

MHND260001722020

Presented : 27 02 2020
onRegistered : 27 02 2020
on

Decided on : 31 07 2026

Duration : 06 Yrs 05M 04Ds
n

IN THE COURT OF CIVIL JUDGE JUNIOR DIVISION
AT ARDHAPUR

(Presided over by Smt. R.B. Sorekar)

REG.CIVIL SUIT No. 12/2020**Exh. No.36**

Maya W/o. Sakharam Jondhale,
Age 22 Yrs; Occu: Household,
R/o. Tuppa Tq. Kalamnuri Dist. Hingoli,
At present Sawatamali Nagar, Ardhapur
Tq.Kalamnuri Dist. Hingoli.

.....PLAINTIFF

VERSUS

- 1.The Chief Executive Officer,
Zilla Parishad Nanded.
2. The Medical Officer,
Primary Health Kendra, Ardhapur
Tq. Ardhapur Dist. Nanded

.....DEFENDANTS

CLAIM : Suit for compensation.

Shri R.A.Deshmukh, Advocate for the Plaintiff.
Ex-parte against Defendants

JUDGMENT

(Delivered on this 31th day of July, 2026)

01. This is a suit for recovery of compensation of Rs.

5,00,000/- from the defendants for wrong family planning operation due to medical negligence of the defendant no. 2.

02. Brief facts of the plaintiff case are as under :

The plaintiff had gone to the Primary Health Center, Ardhapur for check-up. At that time, the then Medical Officer, Primary Health Center, Ardhapur has given information about family planning / family welfare surgery. He has also given a verbal promise that the plaintiff will not get pregnancy again after this surgery. The Ardhapur is maternal house of the plaintiff. Therefore, the plaintiff, trusting the defendant's word prepared for herself for the said surgery and on 18.01.2018, the family welfare surgery was done on her at the Primary Health Center, Ardhapur by the Medical Officer, Primary Health Center, Ardhapur, which is registered as 289/2028.

03. After a few days when the plaintiff menstrual period was stopped, she went to Primary Health Center, Ardhapur for a check-up and at that time the doctor advised for her Sonography. Therefore, on 01.08.2019 the plaintiff under went a Sonography at Patil Dignostic Center, Doctor Lane, Nanded. After Sonography Dr. Gopikrushna Patil told her that, she was 7th weeks pregnant. They have also given Sonography report to the plaintiff. After hearing this, the plaintiff and her family suffered tremendous mental and physical shock and trauma which caused stress to her entire family. Plaintiff have two children before this incident and this is third child. Therefore, the number of their family is changing and plaintiff had lost the opportunity in Government Jobs and Political career forever.

04. Since the plaintiff planning of the family has gone wrong due to the birth of third child. Therefore the family is facing huge

expenses, mental and physical suffering, social upheaval and huge financial loss. The increase in the family one member will have an adverse effect on the leaving standard of the remaining members. So they will also suffer educational, financial and social losses. So also, until this child earn, the plaintiff and her family will have to bear the entire expenses and maintenance during the inflation period due to the fault of the defendants. The defendants and their system are responsible for all these troubles. The plaintiff and her family are suffering a great loss due to defendants wrongful, negligent and careless Family Welfare Surgery and suffering caused to the plaintiff and his family the court should pass a proper decree for immediate payment of compensation of Rs. 5,00,000/- to the plaintiff by the defendants. Hence, she has filed present suit.

05. Suit summon was duly served to the defendants. The defendants did not appear. Hence, suit proceeded ex-parte against them.

06. Upon hearing the argument of Ld. counsel for the plaintiff and considering the pleading of the plaintiff, following points arise for my determination. I have recorded my findings thereon for the reasons stated below.

<u>Sr.No</u>	<u>POINTS</u>	<u>FINDINGS</u>
1	Does the plaintiff prove that, the defendant no. 2 has done wrong Family Planning Surgery due to his medical negligence and the defendant no. 1 being the Head of the District and Controller is also responsible for the said negligence ?	No
2	Is the plaintiff entitled for compensation of Rs. 5,00,000/- for the wrong Family Planning Surgery done by the defendant no. 2 by doing medical negligence ?	No

3 What order and decree ?

As per final
order

REASONS

07. In support of her contention, the plaintiff has filed her affidavit of examination-in-chief at Exh. 20. She has filed original Form-s dated 07/06/2019 at Exh. 21, The original sonography report dated 30.12.2019 at Exh. 22, The original sonography report dated 13.02.2020 at Exh. 23, The original certificate issued by Primary Health Center, Ardhapur in respect of Family Planning Surgery at Exh. 24, Original Birth Certificate of plaintiff daughter namely Vidya at Exh. 25, Consent form and declaration form of the pregnant women dated 13.02.2020 and 01.08.2019 at Exh. 26 and 27, The original sonography report dated 01.08.2019 at Exh. 28, Postal receipt and postal acknowledgment at Exh. 29 and 30, notice issued to the defendant no. 2 through the Advocate of the plaintiff at Exh. 31. Evidence of the plaintiff is closed by passing order below Exh. 1.

