

HEADLINES



Woman sues over spinal cord op on 'wrong level'

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This is the seventh in The Straits Times series by Senior Law Correspondent K.C. Vijayan on legal issues, with each edition tied to a specific area of law. Today's articles, themed on negligence and the duty of care, look at major and minor lawsuits, including an alleged botched medical operation and a slip-and-fall case.

A woman is seeking damages from a neurosurgeon for allegedly operating on the wrong level of her spinal cord to remove a tumour.

Ms Valencia Zuniga Valeria Elizabeth, 47, also named two other specialists as defendants, claiming breach of duty of care and negligence in relation to their treatment and advice.

All three defendants are denying the claims in court papers filed regarding the different periods when she was under their care.

Chilean-born Ms Zuniga, who currently uses a wheelchair, had sought medical attention for neck pain and altered sensation in her hands. A scan showed a tumour on her spinal cord.

She underwent surgery performed by Dr Ng Puay Yong on Oct 18, 2012, to excise the tumour. Although the post-surgery scan showed improvements in her condition, she alleged that the operation was botched and the tumour was not wholly excised, while healthy spinal cord tissue was removed, according to court papers filed by her lawyer Raj Singh Shergill.

Details of the claims and defences are expected to surface in due course at the trial, set for early next year in the High Court.

In denying Ms Zuniga's claims, Dr Ng noted that she was made aware of the risks and benefits of the surgery.

Post-surgery, her condition improved, but a review from Dr Ng that included a Canada-based pathologist's finding held that the remnant tumour was a low-grade astrocytoma - a type of cancer that can form in the spinal cord - and Ms Zuniga was recommended various options, including repeat surgery, radiotherapy and chemotherapy.

Dr Ng said it was well known that spinal cord low-grade astrocytoma can recur even after complete removal.

His lawyers, led by Mr Eric Tin and Mr Jansen Aw, said on his behalf: "While our client empathises with the patient, as he had managed her appropriately according to accepted standard of care and best practices, and acted in her best interests, he strongly denies her allegations of breach of duty of care and negligence."

Ms Zuniga's last assessment with Dr Ng was on Feb 7, 2013, when she was still able to walk.

But on April 20 that year, she consulted neurosurgeon Premkumar Pillay for a second opinion, complaining of tingling and stiffness in both legs, especially the right.

Dr Pillay examined her and discussed her treatment options for the low-grade astrocytoma, including biopsy, monitoring, surgery or radiotherapy, with possible anti-tumour medications. Material risks were also discussed, according to court documents.

Ms Zuniga consented to being treated by radiation oncology specialist Edward Yang, who treated her between May and July 2013. In addition to radiation, she also had chemotherapy administered by a medical oncologist.

Dr Yang had concurred with Dr Pillay on the likely astrocytoma as diagnosed. He also advised her on the treatment options and the material risks involved.

A review with Dr Yang in July 2013 showed that Ms Zuniga had improvements in her lower limb power and sensation, could walk and showed no numbness. But she did not turn up for a follow-up review and scan in October 2013 as advised.

Her condition continued to stabilise, and by May 2014 she was fit enough to return to work.

Dr Pillay continued to manage her until she left his care in September 2016 and sought help elsewhere.

Dentons Rodyk lawyers Lek Siang Pheng and Vanessa Lim said the two doctors "fully empathise with Ms Zuniga's situation" and "they have given their best efforts to treat her rare and difficult medical condition and care and treatment in accordance with accepted medical practices, and have counselled her on all suitable options".

Mr Shergill summed up Ms Zuniga's claims before Judicial Commissioner Mavis Chionh last October, during a hearing on an interlocutory matter: "The first defendant performed wrong-level surgery. It was a reversible error. It was in that context that the plaintiff went to the second defendant for a second opinion. There were three options: do nothing; go back in and reset the tumour; radiate the spinal cord.

"Once you radiate the spinal cord, you destroy it because of the damage such as renal malfunction and the risk of cancer. So the plaintiff's case against the second and third defendant is this: Before you advocate radiation therapy, given the severe consequences, you are under a duty to look at all the records provided to you, and once you have done that, what the first defendant did would have been apparent."

A High Court hearing is due next week to decide if the case should be bifurcated and the liability issue decided at trial first.

\$226,850 spent on medical expenses so far

According to court papers filed, Ms Valencia Zuniga Valeria Elizabeth was a fit 39-year-old who led an active life that included running marathons.

Married with three children, with the youngest now aged 14, she was an IT specialist with a multinational firm and had worked in Singapore for over nine years. She lost her job because of her current medical condition, she said.

Court documents filed by her lawyer Raj Singh Shergill claim that she had a good prognosis in that the tumour on her spinal cord could have been surgically treated with close surveillance.

But following the alleged treatment by the defendants, she now experiences constant pain and her neurological function has been affected. The forecast for recovery is also poor.

Among other things, the symptoms of radiation damage have displaced the tumour severely.

The radiation treatment caused permanent and irreversible damage to the spinal cord. It accounts for the majority of Ms Zuniga's current symptoms, including severe spasms, increased sensitivity to touch and pain, loss of normal function of her legs, spontaneous spasms in her legs, urinary tract infections and sleep interruption due to severe and permanent pain and spasms.

The radiation damage left her physically weak and the severe and permanent pain affected her ability to work and impaired her social, occupational and recreational pursuits, the court documents say.

Ms Zuniga, now 47, has also suffered bouts of severe depression and her total medical expenses so far have topped \$226,850 and are continuing.

Meanwhile, the defendants, in addition to contesting her negligence suit, allege that her claims are also time-barred under the Limitation Act.

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