

ABOUT

4TH NATIONAL MOOT COURT COMPETITION

We at the Faculty of Law, Marwadi University are committed to a show of cooperative and collective resilience. Hence, after the successful completion of the three editions of National Moot Court Competition, we have planned to organize the 4th National Moot Court Competition to provide an environment where aspiring lawyers can enhance their legal proficiencies and moot skills with a unique concept. Keeping our uniqueness, the participation will be restricted to 1st year bonafide law students enrolled in the 5-year integrated programme and 3 years LLB programme with the aim to inspire, promote and inculcate drafting & writing techniques, orating skills, and high focus research acumen in 1st year law students. The competition strives to give a platform to the budding lawyers of our country to imbibe analytical skills in real-time situations. Our main aim is to give a chance to the students to learn the complexities evolving around law and regulations.

MOOT PROPOSITION

Mr Kurian was a resident of Surat in the State of Gujarat. He was forty-eight years old when he passed away, and the three other members of his family were his 40-year-old unemployed wife, her ten-year-old daughter, and his five-year-old son. At the time of his death, Mr Kurian was a government official receiving an enviable annual salary.

Mr Kurian had hydrocephalus as well as Type II Chiari abnormalities. On August 31, 2023, he visited Dr Chandra, Senior Consultant, Star Hospital's Department of Neurosurgery, regarding this matter. Dr Chandra suggested that he be admitted to the same hospital so that Dr Chandra could do the surgery onsite. On September 10, 2023, Mr Kurian entered the Star Hospital on Dr Chandra's recommendation. After performing pre-operative medical examinations, Dr Chandra and his team conducted the operation on Mr Kurian on 12.09.2023. Mr Kurian was thereafter shifted to a private room at about 01:00 pm. At 03:00 pm, the doctors visiting Mr Kurian were informed about the pain in the neck region, which seemed to have transferred downward lower than the location where the pain used to occur before the operation. Even after the request of shifting Mr Kurian to ICU, he was still kept in private room where he made several complaints about severe pain, Mr Kurian's wife reported to the hospital staff about the same. After 04:30 PM, Mr Kurian received an intravenous pain medication, but his discomfort and intense sweating episodes persisted. At about 07:00 PM Mr Kurian started suffering from severe unbearable pain. Mr Kurian's wife called Dr Chandra on his residential phone but he was not available, meanwhile Mr Kurian suffered major heart attack and was declared brain dead on 13.09.2023 and subsequently, he died.

The deceased's wife first approached the National Consumer Dispute Redressal Commission (NCDRC) by filing a complaint. The complaint alleges that after being moved into a private room, her husband did not receive any care from a neurosurgical team member until he had a heart attack. After undergoing such extensive surgery, the deceased ought to have been sent to the Intensive Care Unit (ICU) rather than being placed in a private room. However, her complaint was rejected by the National Consumer Forum on 15.11.2023. The present appeal is directed to the Supreme Court of India against the order given by the NCDRC.

The Following Issues were framed in the above mentioned case:

- Whether the Star Hospital and doctor have committed negligence by failing to provide necessary postoperative medical treatment to Mr Kurian.
- Whether the Commission (NCDRC) has committed any illegality while rejecting the complaint filed by the deceased's wife.

Note

- This case is based on medical negligence and the doctrine of Res Ipsa Locutor and the applicable laws in the above moot proposition are the Law of Torts, Consumer Protection Act, 2019 and the Constitution of India, 1950.

