Responsibility for deaths of mothers in sterilization camps

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Citation: Jha MK, Majmudar BC, Gorea A. Responsibility for deaths of mothers in sterilization camps. *Int J Eth Trauma Victimology 2015*; 1(1):45-48.

Article history

Received: Dec 7, 2014
Received in revised form: Dec 26, 2014
Accepted: Dec 30, 2014
Available online: January 11, 2015

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Abstract

In developing countries like India, population explosion is a major problem. Without population control, economic growth becomes difficult. To execute family planning policy successfully, Government takes the help of doctors. Doctors are given a target of completing a given number of tubal ligations in a given geographical area in a given time. Doctors could achieve the target with the help of paramedical staff. A tragedy happened in one of the states of India, where in a laparoscopic ligation camp, 13 mothers lost their lives. As a face saving measure doctor was arrested. It is against the ruling of Supreme Court of India to arrest a doctor without establishing prima facia. The doctor was not at fault for the death of the patients. The death was due to spurious toxic drugs brought by the Government agencies. Doctor was charged as per Indian Penal Code for causing death due to rash and negligent act. Technically doctor had no hand in causing death. Ironically, the director of the pharmaceutical company, who sold the drugs, was also arrested with much milder charges. In this tricky incidence who is responsible for the loss of life of 13 mothers? Was it the government, the doctor or the greedy owner of pharmaceutical company, who sold toxic drugs to satisfy his greed disregarding life?

Keywords: Product liability, medical mal-occurrence

Introduction

In India, tubal ligation or tubectomies remains the treatment of choice for family planning. Mothers are motivated for ligation by money. Money is dished out right from the surgeon conducting the operation, to the individual on whom ligation is conducted upon. Mass ligation is conducted in camps, where Laparoscopic ligation is done on many patients on a single sitting. Expert gynecologists, who are well qualified, well trained, and practice in big hospitals of city, conduct this kind of operation. They come to the designated camp on the day as scheduled. Local motivators would have collected maximum number of possible potential patients for operation. In these camps, temporary infrastructures are created for the operation in terms of, Operation Theater and wards. These camps also have adequate antibiotics, intra venous fluids and items required for laparoscopic tubal ligation. Since the patients can go back to home and work on the same day, response is

good. Surgeon can do many operations on a single sitting, thereby the financial cost and administrative effort is reduced. It is also encouraged by the Government. The Surgeon, in question, of the incident where 13 mothers lost live, had conducted more than fifty thousand laparoscopic tubectomies and had been awarded by the Government for record surgeries. On analyzing expenditure on family planning, it is pointed out in the year 2013-14, 85% of the budget for family planning in this state of Chhattisgarh was spent on incentives for women while 1.3% was spent on equipments, transport, awareness campaign and staff expense 1.5% in spacing methods like oral pills and condoms[1].

Botched tubectomies at Government camp in Chhattisgarh killed 13 ladies. 83 operations were done in just 3.5 hours. Bungled sterilization at a Government health camp in the district of Chhattisgarh triggered the worst ever medical tragedy in the state, as 13 woman died, seven were battling for life and 40 were in shock and trauma triggered with loss of blood. As many as 83 tubectomies were preformed in three and half hours, with one doctor and his attendant spending on an average two minutes per surgery. The surgeries began at 1.30 pm on Saturday and lasted till 5pm. Dr AK (Name changed) conducted the surgeries with just one laparoscopy machine. FIR has been filed against the doctor. Most of the women complained of severe abdominal pain and had to be admitted to hospital on Sunday, and the fatality occurred in Monday morning. Ten more women had died by Tuesday[2].

A preliminary report of an inquiry committee probing botched sterilization in Chhattisgarh had reveled that medicines given to the victims were contaminated with zinc phosphide, a rodent killing chemical. This could have lead to the death of 13 women… 'zinc phosphide reacts with water and stomach juices to release phosphine gas which enter the blood stream and adversely affect lungs, heart, liver, kidneys, heart and central nervous system. Police had arrested Mahavar Pharma directors. These firms had manufacturing licenses for drugs, but lacked required facilities. Officials said these companies were buying medicine from, other sources and packing under their own name. A nexus between health department officials and manufacturers was not being ruled out[3].

Drug manufacturer Mahavar Pharma, suspected of churning out rodenticide-laced medicines distributed to the victims of botched sterilization in Chhattisgarh, had faced a government ban on its products in the past but continued to supply the medicine[4].

