

IN THE COURT OF THE MUNSIFF, ETTUMANOOR

Present: Miss. Annu Mary Jose., Munsiff

Thursday, the 26th day of March, 2026

5th day of Chaithra, 1948

OS. No. 193/2022

Plaintiff:

Rajimol Rajan aged 29 years,
W/o. Sreekumar,
Kachalumalayil House,
Kothanalloor Kara, Kothanalloor P.O,
Kothanalloor Village, Vaikom Taluk,
Kottayam District.

By Adv. Rajesh C. Mohan

Defendants:

1. Kerala State represented by District Collector, Kottayam, Collectorate P.O, Kottayam.
2. Health Department, Represented by Director of Health Servies, Thiruvananthapuram P.O, Kerala.
3. Superintendent, Medical College Hospital, Gandhinagar P.O, Kottayam.
4. Gynecology Department Head, Gynecology Department, MCH, Gandhinagar P.O, Kottayam.

5. Dr.Ajayakumar, Gynecologist,
Gynecology Department, MCH,
Gandinagar P.O, Kottayam.
6. Dr. Radhamony, Gynecologist,
Gynecology Department, MCH,
Gandinagar P.O, Kottayam.

D1,D3 & D4 By Adv. Nidhin Regi Kuriakose (GP)

D2 - Exparte.

D5 & D6 By Adv. M.C. Suresh.

This Suit has come up for hearing on 16.03.2026 and the court on 26.03.2026 delivered the following:-

J U D G M E N T

Suit is for compensation.

2. The plaint averments in brief are as follows:- The marriage of the plaintiff was solemnized on 29.01.2015 and she conceived for the second time during 2017 September. She had consulted fifth defendant who is a doctor in the gynecology department of Medical College, Kottayam. She was undergoing treatment since 01.10.2017 as OP 23660/0-4. She had done all tests and scanning as per the instruction of the fifth defendant. There were no health issues to the plaintiff and her baby in womb. She was admitted on 22.06.2018 and shifted to labour

room at 1.00 a.m. on 26.6.2018. The fifth and sixth defendants came out of the labour room at 9:30 a.m. and told the plaintiff's husband that there was complication in delivery that required immediate surgery and wanted to get the consent form signed. The plaintiff's husband had signed the consent form. After half an hour, the plaintiff's husband was informed that the baby died and uterus of the plaintiff was removed. She was discharged from the hospital on 07.07.2018 and she had urine leak. Even though she informed the fifth and the sixth defendants about the urine leak, no treatment was done for the same. Thereafter she had consulted a doctor in Urology department of Medical College Hospital, Kottayam on 07.08.2018 and she was informed that her kidney and other organs sustained injury from surgical blade and thereby block and infection was caused to the kidney with urine leak on account of careless doing of surgery for uterus removal. The sixth defendant had forcefully pressed on the abdomen of the plaintiff as the usual time for delivery was over and thereby caused uterine rupture and foetal death. The plaintiff had consulted urology doctor at Specialist hospital and the doctors therein informed her that the negligent act of the fifth and the sixth defendants caused

uterine rupture and foetal death. The plaintiff had issued lawyer's notice to the defendants and claimed compensation for Rs.10,00,000/-. They issued reply notice stating false averments. The Government Medical College come under the control of defendants no.1 to 3 and fourth defendant is the Head of the Department of Gynecology Department. Hence it is prayed to direct the defendants to give Rs.10,00,000/- as compensation with interest.

3. The defendants no.1, 3 and 4 filed written statement contending as follows:- The suit is not maintainable. There is no medical negligence on the part of the defendants. The plaintiff was shifted to labour room on 26.06.2018 at 1.30 a.m and her general condition was monitored by the duty medical officer at 6.50 a.m., 8.30 a.m., and 10.00 a.m. The plaintiff had developed amniotic fluid blood stain and uterus rupture was also diagnosed. It was decided to conduct surgery as a life savings option. Integrity operation was done and it was observed that there were no injuries. The plaintiff had consulted the doctor at Urology department and she was diagnosed with Vesico Vagenal Fistula. She was discharged and she was directed to consult doctor at urology department after

six weeks. No injury was caused to kidney and surgery was done with utmost care and caution. It is clear from CECT report. There is no cause of action for the suit. Hence, it is prayed to dismiss the suit.

4. The second defendant did not file written statement within the statutory period. Hence, the suit was proceeded ex-parte as against him.

