

S U P R E M E C O U R T O F I N D I A

RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Civil) No(s).19098/2005

(From the judgement and order dated 10/01/2005 in RSA No. 97/2005 of The HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH)

STATE OF HARYANA & ORS.

Petitioner(s)

VERSUS

MEENA RANI

Respondent(s)

(With prayer for interim relief and office report)

Date: 10/04/2006 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE ASHOK BHAN

HON'BLE MR. JUSTICE LOKESHWAR SINGH PANTA

For Petitioner(s)

Mr. Pardeep Dahiya, Adv. for

Mr.T.V.George,Adv.

For Respondent(s)

Mr. A.D. Sikri,Adv.

Mr. Vipul Raheja, Adv.

UPON hearing counsel the Court made the following

O R D E R

Leave granted.

The appeal is disposed of.

(J.S. Rawat)

(Kanwal Singh)

AR-cum-PS

Court Master

[Signed order is placed on the file]

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 1969 OF 2006
(Arising out of SLP(C) No. 19098 of 2005)

State of Haryana & Ors.

Appellant (s)

Versus

Meena Rani

Respondent (s)

O R D E R

Leave granted.

The present appeal has been filed by the State of Haryana questioning the orders passed by the courts below wherein a decree has been passed in favour of the respondent for recovery of Rs.1,05,000/-. Respondent had filed the suit for recovery of Rs. 8 lakhs on the ground that in spite of sterilization carried at the Government Dispensary, she conceived and delivered a child. The trial court dismissed the suit. On appeal, the

first appellate Court decreed the suit in the sum of Rs.1,05,000/-. The High Court, by the impugned order, has affirmed the judgment of the first appellate Court.

Heard the counsel on both sides.

This Court in State of Punjab v. Shiv Ram & Ors. [2005(7)SCC 1]

has held that child berth in spite of sterilization operation can occur due to negligence of the Doctor in performing the operation or due to certain natural causes such as spontaneous recanalisation and the Doctor can be held liable to pay only in cases where the failure of the operation is attributable to his negligence and not otherwise. In that case, judgments of the courts below were set aside and it was held that the plaintiff would not be entitled to claim compensation only because a child was born after the sterilization operation. The aforesaid judgment was followed subsequently in the case of State of Haryana & Ors. v. Raj Rani [2005 (7) SCC 22]. In the present case, it has not been proved that failure of the operation was attributable to the Doctor who performed the operation.

In view of the aforesaid decisions of this Court, the judgment under appeal is set aside and the suit is dismissed. However, it is made clear that the money already paid by the State to the respondent, shall not be recovered.

The appeal stands disposed of accordingly.

.....J.

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(ASHOK BHAN)

New Delhi;
.....J.
April 10, 2006.

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(LOKESHWAR SINGH PANTA)