

新生兒於袋鼠護理期間 缺氧致腦性麻痺

Cerebral Palsy Due to Hypoxia During
Kangaroo Care for Newborns

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摘要

原告X1於被告Y醫院出生，並進行袋鼠護理。然助產師發現X1血糖偏低而中止袋鼠護理，並給與其葡萄糖液而非靜脈點滴，嗣後再由其母X2繼續袋鼠護理。半小時後，X1心肺停止，而因缺氧性腦症致重度腦性麻痺後遺症。X1之父母主張被告對X1的低血糖未進行適當處置，未告知袋鼠護理的風險告知，亦未於袋鼠護理期間由機器或人員持續監測。法院認為，X1並未出現低血糖致心肺停止的典型症狀，難認其死因與低血糖有關；又袋鼠護理並未急遽增加嬰兒風險，則非醫療行為，故被告並無義務詳細告知在袋鼠護理中可能發生的各種風險、注意事項及實施方法等；最後，考量X1出生時為健康狀態，袋鼠護理亦非增加其風險，故以機器或人員監視袋鼠護理非當時一般醫療水準。

Plaintiff X1 was born at the hospital Y as the defendant and

關鍵詞：告知義務（duty to disclosure）、侵權行為（tort）、袋鼠護理（kangaroo care）、醫療水準（medical standard）、醫療過失（medical negligence）

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underwent the kangaroo care. it was discontinued when the midwife realized that X1 was hypoglycemic and he was given glucose solution instead of an intravenous drip, and the kangaroo care was then continued by his mother X2. Half an hour later, X went into cardiorespiratory arrest and suffered severe cerebral palsy as a result of anoxic encephalopathy. X1's parent claimed the defendant failed to adequately address X1's hypoglycemia, failed to disclose the risks of the kangaroo care, and failed to monitor X1's condition continuously by machine or personnel during the kangaroo care. The court held that X 1 didn't show the typical symptoms of hypoglycemia resulting in cardiopulmonary arrest, and it was difficult to recognize that the cause of his death was related to hypoglycemia; since the kangaroo care didn't drastically increase the risk to infants, it was not a medical practice, and therefore the defendant didn't have any obligation to disclose in detail of the various risks, precautions and the methods of implementation that might occur during kangaroo care. Finally, considering that X1 was born healthy and the kangaroo care didn't increase his risk, monitoring it with machines or personal was not the usual medical standard at the time.

壹、事實概要

一、事件概要

原告X1在被告Y經營的醫院出生，於袋鼠護理期間心肺停止，致重度腦性麻痺後遺症。X1之母X2、父X3主張Y或其職員未提供適當的說明就開始袋鼠護理，未對低血糖進行適當處置，過程中未提供適當的經過觀察等，要求Y支付215,635,455

日圓的損害賠償金，及從不法行為起算日起至清償日止按年利率5%計算的遲延損害金。「袋鼠護理」(Kangaroo Care)是一種早期親子接觸的方式，鼓勵母親或父親將新生兒抱在胸前，透過皮膚接觸提供溫暖和安全感，研究顯示這對嬰兒和父母皆有好處。

X2於2011年1月某日上午9時，在Y醫院的LDR產房（指從分娩到產後恢復皆在同一房間同一張床完成，也是進行袋鼠護理的房間）透過自然分娩產下健康的足月嬰兒X1。X1經過體重等的測量和採血後，由助產師帶到X2所躺臥的分娩台上，於上午9時15分開始進行袋鼠護理。此時助產師發現X1的血糖值為偏低的28mg/dl，於上午9時17分將X1先抱回新生兒保溫箱，給予5%葡萄糖液10ml，隨後於上午9時25分將X1抱回，繼續袋鼠護理。上午9時55分，X1面色蒼白，四肢發紺，陷入心肺停止，後因缺氧性腦症致重度腦性麻痺後遺症。

二、雙方主張

（一）未對低血糖進行適當處置

原告方主張：X1出生時的血糖值為相當低的28mg/dl，根據G醫師之鑑定意見書指出，X1陷入嚴重低血糖症，自主神經功能失調，導致肌肉弛緩逐漸增強，呼吸運動抑制，氣道閉鎖（窒息），最終引起低氧血症致心肺停止。助產師在發現原告A的血糖值為28mg/dl時，有責任立即開始給與葡萄糖液的靜脈點滴治療。然而助產師只讓X1喝了5%葡萄糖液10ml，並未給予葡萄糖的靜脈點滴，也未將低血糖視為危險因子暫停袋鼠護理，明顯失職。

被告方主張：X1的急變並非由低血糖引起，而是原因不明的突發性心肺停止引起的缺氧性腦症，或特發性ALTE（可疑原因的嬰兒死亡症候群）。出生後數小時內的短暫性低血糖很常見，健康的足月嬰兒通常在出生後2~3小時內血糖值會自