AS TO POINT NO.1 :-

08. The grievance of the plaintiff is that, she already had two children and on believing the words of the defendant no. 2, she decided to under go family planning operation. Accordingly the surgery was also performed by the defendant no. 2 on 18.01.2018. Even thereafter, the plaintiff conceived and she gave birth to the third child. Therefore the plaintiff has sought payment of compensation.

09. In support of her contention, the original Form-s dated 07/06/2019 at Exh. 21, The original sonography report dated 30.12.2019 at Exh. 22, The original sonography report dated 13.02.2020 at Exh. 23, The original certificate issued by Primary Health Center, Ardhapur in respect of Family Planning Surgery at Exh. 24, Original Birth Certificate of plaintiff daughter namely Vidya at Exh. 25, Consent form and declaration form of the pregnant women dated 13.02.2020 and 01.08.2019 at Exh. 26 and 27, The original sonography report dated 01.08.2019 at Exh. 28, Postal receipt and postal acknowledgment at Exh. 29 and 30, notice issued to the defendant no. 2 through the Advocate of the plaintiff at Exh. 31. It shows that the plaintiff has undergone the family planning operation. Thereafter, the plaintiff conceived and she gave birth to the third child. But, the plaintiff has not placed any document to show that, the surgeon had assured 100 % exclusion of pregnancy after the surgery. She deposed that, the oral assurance was given but in such cases, the oral assurance is not sufficient.

10. Therefore I am of the opinion that, merely because a woman having undergone a family planning operation became pregnant and delivered a child, the operating surgeon or his employer or his authority cannot be held liable for compensation on account of unwanted pregnancy or unwanted child. The claim in tort can be sustained only if there was negligence on the part of the surgeon in performing the surgery. The proof of negligence shall have to satisfy Bolam's test. So also, the surgeon cannot be held liable in contract unless the plaintiff alleges and proves that the surgeon had assured 100 % exclusion of pregnancy after the surgery and was only on the basis of such assurance that the plaintiff was

persuaded to undergo surgery. Ordinarily the surgeon does not offer a guarantee.

11. The cause of failure of family planning operation may be obtained from Laparoscopy Inspection of the uterine tubes, or by X-ray examination, or by pathological examination of the material removed at subsequent operation of family planning. The discrepancy between operation notes and the result of X-ray film in respect of the number of ring or clips or nylon sutures used for occlusions of the tubes, will lead to logical interference of negligence on the part of the Gynecologist in case of failure of family planning operation. The methods of family planning operation so far known to medical science which are most popular and prevalent are not 100 % safe and secure. In spite of the operation having been successfully performed and without negligence on the part of the surgeon, the sterilized women can become pregnant due to natural causes.

12. The cause of action for claiming compensation in cases of failed family planning operation arises on account of negligence of the surgeon and not on account of child birth. Failure due to natural causes would not provide any ground for claim.

13. In the present suit the plaintiff has not placed any document to show the negligence on the account of the surgeon. Therefore, merely because plaintiff had undergone a family planning operation and thereafter she became pregnant and delivered the child, the operating surgeon or the hospital cannot be held liable for compensation on account of the unwanted pregnancy or the unwanted child. Therefore the defendants cannot be liable for the compensation on account of the unwanted pregnancy and unwanted

child. Hence, I answer as to point no. 1 in the negative.

AS TO POINT NO.2:-

14. In view of the findings as to point no. 1, the plaintiff is not entitled for compensation of Rs. 5,00,000/- from the defendants on the ground of failure of family planning operation. Hence, I answer as to point no. 2 in the negative and in answer to point no. 3 I pass the following order:-

ORDER

- 1 Suit is dismissed with costs.
- 2 Decree be drawn up accordingly.

Date : 31.07.2026

(Smt. R.B. Sorekar)
Civil Judge Jr. Division
Ardhapur.

CERTIFICATE

I affirm that the contents of this P.D.F. file Judgment are same word to word, as per the original Judgment.

Name of the Jr. clerk : A.V.Shahane

Court Name : Court of CJJD and JMFC, Ardhapur.

Date : 31.07.2026

Judgment signed by the Presiding Officer on : 31.07.2026

Judgment uploaded on : 31.07.2026