

# Reforms needed in how high-risk cases are handled, says MMA

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PETALING JAYA: Reforms are needed in the handling of medical procedures involving high-risk patients, says the Malaysian Medical Association (MMA), following two court judgments on medical negligence which awarded millions to the claimants.

MMA president Dr Muruga Raj Rajathurai said while the decisions were respected, the association was concerned about the nature of how litigation is progressing in Malaysia.

He said there had been a shift of doctors, especially those involved in high-risk specialities such as obstetrics, neurosurgery and spine surgery among others, who were now unwilling to be involved in the care of high-risk patients.

As a consequence, patients were deprived of care from some of the most senior consultants in the field on the basis of the unwillingness of parties, especially the next of kin, to accept risks associated with the procedures, he said in a statement on Monday (July 31).

"We refer to two High Court judgments published in the media recently: one involving a three-year-old girl who was left paralysed after Caesarean birth and another case involving a woman and her four-year-old daughter who suffered severe and irreversible brain damage during birth.

"No amount of monetary compensation can completely heal an injured party or their aggrieved next of kin.

"We understand the costs involved in recovery and rehabilitation that are in the thousands and take years to manage," he said.

In a court judgment on July 5, a three-year-old girl was awarded more than RM5.6mil by the High Court in a medical negligence lawsuit.

The girl, born on May 12, 2020 via Caesarean section at a public hospital, suffered spinal cord injuries following complications from the surgery, which left her paralysed from the neck down.

On July 6, it was reported that the High Court awarded more than RM8mil to a woman and her four-year-old daughter who suffered severe and irreversible brain damage during the child's birth at a government hospital in March 2019.

Dr Muruga Raj said high-risk patients were usually referred to public hospitals, adding to the workload of the specialists there.

Inevitably, there was only so much a consultant could do to oversee high-risk cases in the public sector, he said, adding that the workload was demanding and it was inevitable that doctors with a wide range of experience and expertise would be involved in the care of the patient.

"Such is the nature of the workload in public hospitals.

"At times, mistakes and complications can happen due to the sheer volume of work undertaken.

"The question is, where do we go from here? Lawsuits with high payouts will lead to higher cost of professional indemnity insurance in the long run.

"The cost of this will no doubt be passed on to the patients thus leading to healthcare costs rising," he said.

Dr Muruga Raj said Malaysia could draw examples from Singapore, which recognised this as a problem in 2016 and worked with the Singapore Medical Council and various stakeholders to address the issue head-on.

He added that the MMA as well as other professional societies had spoken about this multiple times to various stakeholders from the executive, legislative and judiciary components of the government of the day.

Among the reforms proposed include mandatory mediation where decisions in favour of the injured patients could be made much quicker compared to pursuing a decision via litigation, he said.

"Another proposal that has been talked about is the concept of no-fault compensation where the outcome of the settlement is not about blaming any parties but to look into ways to assist the parties that are injured towards some form of normality," he said.

There was also a need to identify more doctors with the relevant expertise to come forward to offer expert opinions to assist the courts, he said.

Due to the protracted nature of trials that could potentially take years to come to a decision, many doctors tended to shy away from being involved in offering their expertise, said Dr Muruga Raj.

"The time for speaking about these issues in various forums and meetings is over.

"We now need to press ahead with reforms that have been proposed over the years and come up with actions, (to arrest) the slide into dangerous territory," he said.