
Thompson v. Nason Hospital

527 Pa. 330, 591 A.2d 703 (1991)

Zappala, Justice.

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. . . At approximately 7 a.m. on March 16, 1978, Appellee, Linda A. Thompson, was involved in an automobile accident with a school bus. Mrs. Thompson was transported by ambulance from the accident scene to Nason Hospital's emergency room where she was admitted with head and leg injuries. The hospital's emergency room personnel were advised by Appellee, Donald A. Thompson, that his wife was taking the drug Coumadin, that she had a permanent pacemaker, and that she took other heart medications.

Subsequent to Mrs. Thompson's admission to Nason Hospital, Dr. Edward D. Schultz, a general practitioner who enjoyed staff privileges at Nason Hospital, entered the hospital via the emergency room to make his rounds. Although Dr. Schultz was not assigned duty in the emergency room, an on-duty hospital nurse asked him to attend Mrs. Thompson due to a prior physician-patient relationship. Dr. Schultz examined Mrs. Thompson and diagnosed her as suffering from multiple injuries including extensive lacerations over her left eye and the back of her scalp, constricted pupils, enlarged heart with a Grade III micro-systolic murmur, a brain concussion and amnesia. X-rays that were taken revealed fractures of the right tibia and right heel.

Following Dr. Schultz's examination and diagnosis, Dr. Larry Jones, an ophthalmologist, sutured the lacerations over Mrs. Thompson's left eye. It was during that time that Dr. Schultz consulted with Dr. Rao concerning orthopedic repairs. Dr. Rao advised conservative therapy until her critical medical condition improved.

Dr. Schultz knew Mrs. Thompson was suffering from rheumatic heart and mitral valve disease and was on anticoagulant therapy. Because he had no specific training in establishing dosages for such therapy, Dr. Schultz called Dr. Marvin H. Meisner, a cardiologist who was treating Mrs. Thompson with an anticoagulant therapy. Although Dr. Meisner was unavailable, Dr. Schultz did speak with Dr. Meisner's associate Dr. Steven P. Draskoczy.

Mrs. Thompson had remained in the emergency room during this time. Her condition, however, showed no sign of improvement. Due to both the multiple trauma received in the accident and her pre-existing heart disease, Dr. Schultz, as attending physician, admitted her to Nason Hospital's intensive care unit at 11:20 a.m.

The next morning at 8:30 a.m., Dr. Mark Paris, a general surgeon on staff at Nason Hospital, examined Mrs. Thompson. He found that she was unable to move her left foot and toes. It was also noted by Dr. Paris that the patient had a positive Babinski—a neurological sign of an intracerebral problem. Twelve hours later, Dr. Schultz examined Mrs. Thompson and found more bleeding in her eye. He also indicated in the progress notes that the problem with her left leg was that it was neurological.

On March 18, 1978, the third day of her hospitalization, Dr. Larry Jones, the ophthalmologist who treated her in the emergency room, examined her in the intensive care unit. He indicated in the progress notes an "increased hematuria secondary to anticoagulation. Right eye now involved." Dr. Schultz also examined Mrs. Thompson that day and noted the decreased

movement of her left leg was neurologic. Dr. Paris's progress note that date approved the withholding of Coumadin and the continued use of Heparin.

The following day, Mrs. Thompson had complete paralysis of the left side. Upon examination by Dr. Schultz he questioned whether she needed to be under the care of a neurologist or needed to be watched there. At 10:30 a.m. that day, Dr. Schultz transferred her to the Hershey Medical Center because of her progressive neurological problem.

Linda Thompson underwent tests at the Hershey Medical Center. The results of the tests revealed that she had a large intracerebral hematoma in the right frontal temporal and parietal lobes of the brain. She was subsequently discharged on April 1, 1978, without regaining the motor function of her left side.

On April 11, 1979, Appellees filed a notice complaint against The Nason Hospital, Edward D. Schultz, M.D. and E.J. Schultz, M.D. with the office of Administrator for Arbitration Panels for Health Care pursuant to the Health Care Services Mal-practice Act, 40 P.S. §§ 1301.101 et seq. In response to a rule filed by The Nason Hospital, Appellees filed a complaint on July 3, 1979. The complaint alleged *inter alia* that Mrs. Thompson's injuries were the direct and proximate result of the negligence of Nason Hospital acting through its agents, servants and employees in failing to adequately examine and treat her, in failing to following its rules relative to consultations and in failing to monitor her conditions during treatment. Similar allegations were contained in a separate count of the complaint as to Dr. E.D. Schultz's negligence. However, as to consultations, it was alleged that Dr. Schultz failed to contact Mrs. Thompson's cardiologist relative to administration of anticoagulants. The action was subsequently transferred to the Court of Common Pleas of Blair County [because the Pennsylvania Supreme Court had held the arbitration procedure unconstitutional].

On December 12, 1986 without objection of the other parties, the trial court granted a motion for summary judgment filed on behalf of Dr. E.J. Schultz. While Dr. E.J. Schultz was dismissed from the case, Dr. Edward D. Schultz remains a defendant in the action below. . . .