5. The fifth and sixth defendants filed written statement contending as follows:- The suit is not maintainable. As per records it is seen that the plaintiff had antenatal consultation during her second pregnancy in the Gynaec outpatient department and proper trimester scanning and routine investigations were done and the records pertaining to the consultation/investigations are in the custody of the plaintiff. The plaintiff was diagnosed with polyhydramnios as per late scan dated 21.06.2018. The patient got admitted to Government MCH on 22.06.2018 following detection of ployhydramnios. The plaintiff was closely monitored and checked vitals and fetal heart rate. On examination, her vitals were stable, fetal heart sound good and NST was reactive. At

10.00 am, BP recorded 130/80 mmHg and fetal heart could not be localised with stethoscope and duty medical officer conducted per vaginal examination which showed cervix fully effaced and fully dilated and there was blood stained fluid. The plaintiff's husband and other relatives were informed about the emergency situation caused by the possible uterine rupture and the need for emergency laparotomy to tide over the situation. The fifth defendant conducted emergency laparotomy under general anesthesia with assistance of Dr. Priya. Fresh still born baby was extracted at 10.30 a.m. As per call from the theater, the sixth defendant had seen and evaluated the situation and a decision was taken for emergency hysterectomy as a life saving measure because of excessive bleeding. The bystanders were informed about this and informed consent was taken from the relatives of the patient. There was excessive bleeding. Hence hysterectomy and right salpingo oophorectomy was done as an emergency procedure to arrest bleeding. Bladder integrity was checked with Methyline Blue and found to be intact. On 05.07.2018, urology consultation was done and the Urologist advised catheterisation and CECT Kub with CT rogram and CT Cystogram. The patient was catherised on 06.07.2018 and

CECT report was suggestive of vesico vaginal fistula. The Urologist advised review after 6 weeks and on 12.07.2018 examination showed per abdomen soft, wound clean and urine clear and output adequate. Catheter was removed as per advice of the Urologist and the patient was discharged with an advice for review on 14.07.2018 in the Gynaec OPD and for review in Urology OPD after 6 weeks. The plaintiff was attended and treated in Government MCH with reasonable care and caution and the uterine rupture was an unpredictable complication during vaginal delivery unexpectedly happened due to factors beyond the control of the attending doctors and nursing staff. The suit is based on the presumptions and assumptions made by the plaintiff from a layman's perspective with false and baseless allegations against the fifth and sixth defendants. The statement that the fifth and sixth defendants were present in labour room when the plaintiff was admitted is not correct. The fifth defendant was not on duty when the plaintiff was admitted to labour room and the sixth defendant being the Unit Chief was not having labour room duty. The plaintiff was discharged on 12.07.2018 after urology consultation. The plaintiff did not have urine leak in the immediate post-operative period rather

she had developed urge incontinence on 01.07.2018 and referred for urology consultation. The averment that kidney and other organs sustained injury from surgical blade and thereby block and infection was caused to the kidney and urine leak was caused are false and baseless. These defendants issued reply notice to the plaintiff's lawyer's notice denying the allegation levelled against them. These defendants followed practice acceptable to medical profession and exercised reasonable skill and care caution in diagnosis and treatment of the plaintiff. Hence, it is prayed to dismiss the suit.

6. The following issues were framed for trial:

- (1) Did the plaintiff undergo severe physical and mental distress due to the medical malpractice of the defendants as claimed by the plaintiffs?
- (2) Is the plaintiff entitled to a compensation of Rs.10,00,000/-for the mental and physical distress allegedly caused to her by the defendants?
- (3) What is the order as to interest?
- (4) What is the order as to costs?

7. From the side of the plaintiff, PW1 to PW3 were examined and Ext.A1 to A28 were marked. DW1 to DW3 were examined and Ext.B1 was marked from the side of the defendants. Ext.X1 to X3 were also marked.

8. Heard both sides. Perused the records. Argument notes were filed by the defendants.

9. Issue nos.1 to 3:-These issues are considered together since the facts and evidence to be discussed are interconnected. The specific case of the plaintiff is that there were no health issues to her and foetus. She was taken to the labour room on 26.06.2018. It is also contended that fifth and sixth defendants conducted uterus removal surgery negligently and thereby her kidney and other organs sustained injury from surgical blade. It led to urine leak. The defendants no.1, 3 and 4 contended that there is no medical negligence from the part of the defendants. The fifth and sixth defendant contended that the plaintiff was diagnosed to have Polyhydramnios as per late scan dated 21.06.2018. Since uterine rupture occurred, hysterectomy (removal of uterus) was done for the plaintiff due to excessive bleeding. It is also contended that no injury was

caused to kidney during uterus removal surgery and it was done with utmost care.

