

DO'S AND DON'TS

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OBSTETRIC U.S.G. - 'ROUTINE'. NOT 'CASUAL'. 'TIFFA' – IF INDICATED

A young lady saw an Obstetrician for her pregnancy for which she subsequently underwent regular antenatal check-ups and blood tests etc. At the 28th week of pregnancy, she was advised abdominal sonography. This was reported to be normal. Further antenatal visits continued. At full term, when the patient went into labour, she had to undergo Caesarian section and delivered a male child. However, the child was found to have multiple congenital abnormalities which included anal atresia, absence of tongue, short intestine and agenesis of distant limbs. The child was admitted to a Pediatric intensive care unit but died after 5 days.

The parents of the child filed a case in the State Consumer Forum against the Sonologist and the Obstetrician demanding Rs.5 lakhs as compensation. The doctors were charged with professional negligence as a result of which they failed to diagnose the deformities in the foetus. It was claimed that had the doctors exercised reasonable and proper care, the birth of a deformed child could have been easily prevented by advising termination of the pregnancy much earlier. As a result, the parents could have been saved all the mental pain, shock and agony besides the heavy monetary expenses. All this has happened because both the doctors had certified the foetus to be normal and were thus guilty of professional misconduct and lack of skill, for which they must be made to compensate the complainants to the tune of Rs.5 lakhs. It was stated that "the diagnosis was palpably wrong as to prove negligence beyond doubt." The complainants even threatened to launch criminal proceedings and file a complaint before the Medical Council.

The Obstetrician and Sonologist defended themselves before the State Consumer Forum. The defence of Obstetrician was on the following lines: It is not possible to detect any abnormality in the foetus by mere physical examination. Referring the patient for Sonography was sufficient precaution. Allegations of negligence against her were absolutely uncalled for and baseless.

The Sonologist argued thus: There are two types of Obstetric Sonography - firstly, standard obstetric sonography and secondly, Targetted Imaging for Foetal Abnormalities (TIFF A). The patient was referred to him for standard obstetric sonography. This was performed by him as per protocol of this procedure and normal findings were reported. The congenital anomalies which were found in the child cannot be detected by standard sonography. Distal limb evaluation is not part of the standard procedure. A normal basic sonography is not intended to guarantee the absence of birth defects. A 2 to 5 per cent risk is still present. Routine Obstetric sonography was done in accordance with the general and approved practice for the same with sufficient care and skill. TIFF A is indicated in pregnant women who are at high risk for birth defects and need not be performed routinely. Hence there is no deficiency on his part, especially since patient was referred to him for routine USG.

There was an additional unusual feature of this case which changed the entire perspective of the allegations against the doctors. It so happened that in few encounters of the husband

of the patient with the doctors, particularly the Sonologist, the husband inadvertently divulged that the lady had undergone chorion biopsy, elsewhere, in the early pregnancy for the purpose of sex determination. This fact was never divulged to the Obstetrician or the Sonologist before delivery of the baby. Apart from the fact that this is illegal, had this information been given to the doctors, the more detailed Targetted Imaging for Foetal Anomalies could have been specially advised and the abnormalities would not have been missed. Fortunately for the doctors, a telephone conversation between the husband and one of the accused doctors wherein the husband admitted having got chorion biopsy done, had been taperecorded. This was produced in Court and accepted as evidence by the Forum.

The Hon'ble Court opined that no negligence could be attributed to either of the doctors and the complaint was accordingly dismissed.

Arising from the above case, I have drawn the following conclusions:

1. Very often patients conceal historical facts, either out of ignorance or deliberately. These could have an important bearing on the course of Clinical events. It is wise to try and elicit maximum information, especially past history. As in the above case, a single piece of information proved most vital and came to the rescue of the doctors by way of proving contributory negligence.
2. Contrary to popular belief, taperecorded evidence is not necessarily rejected by courts and is admitted as corroborative evidence.
3. It pays to gather reference from textbooks, journals or the internet on the subject under argument in the court. This can provide concrete help in defending your case successfully. In the above case, the Sonologist had collected excellent references, in the manner of writing a thesis on the subject. This proved crucial to being vindicated in the end.
4. Lastly, lesson for Obstetricians - if birth defects are strongly suspected or patient is at high risk for same, ask for TIFF A rather than routine USG.