Kalea v Attorney General

Summary

Court:	High Court of Malawi
Registry:	Civil Division
Bench:	Honourable Justice Mkandawire
Cause Number:	[1993] 16(1) MLR 152 (HC)
Date of Judgment:	July 27, 1993
Bar:	Nyirenda, Counsel for the Plaintiff Chanthunya, Counsel for the Defendant

The Plaintiff, Rosemary Kalea, aged 30 at the material times, brought an action against the Defendant for damages arising from alleged medical negligence during a caesarean section. She claimed for general damages for pain and suffering and the loss of amenities of life, due to alleged negligent conduct, and she further prayed for special damages for the additional costs incurred as a result of the negligence

PLOG PLOG PLOG PLOG

The facts of the case were that, when the Plaintiff, with a history of suffering from Hemiplegic Migraine, was about 36 weeks pregnant, she was admitted to the Queen Elizabeth Central Hospital after suffering from severe headache, excessive fluid tissue (oedema) and a rise in blood pressure. Due to her deteriorating condition, a caesarean operation was conducted on her, after examinations by Dr Chiphangwi on her revealed that enciampsia was imminent. She delivered a baby girl and due to her condition, she was later admitted for 10 days. She experienced heavy bleeding for three days after giving birth, which then suddenly stopped. On the fourth day, she developed a fever, body aches, and a headache. Her condition was initially misdiagnosed as malaria and then as a migraine by two different doctors, despite her repeatedly mentioning the sudden cessation of lochia. No proper postnatal examination was performed.

The Plaintiff herein was later discharged but had to return to the hospital multiple times after passing a large blood clot and experiencing a strange vaginal sensation. Each time, she was sent home after being told nothing was wrong. When her condition worsened, she decided to consult another hospital, the Adventist Health Centre. She met Dr Mataya who, after an abdominal examination, informed her that he suspected the retention of products of conception and suggested an evacuation. She had to undergo multiple subsequent operations to remove placental tissue that had been left in her uterus, ultimately resulting in a hysterectomy. She had to visit various hospitals, including a trip to South Africa for her well-being to be restored. Further, the Plaintiff also developed psychological problems as a result of her ordeal. The Court considered whether the medical staff at Queen Elizabeth Central Hospital, being a government hospital had been negligent in their care, specifically in their conduct of the caesarean section, their post-operative care, and their

Generated from PLOG on January 15, 2026

maintenance of medical records.

The Court held that the Defendant’s medical staff had been negligent, consequently, holding that the hospital was negligent. The Court found that leaving placental tissue in the uterus after an operation was prima facie proof of negligence, shifting the burden of proof to the Defendant to demonstrate that the damage would have occurred even without their negligence. The Court also found that the medical staff had a duty to keep proper records and to provide adequate post-operative care, including informing the Plaintiff of her condition. The failure to do so constituted a breach of duty. The Court made an award of K100 000-00 for general damages, and K3 306-80 and R745-00 for special damages.

Generated from PLOG on January 15, 2026