Discussion

Following death of 13 mothers for tubectomies at Government camp in Chhattisgarh done in just 3.5 hours with 83 operations the surgeon had been severely criticized. He is now termed as a "Killer Doctor", "Death Doctor ", "Butcher of Bilaspur" and "Merchant of Death". His work is viewed as a terrorist attack like bombing, as a major health disaster which is worse than any heinous crime. His trial is done by media. Charges have been framed by police against him He is charged with Sec 304A of Indian Penal Code[5] which deals with criminal negligence "Whoever causes the death of any person by doing any rash or negligent act not amounting to culpable homicide shall be punished with imprisonment up to 2 years with/ without fine[6]" The surgeon who performed the surgeries is a renowned surgeon of great repute. .He has done more than fifty thousand laparoscopic tubectomies and had been awarded by the Government for record surgeries[5]. On post mortem there was no evidence for defective surgery or evidence of septicemia. There was no evidence of negligence. The doctor was suspended to cover-up and to divert media attention.

Since no evidence of negligence was found, the State to cover itself up was planning to punish the doctor for "violating standard protocols" as to how with single instrument he crossed limits of capacity. Single handedly 4 minutes to do surgery and get ready with the same instrument for next surgery. Also the standards for female and male Sterilization services, as laid down by Ministry of Health and Family Welfare, Government of India in 2006, it recommends soaking for 20 minutes in a solution containing 2% glutaraldehyde for laparoscope

State Government has constituted single-member probe commission to investigate the case of sterilization surgery camps in Chhattisgarh, where 13 women died and several fell critically ill after undergoing surgery. Strangely the terms of reference for the Judicial Enquiry does not mention about fixing the responsibility on purchasing drugs from the pharmaceutical company.

"As per the notification, single-member probe commission has been constituted and Retired District and Session Judge, has been entrusted with the responsibility of investigation. Commission will submit its report to State Government within three months from the date on which this notification was published…. Commission will investigation the case on following points of public importance: -

1. Was the standard protocol followed in these camps?
2. What circumstances led to this incident?
3. Were the medicines used in these camps were of standard quality?
4. Who were the ones accountable for this incident?
5. What measures could be taken to avoid recurrence of such incidences?
6. Suggestions regarding Gender Equality in Family Welfare Programs of state.
7. Probing on the points, which Commission was considered to be of public importance. State Government had formed this Commission for special probe of public importance, by exercising its powers conferred under Section-3 of Judicial Commission Act (60 of 1952). Commission may take help from any organization/expert while investigating on technical subjects/points7". It seemed any enquiry, done by the government and health department, would not be a fair one. Doctors would be made scapegoats. It was clear that the state government and health department was responsible for pressurizing doctors to "perform", and meet target violating the standard protocol and guidelines

The tragedy is termed as a criminal medical negligence in the eyes of society as it happened in the hands of a doctor. Is it actually a case of- Product liability, Corporate (State Government) negligence, Mal-occurrence or Therapeutic Misadventure?

This case probably fits the definition of Corporate (State Government) negligence, where there is failure of administration which was responsible for providing treatment, accommodation and facilities necessary to carry out the treatment, the State being the corporate[6].

Or is it a case of Medical product liability? Pharmaceuticals are treated differently from manufactured products[8] and it refers to the physical agent that causes injury or death of the patient during treatment. The burden of providing safety effectiveness of the drug lies with the manufacturer. Medical Mal-occurrence-is defined as a less than ideal outcome of medical care and mal-occurrence often unrelated to the reasonable risk of quality of care that was provided[9]. Something which had not occurred previously/ not reported in the literature. The complication which did not occur previously seen for the first time

Therapeutic misadventure: Here the complication is known to occur, but physician gives a drug knowing that the drug which is being given produces such complication, because that is the only drug available for that particular ailment. Further, the ailment is more serious than the complication. The patient can survive with the complication but not with the ailment, if not treated with that drug.

The answer will come in due course of time from the court of law.

Conclusion

Like all negligences, Medical Negligence is a known entity. Doctor treating the patients would never wish in his wildest dream death of a patient in his hand. But tragedies do happen. In the above mentioned case the tragedy was unprecedented, with loss of 13 productive lives. Here the doctor was a victim of circumstances on which he had no control but had to bear the brunt of criticism. All he was doing was for the good of the patients and society at large. He had to pay dearly for it, he had to go to jail and the stigma of going to jail will haunt him lifelong for no wrong doing by him. Doctors being soft targets are easily accused by the government, judiciary, pharmaceutical company and even common men who come as patient.

Doctors are next to God in terms of health and life of the patients. Doctors are not Gods. By means of hard work they acquire skill and knowledge to treat fellow humans. Again becoming a doctor is not like other professionals like engineers or lawyers. Life of a

doctor is a dedicated one for the welfare of the patient. A doctor never wishes to make mistake as his simple mistake can cost a life.

This incident is an example to show how greed for money, by individuals associated with health care business, sometimes do not bother for human life. Government enquiry has no interest to find the actual culprit because in the terms of reference of enquiry there is no mention about fixing the responsibility on purchasing drugs from the blacklisted pharmaceutical company. As we write the conclusion of this article shocking news emerged – The Punjab government on Friday arrested the surgeon involved in the eye surgery camp where at least 37 people were partially blinded[10].

Conflict of interest

None declared

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