10. The learned counsel for the plaintiff submitted that the plaintiff was not attended by fifth and sixth defendants when she was shifted to labour room. It led to death of the baby and uterus removal surgery was done carelessly. The negligent act of the fifth and the sixth defendants caused injuries to the kidney and other organs and it led to urine leak. The counsel further submitted that the evidence of PW3 would show that the plaintiff had undergone treatment for urine leakage issue at Specialists Hospital. On the other hand, the learned counsel for the fifth and sixth defendants submitted that hysterectomy was done due to excessive bleeding. The defendants followed a practice acceptable to medical profession. It was further submitted that the sixth defendant being the unit chief was not having the labour duty. The Government pleader appearing for the defendants 1, 3 and 4 also supported the arguments of counsel for the fifth and the sixth defendants. Argument notes were filed by the counsel for the defendants.

11. It is the case of the plaintiff that she had done all the

tests and scans suggested by the fifth defendant and there were no health issues to her and the foetus. Ext.B1 is the original case records of the plaintiff. A perusal of third page of Ext.B1 would show that the plaintiff was diagnosed to have Polyhydramnios. It can be seen from page no. 5 that the plaintiff was informed about this. The plaintiff has not disputed the entries in Ext.B1. The attested copy of Ext.B1 was marked as Ext.A8 through PW1. The plaintiff was examined as PW1. She deposed that she was a nurse by profession. She was aware about the condition called Polyhydramnios and it is accumulation of excess amniotic fluid. She would also depose that she was admitted on 22.06.2018 following the detection of Polyhydramnios. Ext. A2 to Ext.A7 scan reports were marked subject to proof. Ext.A7 scan report was marked subject to proof and the doctor who issued Ext.A7 was not examined. However, the defendants have no dispute that the plaintiff was diagnosed to have Polyhydramnios. It would go to show that the contention of the plaintiff that there were no health issues to her and the foetus is false. It affects the veracity of plaintiff's case.

12. It is contended by the plaintiff that the uterus removal

surgery was done carelessly and her kidney and other organs sustained injury from surgical blade and thereby she developed urine leak. PW1 deposed that the doctor in the Urology department informed her that her kidney and other organs sustained injuries. She also relied on Ext.A10. Ext. A10 out patient ticket would show that ueteric orifices were not seen. However, it is not stated in Ext.A10 that the plaintiff sustained kidney injury. PW2 is the husband of PW1. The evidence of PW2 would go to show that PW1 has not undergone any treatment for kidney problems. She had undergone VVF surgery at specialist hospital Ernakulam for urine leak. He would also depose that the doctors at Specialist hospital informed that the function of the plaintiff's kidney was affected.

13. PW3 is the Head of department of Urology department, Specialist Hospital Ernakulam. He would depose that the plaintiff had consulted him with the problem of urine leak. Ext.A12 letter pad of PW3 recommending the plaintiff to do CT Urogram was marked through PW1 subject to proof. PW3 identified Ext. A12. He would also depose that the plaintiff sustained bladder injury and right uterus injury and the injuries were caused during uterus removal. He further deposed that

the report shown to him by the plaintiff would show that surgery was done in Medical College hospital without any negligence. Ext.X1 series treatment record and discharge summary was marked through him. He admitted that the problem of uterus rupture with heavy bleeding needs complicated surgery and it is a lifesaving procedure also and the chances of having bladder and ureter injuries are large. He also deposed that catheter would be done for bladder drainage and catheter drained clear urine is indicative of no injury to the bladder. He would also depose that bladder integrity can be checked with Methylene blue and if it is found to be intact, it is indicative of no injury. It is the case of the fifth and the sixth defendants that since uterine rupture was detected, hysterectomy was done for the plaintiff as a life saving measure because of excessive bleeding. Ext.B1 would show that surgery was done after getting consent from the plaintiff's relatives. PW3 also admitted that uterus rupture with heavy bleeding requires complicated surgery. A perusal of page no. 10 of Ext. B1 would go to show that there was uterus rupture of 10 cm and hysterectomy (uterus removal) was done. It would also show that bladder integrity was checked with Methylene blue

and it was found to be intact. It is already observed that the evidence of PW3 would reveal that that bladder integrity can be checked with Methylene blue and if it is found to be intact, it is indicative of no injury. So, the evidence of PW3 coupled with Ext.B1 would prove that the plaintiff has not sustained any kidney injury. The evidence of PW2 would also reveal that the plaintiff had not undergone any treatment for kidney related problems.

