

# NATIONAL-MOOT COURT COMPETITION, 2023

## MOOT PROPOSITION

1. Indiyana, is a culturally driven country having the second largest population in the world. Uppar Parihar, a state situated in the heart of Indiyana was reported to be one of its most populated state in the year 2019. As part of the ongoing research project of the Indian Council of Medical Research (ICMR)<sup>1</sup> on mental health research (non-communicable disease), the Ministry of Health and Family Welfare, demanded the ICMR to study the ratio of doctor vis-a-via patient undergoing treatment for mental illness in the state of Uppar Parihar. The findings of the report submitted to the Ministry of Health and Family Welfare, included *inter alia* two consequential observations. It stated that there is high disparity in the doctor and patient ration in the state of Uppar Parihar and an increase impact of the overdose or negligent use of antidepressant drug on other medication(s). Taking cognizance of the findings the Ministry of Health and Family Welfare, Indiyana called upon Medical Council of Indiyana, All Indiyana Institute of Physical Medicine and Rehabilitation (AIIPMR), Ministry of Law and Justice, Indiyana and other stakeholders to frame guidelines for doctors that they give prescriptions after a complete and thorough diagnosis of the patient. The Ministry of Health and Family Welfare, also directed that the guidelines must also impose a duty on every doctor to examine a patient's medical history and on-going medication before giving a prescription. Besides, the guideline should perhaps include a minimum consultation time, which a doctor must devote to each patient.
2. Further, on December 9, 2018, the Ministry of Health and Family Welfare, Indiyana issued an advisory for doctors in a popular newspaper having pan Indiyana circulation. The advisory vehemently restrained doctors to give prescription without thorough examination of patients' medical history and ongoing medication. After reading the news item Partho Pradhan husband of Sudha Pradhan contacted Sudha's gynecologist, Dr. Radha Ramana. Sudha Pradhan is nine weeks pregnant and had been undergoing treatment for anxiety and insomnia. Her level of anxiety and insomnia increased after

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<sup>1</sup> ICMR is an apex body that is into formulation, coordination and promotion of biomedical research in Indiyana. It is one of the oldest and largest medical research bodies in the world.

Sudha Pradhan realized that she had conceived. As a consequence, her antidepressant dose was doubled by Dr. Zee who was a psychiatrist. This information was given to Dr. Radha Ramana, who was Sudha Pradhan's gynecologist and to whom Sudha Pradhan went for regular advice and check-up. According to Dr. Radha Ramana the increased dose of antidepressant drug would not cause any adverse effects on the foetus.

3. In the early morning of December 15, 2018, Sudha Pradhan had an anxiety attack followed by two consecutive sleepless nights. Her husband Partho Pradhan constantly updated Sudha's condition to Dr. Zee and Dr. Radha Ramana. Dr. Radha Ramana, advised Partho Pradhan that rather than contacting her Dr. Zee who is a specialist in treating anxiety and insomnia disorders should be regularly informed about Sudha's condition. Further, Dr. Radha Ramana said that Sudha should strictly follow the advice of Dr. Zee. When contacted Dr. Zee, who was on a tour of 20 days, told Partho Pradhan that Sudha's anxiety attack, perhaps was not due to an increase in the antidepressant dosage and that Sudha should continue the prescribed dosage otherwise she would not be cured. Due to weak network, Partho Pradhan was barely able to understand Dr. Zee, so he sent a WhatsApp message to Dr. Zee asking whether Sudha should be taken to a local psychiatrist in his absence. Instead of referring Sudha to another psychiatrist Dr. Zee, suggested Partho Pradhan to continue the medication for another 15 days.
4. From December 18, 2018, Sudha Pradhan again had anxiety attacks with intermittent sleepless nights. In the evening of December 22, 2018, Sudha's blood sugar went down with loss of bladder control. She also experienced abdominal pain, dizziness and finally became unconscious. Partho Pradhan got restless and called Sudha's psychiatrist who in turn increased the dose of antidepressant drug for another week. Subsequently, Partho requested an appointment from Dr. Radha Ramana for Sudha's checkup. Dr. Radha Ramana told Partho and Sudha to visit her clinic on January 9, 2019 after getting an ultrasound done. She referred the couple to get the ultrasound done from GREENLAB laboratory operated by her brother-in-law. GREENLAB laboratory directly sent the ultrasound reports to Dr. Radha Ramana. The report was not verified by a certified doctor conducting the ultrasound. This fact was known and ignored by Dr. Radha Ramana. On January 10, 2019 Sudha was admitted to the hospital due to acute abdominal pain, loss of

bladder control and recurrent anxiety attacks. After 28 hours of pain and distress the hospital staff informed Partho that the foetus in Sudha's womb was not moving. Feeling distressed Partho called Dr. Radha Ramana and Dr. Zee to visit the hospital. On January 11, 2019 at 11.30 am the hospital authorities declared the foetus dead, just a few minutes before Dr. Radha Ramana and Dr. Zee reached the hospital.

5. On hearing the information Partho called the Police and registered an FIR with Uppar Parihar District City Police Station against Dr. Radha Ramana, Dr. Zee (psychiatrist) and the hospital authorities. The Uppar Parihar District Court granted bail to the all the applicants (Dr. Radha Ramana, Dr. Zee and the hospital authorities). An emotionally fragile Pratho Pradhan filed an appeal at the Uppar Parihar High Court against the bail order on the ground that his child didn't see the light of day due to negligence and carelessness on the part of the applicants. The Uppar Parihar High Court upheld the bail granted by the Uppar Parihar District Court.
6. A Special Leave Petition under Article 136 of the Constitution was filed before the Supreme Court of Indiyana, against the order of the Uppar Parihar High Court, delivered on the February 28, 2019.

The case is now listed before the Supreme Court of Indiyana.

***Issues:***

- Whether prescription without diagnosis and hence resulting in the death of the foetus in the womb of the patient is a criminal or civil negligence on the part of the doctors;
- Whether the case raises issues of ethical and professional negligence as a specialist failed to perform his/her duty with due care and diligence;
- Whether inaccuracy in diagnosing amounts to negligence coupled with intention;
- Whether negligence in performing professional duties violates the fundamental and human rights.

Contest the issues with the help of decided court cases.

***Disclaimer:** The moot problem is based on a fictitious problem, whereby the characters & the incidents of events are completely fictional and the same has no relation to any person or any post/present real-life incident.*

