

DORCUS NZIMANDE V THE MEC FOR HEALTH, GAUTENG

CASE NUMBER 44761/2013

SUMMARY

- A baby girl was born to the Plaintiff by caesarean section.
- After the procedure the Plaintiff was informed that the baby had been cut on the left arm during the procedure.
- The Plaintiff was only allowed to see the baby after day three after she had been informed that the child is screaming with hunger.
- The baby was in an incubator which had not been switched on, the baby was not on a drip and the wounds on her arm had not been treated or dressed – she had simply been neglected.
- The wounds were cleaned and dressed upon the Plaintiff's request and she was later informed that an operation would have to be performed to suture the wounds.
- Despite the operation the wounds became infected and it took three months for the condition to heal.
- During this time the Plaintiff also developed complications – three days after the operation her wound began to bleed.
- She too was informed that another operation had to be performed on her – she had to wait nine days before the wound was cleaned and closed in another operation.
- During this time her stomach became swollen and grew hard, she suffered fever, anguish and discomfort.

- The action is based on a claim for damages based on the alleged negligence of the hospital staff – both the doctors and nurses.
- The Court enquired whether the principle of *res ipsa loquitur* could be applied to the present set of facts. This rule can seldom, if ever, be applied to establish medical negligence.
- The principle is here applied against the factual backdrop. The strong *prima facie* case becomes proof on a balance of probabilities once again it remains unanswered.
- Specific and general damages awarded.