

Headline **Positive end to 10-year ordeal**
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Positive end to 10-year ordeal

Hospital to pay RM150,000 for wrongly diagnosing patient as having HIV

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GEORGE TOWN: For nearly 10 years, a former salesman was in hiding and severed contact with his family as he fought a court battle with a hospital which misdiagnosed him as HIV positive in 2001.

The first thing A. Nageswara (*pic*) did, after Judicial Commissioner Vazeer Alam Mydin Meera ordered Adventist Hospital and Clinic Services (M) Bhd to pay him RM100,000 for medical negligence and RM50,000 for defamation, was to call his wife.

"I finally contacted my wife and our daughter, who is now 25 years old.

"My daughter was happy to hear from me but my wife was initially cautious, wondering why I was calling her after staying away for so long.

"I told her that I was finally at ease as my court case was nearing its end, and that various blood tests had proven that I was not HIV positive," he said, adding that he had yet to speak to his four sons aged between 17 and 22.

The High Court yesterday found Penang Adventist Hospital negligent in conducting the unnecessary HIV test on the 54-year-old, who was warded for a chest injury in 2001.

It also found that the hospital had defamed him when it wrote to his insurance company informing them that he was HIV positive.

The court also ordered the hospital to pay costs amounting to RM10,000 but did not grant Nageswara, who was represented by counsel K. Kumarathiraviam, any special, aggravated and exemplary damages.

Outside the courtroom, a relieved Nageswara said he would be giving the bulk of the money to his family.

"I will be spending it on them as I have not given them anything for more than nine years," said Nageswara, now unemployed.

In his claim filed on Jan 31, 2005, Nageswara, from Sungai Petani, said he was warded at the hospital on April 19, 2001, for a chest injury due to a fall.

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He said two doctors informed him that his blood tested positive for HIV. Miserable and humiliated, he ran away from the hospital on April 21.

Nageswara said he lived in misery in Kuala Lumpur for more than six months before he underwent further blood tests at two medical laboratories which confirmed that he was HIV negative.

He wrote to the hospital on Jan 3, 2002, and it replied on April 8 that his blood sample was tested by Gribbles Pathology (M) Sdn Bhd using the Western Blot Assay method.

Nageswara said he underwent

four more blood tests from July 28, 2002 to Nov 18, 2003 and was found to be HIV negative.

He said the hospital had informed third parties, including his family, friends and employer, that he was HIV positive, and had libellously written to Great Eastern Life Assurance (M) Bhd on Oct 9, 2001.

In its defence, the hospital said Nageswara's blood test was conducted by Gribbles Pathology, which was an independent contractor, and not the hospital's agent or employee.

It said it was carrying out its responsibility as a concerned hospital by informing Nageswara's family

why he had run away.

