

**IN THE CARIBBEAN COURT OF JUSTICE
Appellate Jurisdiction**

ON APPEAL FROM THE COURT OF APPEAL OF BELIZE

**CCJ Appeal No CV 4 of 2012
BZ Civil Appeal No 16 of 2008**

BETWEEN

RAJU MEENAVALLI

APPELLANT

AND

**GEORGIA MATUTE
JANAE MATUTE
(An infant suing by next friend GEORGIA MATUTE)**

RESPONDENTS

EXECUTIVE SUMMARY

[1] The Respondents, Mrs Georgia Matute and Janae Matute, commenced proceedings against the Appellant, Dr Raju Meenavalli ('Dr Raju'), and the Attorney-General of Belize in negligence after Janae was diagnosed with cerebral palsy. The trial judge gave judgment against Dr Raju but dismissed the claim against the Attorney-General. Subsequently, the Court of Appeal dismissed Dr Raju's appeal but allowed a cross-appeal against dismissal of the claim against the Attorney-General. The Attorney-General did not challenge the Court of Appeal's decision but Dr Raju's appeal before the Court resisted the findings of fact of the lower courts. Janae defended the appeal by her next friend, her mother, Mrs Matute.

[2] On June 9, 2000 Mrs Matute discovered she was pregnant and so attended Dr Raju's clinic at the Western Regional Hospital. At that time she informed him that the first day of her last menstrual period (LMP) occurred on April 27, 2000. However, Dr Raju recorded an LMP of March 27, 2000 and an expected date of delivery of January 2, 2001.

- [3] However, after her visit to Dr Raju in August 2000, Mrs Matute sought a second opinion at La Loma Luz Hospital which confirmed that her LPM was April 27, 2000 and indicated that her expected date of delivery was February 1, 2001. Dr Raju rejected the findings contained in the La Loma Luz opinion and proceeded to certify on Mrs Matute's Social Security Board Medical Certificate of Expected Confinement that her date of delivery was January 3, 2001. He also made erroneous notes concerning the gestation age of the foetus on several occasions.
- [4] On December 20, 2000 Dr Raju operated on Mrs Matute and delivered Janae by caesarean section. The following day Mrs Matute saw baby Janae in an incubator with an oxygen tube inserted into her stomach apparently gasping for breath. She sought an explanation for Janae's condition from Dr Magana, the paediatrician under whose care Janae then was, who indicated that Janae was born premature.
- [5] One year later, after noticing delay in Janae's development, Mrs Matute sought further explanation and diagnosis from various specialists. At that time Dr Magana indicated that he suspected Janae may have suffered brain damage due to lack of oxygen at birth. In a report dated January 29, 2002 he concluded that Janae was born prematurely and suffered from moderate asphyxia and hyaline membrane disease at birth. Other specialists consulted confirmed that diagnosis.
- [6] At the outset of its reasoning the Court briefly addressed the restricted role of courts of appeal with regard to findings of fact. It made clear that the principle that only in exceptional circumstances will the Court review concurrent findings of fact of the courts below was applicable to medical negligence cases.
- [7] The Court noted that Counsel for Dr Raju did not dispute that Janae suffered cerebral palsy but that he contended that there was a break in the chain of causation in relation to the cause of Janae's asphyxia. It noted Dr Raju's invitation to the Court to find that there were multiple causes for Janae's condition and since the conventional 'but for' test could not apply, he should not have been found negligent.

- [8] The Court however found that the courts below could properly find that, on a balance of probability, Janae's condition was due to a pre-term delivery which caused the onset of hyaline membrane disease at birth. It accepted that if Janae did not develop hyaline membrane disease, there would not have been resuscitation and exposure to sepsis. The Court noted that the lower courts did not find that there were multiple causes of Janae's cerebral palsy or that there was an indeterminate class of persons one or more of whom were responsible for Janae's condition and subsequently decided to leave undisturbed the findings of the lower courts, resulting in Dr Raju's failure on this ground of appeal.
- [9] Addressing Dr Raju's submission that no standard of care was established, the Court highlighted the classic statement of the standard of care of a professional exercising some special skill or competence which it said in the context of medical negligence means the failure of a medical practitioner to act in accordance with the standards of reasonably competent practitioners. After considering the evidence before the lower courts, the Court concluded that the Court of Appeal was correct to conclude that Dr Raju failed to follow procedure sanctioned as the proper practice for an obstetrician, failed to record Mrs Matute's LMP accurately, to take account of the La Loma Luz ultrasound of the pregnancy and so misled himself when he came to assess Mrs Matute's case in the closing stages of the pregnancy and to decide on the most appropriate date of delivery.
- [10] The Court stated that there are special but higher standards for those who profess specialism but that does not mean that they do not also owe an ordinary duty of skill and care applicable to general practitioners, including to record and consider relevant information supplied to them by patients. It rejected Dr Raju's submission that no standard of care was established as he was not only in breach of the common standard of care applicable to medical practitioners but also of the standard of care applicable to specialists in the field of obstetrics and gynaecology.
- [11] Dr Raju's appeal was dismissed and an order for costs was made against him.

This summary is not intended to be a substitute for the reasons of the Caribbean Court of Justice or to be used in any later consideration of the Court's reasons.