

Judgement on Medical Negligence, 2018

While researching on medical negligence precedents for a case, came across a judgment *Malay Kumar Ganguly vs. Sukumar Mukherjee AIR 2010 SC 1162* wherein Supreme Court has observed that it is well- settled that if representation is made by a doctor that he is a specialist and ultimately it turns out that he is not, deficiency in medical services would be presumed.

The above judgement refers to an earlier judgement passed by the Supreme Court in *Smt. Savita Garg v. The Director, National Heart Institute (2004) 8 SCC 56*, where the Supreme Court had opined that *It is the common experience that when a patient goes to a private clinic, he goes by the reputation of the clinic and with the hope that proper care will be taken by the Hospital authorities. It is not possible for the patient to know that which doctor will treat him. When a patient is admitted to a private clinic/ hospital it is hospital/ clinic which engages the doctors for treatment....They charge fee for the services rendered by them and they are supposed to bestow the best care.*

The Supreme Court in the above judgement also observed that a patient would feel the deficiency in service having regard to the **cumulative effect** of negligence of all concerned. The Supreme Court has further observed that the negligence on the part of each of the treating doctors as also the hospital may have been contributing factors to the ultimate death of the patient and that the court must deal with the consequences the patient faced keeping in view the cumulative effect.

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