14. It can be seen from Ext.B1 that the plaintiff was diagnosed with Vesico Vaginal fistula (VVF). The evidence of PW3 would show that VVF is a medical complication that may occur after caesarean and hysterectomy. So, the evidence on record would show that VVF was not related to any kidney injury. It is also pertinent to note that the plaintiff has not adduced any evidence to prove that the uterus removal surgery was done carelessly and her kidney and other organs sustained injury from surgical blade and thereby she developed urine leak. It strikes at the root of the plaintiff's case.

15. It can be seen from Ext.B1 that during 02.07.2018 to 12.07.2018, urology consultation was done since the plaintiff

complained of urge incontinence (intense urge to urinate). It would also show that the plaintiff was discharged on 10.07.2018 and she was directed to come for review in Urology after 6 weeks. Ext.A10 report would show that CECT KUB was done and VVF was diagnosed. This would also go to show that the contention of the plaintiff that she was not given any treatment even though she complained of urine leak is liable to be rejected.

16. It is also the case of the plaintiff that the fifth and the sixth defendant forcefully pressed her abdomen since the usual time for delivery was over and it led to uterine rupture and foetal death. The fifth defendant was examined as DW1. The evidence of DW1 is to the effect that the plaintiff had consulted him, but she was not specifically under his care and treatment throughout. He further deposed that the plaintiff was diagnosed with Polyhydramnios. He had seen the plaintiff in the labour room, but he was not present in labour room when the plaintiff was admitted. He further deposed that abdomen would not be pressed for taking the baby out of the womb and surgery was done with utmost care. The sixth defendant was examined as

DW2. She deposed that she was working as a Unit Chief of Gynecology department. The plaintiff was diagnosed with Polyhydramnios. She further deposed that she was not having labour duty since she was the Unit chief. She had seen the plaintiff since uterine rupture was reported. The plaintiff was referred to Urology Department. She would also depose that if uterus was not removed it would have affected the life of plaintiff. It is contended by the defendants that uterine rupture was an unpredictable complication during delivery and the plaintiff's case that it happened due to forceful pressing of the abdomen is false. The evidence of DW1, DW2 and Ext.B1 would show that uterine rupture was an unpredictable complication and hence uterus removal surgery was done. There is nothing on record to show that uterus rupture occurred due to pressing of abdomen. So, the above contention is liable to be rejected.

17. It is pleaded by the defendants that the sixth defendant was not having labour duty since she was the Unit Chief. DW3 was examined to prove the same. The Junior Superintendent of Medical College, Kottayam was examined as DW3. Ext. X2 copy of relevant pages of Labour Room Duty Register and Ext.X3 copy of relevant pages of Operation Theatre Register were

marked through him. A perusal of Ext.X3 would show that the sixth defendant was engaged in the operation of another patient. This would reveal that the sixth defendant was not having labour room duty. It is the case of the plaintiff that she was under the treatment of the fifth defendant whereas the defendants would contend that the plaintiff had antenatal consultation in the outpatient department and she had consulted doctors on duty, but she was not under the treatment of the fifth defendant throughout. Ext.A1 is the antenatal card of the plaintiff. Ext.A10 is the outpatient ticket. Ext.A1 or Ext.10 would not show that the plaintiff was under the treatment of the fifth defendant throughout. The evidence of PW1 would show that the doctors consulted by her could be seen from the outpatient patient tickets issued to her and she had not produced the same before the court. So, there is nothing on record to show that she was under the treatment of the fifth defendant throughout.

18. It is also the case of the plaintiff that she was not treated by the defendants with reasonable care and caution. A perusal of Ext.B1 would show that the plaintiff was treated by the doctors on duty with reasonable care. It can be seen from page

no.8 of Ext.B1 that when the plaintiff was shifted to labour room, she was under close monitoring and the monitoring of her vitals and foetal heart rate was done. Hence, the above contention is also liable to be rejected. It can be seen that the plaintiff had issued notice to the defendants. Ext.A14 is the copy of lawyer's notice. Ext. A15 to A20 are the postal receipts. Ext. A21 to A26 are the acknowledgment cards. The fifth and the sixth defendant issued Ext. A27 and A28 reply notices.

