about the follow-up and further care of the baby.

Lesson learnt

1. The pediatrician probably wanted to protect the obstetrician and so, he would not have told the parents about the true nature of the problem immediately after delivery . But it is the duty of the paediatrician to discuss on the issues like the status of the neonate, prognosis, and future interventions with the parents at the first consultation itself and record them in the case sheet or in any other document and get it countersigned by them. This document should have been preserved in the hospital records. Another option is a video counselling session. If the circumstances are appropriate, for example if no history of birth asphyxia the pediatrician may say that the insult could have been prenatal and show references from books and explain.

2. General pediatrician should not have managed the case alone for seven long years. He should have referred the patient to a paediatric neurologist or a developmental pediatrician. But in this instance, despite referral they did not go. Unfortunately paediatrician did not have any document to prove that he asked the family to consult a neurologist. As he continued his treatment without cross consultation, parents might have been comfortable with him.

Take home message

- ***Counselling and documentation are vital. Joint counselling with video recording by pediatrician and obstetrician would be a proper option.***
- ***Choosing the correct obstetrician as well the hospital applies not only to the patient, but also to the pediatrician.***
- ***Even though pediatrician had not done anything wrong or was not called earlier prior to delivery, still he would be held accountable, as he had taken the responsibility of taking further care of the child. In order to avoid from the liability, pediatrician has to inform the obstetrician that he should be present during difficult deliveries and not called afterwards.***
- ***Periodical neuro developmental examination by neurologist and developmental paediatrician in the first year will be helpful.***
- ***Discharge summary is a vital document. Discharge advice should discuss about the prognosis and future plan of management.***
- ***These documents have to be preserved along with hospital records.***

CLIPPINGS

Study of lung ultrasonography as a diagnostic tool in childhood pneumonia.

Lung ultrasonography could detect consolidation in more than one lobe than CXR (P = 0.048). Authors have conlcluded that chest ultrasonogram offers an important contribution to the diagnostic procedures of pleuropulmonary disorders in children, such as pneumonia and pleural effusion, with higher sensitivity, specificity, and positive predictive index compared with CXR.

Elmashad GM, Bahbah WA, Mousa WA, Shalaby MM. Study of lung ultrasonography as a diagnostic tool in childhood pneumonia. Menoufia Med J 2019; 32:1043-50.

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Krsna Apartments, Block II, 1A, Halls Road,
Egmore, Chennai - 600 008. India
Phone: 044-2819 0032, 42052900
Email: ijpp_iap@rediffmail.com