

**IN THE SEYCHELLES COURT OF APPEAL**

**[Coram: F. MacGregor (PCA) , S. Domah (J.A) , M. Twomey (J.A) ]**

**Civil Appeal SCA 05/2013  
(Appeal from Supreme Court Decision CS 79/2010)**

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Dorothy Nanon  
Dyson Alcindor

Appellants

Versus

The Health Services Agency  
Ministry of Health  
Government of Seychelles

Respondents

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Heard: 10 December 2015

Counsel: Ms Lucy Pool for the Appellants

Mr. Hermanth Kumar for the Respondents

Delivered: 17 December 2015

**JUDGMENT**

**F. MacGregor (PCA)**

[1] This is an appeal against the judgment of Judge Dodin, delivered on 6<sup>th</sup> February, 2013 in a civil claim between the parties.

[2] The background of this matter was that in the early hours of 19<sup>th</sup> September, 2009, the 1<sup>st</sup> appellant was in labour. She was taken to the Seychelles Hospital by her co-habitee, the 2<sup>nd</sup> Appellant. She was admitted to labour. At 0706 hours, she delivered a baby who died moments later.

- [3] On 20<sup>th</sup> September, 2009, the appellants were issued with a birth notification of a ‘live female infant’.
- [4] The same day, the 1<sup>st</sup> appellant was discharged from the Hospital. Her discharge summary noted that she had given birth to a baby, who had suffered neonatal death.
- [5] On 24<sup>th</sup> September, 2009, the Hospital issued the bereaved parents with another birth notification for “stillborn female infant”.
- [6] Appellants were dissatisfied with the turn of events and considered that the servants of the Ministry of Health Services responsible for their care, had been negligent in handling the 1<sup>st</sup> appellant during her delivery and issuing varied administrative paperwork thereafter. They approached the Supreme Court and alleged negligence on the part of the respondents in handling the 1<sup>st</sup> appellant. They further claimed damages in lieu of the said negligence. Moral damages for the loss of the baby R 800,000 and special damages of R 4, 215. A total of R 804, 215. The Supreme Court after hearing both parties however dismissed the claim of negligence and consequently the claim for damages failed.
- [7] They approached this Court to appeal the whole decision of the Court a quo. Based on the grounds of appeal, the appellants set out their arguments on five points, namely;
- i. The action was brought under the Principles of “faute” under Articles 1382 and 1383 of the Civil Code of Seychelles. The learned Judge erred in applying English law and principles to determine the outcome of the case.
  - ii. The learned Judge was wrong to hold that the Plaintiffs did not call expert evidence to support their claim, that the defendants or any one of them, knowing that no such experts at Victoria Hospital were at the disposal of the Plaintiffs. The learned Judge had previously refused an application for the