19. It has come out in evidence that the plaintiff was treated by the defendants with reasonable care and caution. Since, there was uterine rupture, uterus removal surgery was done for the plaintiff as a life saving measure and the same was not done carelessly. The procedure taken by the fifth and the sixth defendants was acceptable to the medical profession. It is already observed that the surgery was done after getting consent from the plaintiff's relatives. There is nothing on record to show that the fifth and the sixth defendants pressed on the abdomen of the plaintiff forcefully and it led to uterine rupture and foetal death. The plaintiff failed to prove that she had sustained kidney injury from surgical blade during surgery. The plaintiff failed to prove that she had undergone physical and

mental distress due to the medical practices of the defendants. Hence, the plaintiff is not entitled to the reliefs as prayed for. Thus, issue nos.1 to 3 are found against the plaintiff.

20. Issue no.4:- Considering the facts and circumstances of the case, parties are directed to suffer their respective costs.

21. The plaintiff was permitted to institute the suit as an indigent person as per order in Indigent (OP) No. 1/2020. Since the suit is dismissed, the plaintiff shall pay the court fees which would have been paid if she was not permitted to sue as an indigent person. The copy of decree shall be forwarded to the District Collector to recover the amount of court fees as if it were arrears of land revenue as contemplated under Order 33 Rule 14 of the Code of Civil Procedure.

22. In the result, the suit is dismissed. No order as to costs.

(Dictated to the Confidential Assistant, transcribed and typed by her, corrected by me and pronounced in open Court on this the 26th day of March, 2026).

Sd/-

**Annu Mary Jose
Munsiff**

APPENDIX

Exhibits marked for the Plaintiff:

A1	01.10.2017	Antenatal card in the name of plaintiff.
A2	11.01.2017	Scanning report issued from Unity Scan & Diagnostic Centre, Gandhinagar.
A3	26.12.2017	Scanning report issued from Unity Scan & Diagnostic Centre, Gandhinagar.
A4	29.12.2017	Scanning report issued from Mitera Hospital Thellakom.
A5	29.12.2017	Meternal Serum Screen Report issued from Dr.Lal Path Labs, Gandhinagar.
A6	08.03.2018	Obstetric USG Report issued from Mediscan Ultra Sound Scan Centre, Gandhinagar.
A7	21.06.2018	Obstetric USG Report issued from Mediscan Ultra Sound Scan Centre, Gandhinagar.
A8	26.06.2018	Attested copy of case records in IP No.G. 004869/18 issued by Superintendent, MCH, Kottayam.
A9	22.06.2018	Certified copy of relevant page of operation register issued from MCH, Kottayam.
A10	06.08.2018 07.08.2018	OP ticket No.32114(2 Nos.)
A11	07.07.2018	Report of treatment received from urology department MCH, Kottayam.
A12	25.02.2019	Prescription of Dr.R. Vijayan, Department of urology MBR Medical Trust Hospital, Ernakulam and Scanning report.

A13	27.09.2018	Copy of Discharge summary issued from Department of Urology and Laparoscopic Surgery Specialists Hospital.
A14	03.10.2018	Copy of Lawyer's notice.
A15	04.10.2018	Postal receipt.
A16	04.10.2018	Postal receipt.
A17	04.10.2018	Postal receipt.
A18	04.10.2018	Postal receipt.
A19	04.10.2018	Postal receipt.
A20	04.10.2018	Postal receipt.
A21	-	Postal Acknowledgment Card.
A22	-	Postal Acknowledgment Card.
A23	05.10.2018	Postal Acknowledgment Card.
A24	05.10.2018	Postal Acknowledgment Card.
A25	05.10.2018	Postal Acknowledgment Card.
A26	05.10.2018	Postal Acknowledgment Card.
A27	27.10.2018	Reply notice.
A28	27.10.2018	Reply notice.

Exhibits marked for the Defendants:

B1	-	Case records issued from MCH, Kottayam.
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Third Party Exhibits:

X1(Series)	19.09.2018 15.10.2018	True copy of Discharge summary issued from MBR Specialists Hospital, Ernakulam.
X2	26.06.2018	Copy of relevant pages of Nominal Register of In Patients issued from MCH, Kottayam.

X3 26.06.2018 Copy of relevant pages of
operation theatre Register issued
from MCH, Kottayam.

Court Exhibits: Nil.

Witness examined for the Plaintiff:

PW1 21.11.2025 Rajimol Rajan.
PW2 02.12.2025 Sreekumar S.
PW3 12.12.2025 Dr. R. Vijayan.

Witness examined for the Defendants:

DW1 17.01.2026 Dr. Ajaykumar
DW2 27.01.2026 Dr. Radhamani M.V.
DW3 12.02.2026 Cyriac N. J.

Court Witness : Nil

**Id/-
Annu Mary Jose
Munsiff**

// True Copy //

Copied by : Jaya
Compared by : Fasila

**Sd/-
Annu Mary Jose
Munsiff**