

# 胎盤早期剝離造成後遺症因果關係之認定

Identifying the Causality between Early Placenta Abruption and Its After-Effects

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## 摘要

產婦X1於被告醫院就診並服用安胎藥（Ritodrine）。分娩當日，X1兩次致電被告醫院有下腹痛與嘔吐症狀，且經被告A醫師指示用藥後仍未改善。當日7時X1抵達醫院，7時10分A醫師進行一般性檢查；7時20分助產士未能成功安裝分娩監測裝置，故25分由A醫師親自安裝並以超音波監測胎兒心率，30分發現胎兒心率嚴重過低。7時45分A醫師仍投與安胎藥卻未改善症狀，8時整懷疑是胎盤早期剝離而決定緊急剖腹。8時45分剖腹產出胎兒X3，但其已心跳停止，經急救後恢復心跳，卻因腦性麻痺等後遺症而需他人全日照顧。產婦X1、其夫X2與嬰兒X3起訴A醫師，認其有過失。法院

關鍵詞：分娩監測裝置（fetal monitoring device）、因果關係（causality）、胎盤早期分離（placenta abruption）、損害賠償（compensation for damage）、醫療過失（medical negligence）

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認為，A醫師確實未能即時使用分娩監測裝置、未能盡早決定緊急剖腹而有過失；惟投與安胎藥是為了緊急剖腹，故其無過失。法院亦認為A醫師過失與X3後遺症並無因果關係，但仍有減輕X3後遺症之可能性，而仍判A醫師應賠償原告之損害。

A pregnant woman X1 was seen by the hospital as a defendant and was administered Ritodrine, an antiretroviral drug. On the day of delivery, X1 called the hospital twice with symptoms of lower abdominal pain and vomiting, which didn't improve despite of the instruction of physician A as a defendant to administer medication. X1 arrived at the hospital at 7:00 on the day of delivery; at 7:10, A performed a general examination; at 7:20, the midwife failed to install the fetal monitoring device, so A installed a ultrasound monitoring device at 7:25 by himself to monitor the fetal heart rate, which was found at 7:30 to be grossly inadequate. At 7:45, A administered antitussive medication and yet the symptom couldn't be improved; at 8:00, an emergency cesarean section was ordered for suspected placenta abruption. At 8:45, the cesarean section was performed to deliver the fetus X3, who was in cardiac arrest and resumed cardiac arrest after resuscitation, but required full-time care due to the cerebral and other sequelae. Maternity X1, her husband X2 and the baby X3 sued A for medical negligence consequently. The court held that A was negligent for failing to install the fetal monitoring device immediately and for failing to decide on an emergency cesarean section as soon as possible. On the other hand, it was for the emergency cesarean section to administer the Ritodrine and there was no negligence. Furthermore, the court held that even though there was no causality between the negligence of A and the sequelae of X3, there might be

possible to mitigate it if A didn't practice negligently. A had to compensate the damage of the plaintiffs therefore.

## 壹、事實概要

### 一、事件概要

產婦原告X1在被告Y經營的醫院接受A醫師接生，因胎盤早期剝離，造成新生兒原告X3腦性麻痺等嚴重後遺症。X1、產婦夫原告X2及X3，以醫師延誤診斷及延遲進行剖腹產等，提起損害賠償之訴。

X1於1998年4月開始於被告醫院就診，並服用安胎藥（Ritodrine）。X1於1998年5月26日（懷孕35週5天）分娩當日的病狀和主治A醫師的醫療處置如表1。根據出生後隔日進行的胎盤病理組織診斷，確認X1發生了胎盤早期剝離。X3目前仍因腦性麻痺等嚴重後遺症，需要他人全面協助進行進食、排泄、體位轉換等日常生活活動。

### 二、原告主張與爭點

原告主張有三：（一）到院後未能立即使用分娩監測裝置等來測量胎兒心跳是否有過失？（二）在確認胎兒心跳緩慢時，未能立即決定執行剖腹產手術是否有過失？（三）投與安胎藥是否合適，是否使胎盤早期剝離的病情惡化？

### 三、判決經過

東京地方法院（2002年5月20日）判決，Y須支付原告X3共660萬日圓的賠償金（含600萬日圓的慰問金、60萬日圓律師費）以及自1998年5月26日分娩日起至清償日止，按年息5%計算之利息。