

Pa. Superior Court panel affirms \$2 million-plus award against HUP, doctor in med mal case

10/9/2012 5:09 PM By Jon Campisi

A three-judge state appellate court panel has affirmed a Philadelphia jury's decision to



Pennsylvania Superior
Court Judge Jack A.
Panella

award more than \$2 million to the parents of a 17-month-old child who died as a result of complications that had developed following the baby's birth.

Kyra Hatwood and David Jacobs had sued the Hospital of the University of Pennsylvania and two of its doctors over allegations that the defendants' collective negligence led to the couple's child, Hyseem Jacobs, dying 17 months after he was born via caesarean section.

Following his birth, the boy required resuscitation due to a hypoxic ischemic brain injury, an injury that subsequently caused the child to develop cerebral palsy and associated respiratory and neurological conditions, according to background information on the case.

The boy eventually died from complications relating to his cerebral palsy.

The parents filed a medical malpractice suit against the hospital and two physicians after the youngster's death.

The trial court granted non-suit on the plaintiffs' claims against one of the doctors, but on Feb. 14, 2011, following a two-week jury trial, the couple was awarded \$2,154,583.

The two remaining defendants, the hospital and Dr. Peter Chen, filed post-trial motions, which were ultimately denied by Philadelphia Common Pleas Court Judge Frederica Massiah-Jackson on Oct. 18, 2011.

The defendants then appealed to the state Superior Court.

The hospital and doctor contend that the trial court erred as a matter of law or abused its discretion in charging the jury that it could award damages under the Wrongful Death Act for the plaintiffs' loss of the society and companionship of their child; that the trial court erred in failing to grant a new trial where the jury's verdict was against the great weight of evidence presented at trial; that the court erred in failing to grant judgment or a new trial where the plaintiffs offered no evidence upon which the jury could conclude that any allegedly negligent conduct by the hospital's nurses or doctors caused an injury for which recovery was permitted in the matter; and other errors.

On the first alleged error, the Superior Court panel wrote that while the hospital and Chen assert the plaintiffs failed to adduce sufficient evidence at trial to support a damage award for loss of society and companionship, Pennsylvania law has never required proof of such damages “to a mathematical certainty.”

“This Court has long held that the evidence necessary to establish damages is no more than ‘the best evidence available,’” the ruling states.

The panel wrote that while some circumstantial evidence presented at trial, such as testimony by family members about their respective care for the now-deceased child, was “far from definitive, we conclude that no better evidence was available to [plaintiffs].”

“Thus ... this evidence, as the best available, was sufficient to allow the jury to utilize its ‘common inheritance’ to assign a value to Hyseem’s life,” the ruling states. “Accordingly, we can discern no error in the trial court’s instructions to the jury regarding the damages available under the [Wrongful Death] Act, and therefore no relief is merited on appeal for these issues.”

The three-judge panel went on to write that they see no merit in the arguments for relief in any of the other issues raised by the defendants on appeal.

The ruling goes on to quote from Common Pleas Court Judge Massiah-Jackson’s memorandum denying the defendants’ motion for post-trial relief, which stated, in part: “These plaintiffs presented ample evidence for the jury to conclude that the conduct of Dr. Chen, ... and the nurses at HUP deviated from the appropriate standards of care and that their conduct increased the risk of harm and caused the harm to Baby Hyseem.”

The appellate panel stated that it finds no error in the trial court judge’s analysis.

“As we conclude that none of HUP’s and Dr. Chen’s arguments on appeal merit relief, we affirm the judgment,” the panel wrote.

The appellate decision was written by Superior Court Judge Jack A. Panella.

The other judges who participated were Superior Court President Judge Correale F. Stevens and Judge Susan Peikes Gantman.

(Visited 28 times, 6 visits today)

Comments are closed.