. . . In reversing the trial court's order granting summary judgment in favor of Nason Hospital, Superior

Court held (1) genuine issues of material fact existed as to whether Dr. Schultz was an ostensible agent of Nason Hospital; (2) Nason Hospital could be found liable on the theory of corporate liability for adverse effects of treatment or surgery approved by doctors although the doctors were not employees of the hospital and (3) it was appropriate that the lower court decide during the course of the later stages of this litigation whether sufficient evidence may be established by the Thompsons on their agency theory. . . .

The first issue Nason Hospital raised is whether the Superior Court erred in adopting a theory of corporate liability with respect to a hospital. . . . Nason Hospital contends that it had no duty to observe, supervise or control the actual treatment of Linda Thompson.

. . . .

The hospital's duties have been classified into four general areas: (1) a duty to use reasonable care in the maintenance of safe and adequate facilities and equipment; (2) a duty to select and retain only competent physicians; (3) a duty to oversee all persons who practice medicine within its walls as to patient care; and (4) a duty to formulate, adopt and enforce adequate rules and policies to ensure quality care for the patients

Other jurisdictions have embraced this doctrine of corporate negligence or corporate liability such as to warrant it being called an "emerging trend." (citations omitted)

. . . In *Riddle Memorial Hospital v. Doban*, 504 Pa. 571, 475 A.2d 1314 (1984), we found that the appropriate duty of care a hospital owes to a person brought into an emergency room is set forth in the Restatement of Torts 2d § 323 (1965) which provides:

One who undertakes, gratuitously or for consideration, to render services to another which he should recognize as necessary for the protection of the other's person or things, is subject to liability to the other for physical harm resulting from his failure to exercise reasonable care to perform his undertaking, if his failure to exercise such care increases the risk of such harm, or the harm is suffered because of the other's reliance upon the undertaking.

504 Pa. at 576-577, 475 A.2d at 1316.

In *Riddle*, the patient, after exhibiting signs of a heart attack, was taken from his residence to Riddle Memorial Hospital's emergency room. There he was examined and treated not only by his family physician, who was not on staff at Riddle, but also by the medical staff on duty in the emergency room. Notwithstanding the determination that he had a coronary occlusion, the patient was taken from the emergency room twenty minutes after his arrival to Lankenau Hospital where his family physician had staff privileges. This transfer occurred in full view of Riddle's emergency room staff and without objection. Additionally, the emergency room resident did not execute a signed approval as required by Riddle's by-laws. The patient died enroute to Lankenau Hospital.

Today, we take a step beyond the hospital's duty of care delineated in *Riddle* in full recognition of the corporate hospital's role in the total health care of its patients. In so doing, we adopt as a theory of hospital liability the doctrine of corporate negligence or corporate liability under which the hospital is liable if it fails to uphold the proper standard of care owed its patient. In addition, we fully embrace the aforementioned four categories of the hospital's duties. It is important to note that for a hospital to be charged with negligence, it is necessary to show that the hospital had actual or constructive knowledge of the defect or procedures which created the harm. (citations omitted) Furthermore, the hospital's negligence must have been a substantial factor in bringing about the harm to the injured party. *Hamil v. Bashline*, 481 Pa. 256, 392 A.2d 1280 (1978).

The final question Nason Hospital raises is did Superior Court err in finding that there was a material issue of fact with respect to the hospital's duty to monitor and review medical services provided within its facilities. Nason Hospital contends that during Linda Thompson's hospitalization, it did not become aware of any exceptional circumstance which would require

or justify its intervention into her treatment. The Hospital Association of Pennsylvania, as *amicus curiae*, argues that it is neither realistic nor appropriate to expect the hospital to conduct daily review and supervision of the independent medical judgment of each member of the medical staff of which it may have actual or constructive knowledge.

Conversely, Appellees argue that Nason Hospital was negligent in failing to monitor the medical services provided Mrs. Thompson. Specifically, Appellees claim that the hospital ignored its Rules and Regulations governing Medical Staff by failing to ensure the patient received adequate medical attention through physician consultations. (footnote omitted) Appellees also contend that Nason Hospital's medical staff members and personnel treating Mrs. Thompson were aware of her deteriorating condition, brought about by being over anti-coagulated, yet did nothing.

It is well established that a hospital staff member or employee has a duty to recognize and report abnormalities in the treatment and condition of its patients. If the attending physician fails to act after being informed of such abnormalities, it is then incumbent upon the hospital staff member or employee to so advise the hospital authorities so that appropriate action might be taken. When there is a failure to report changes in a patient's condition and/or to question a physician's order which is not in accord with standard medical practice and the patient is injured as a result, the hospital will be liable for such negligence. (citations omitted)

A thorough review of the record of this case convinces us that there is a sufficient question of material fact presented as to whether Nason Hospital was negligent in supervising the quality of the medical care Mrs. Thompson received, such that the trial court could not have properly granted summary judgment on the issue of corporate liability.

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