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RM150,000 award for wrong HIV diagnosis and defamation

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GEORGE TOWN: A former salesman has been awarded RM150,000 because a private hospital wrongly diagnosed him as HIV-positive and also defamed him by telling others of the condition.

The High Court awarded A. Nageswara, 54, general damages of RM100,000 for medical negligence, RM50,000 for defamation as well as the cost of RM10,000. The court, however, did not allow Nageswara's claims for special, aggravated and exemplary damages.

In handing down his decision yesterday, Judicial Commissioner Vazeer Alam Mydin Meera said Adventist Hospital & Clinic Services (M) Bhd was negligent in conducting a HIV test on Nageswara "when it was not necessary, as the plaintiff had gone to the hospital merely complaining of chest pain".

On the issue of defamation, he said the hospital had written to the insurance company that Nageswara was HIV-positive, and the publication amounted to defamation.

In his statement of claim, Nageswara from Sungai Petani, said he was admitted to the hospital on April 19, 2001 after injuring his chest. Several doctors treated him and he underwent tests, including a blood test. He said he sought to confirm the HIV test result, but was told it should be accurate.

Nageswara, who was represented by K. Kumarathiraviam, said he left the hospital on April 21, feeling disappointed, ashamed and embarrassed to meet his family, friends and society at large due to his "condition". Six months later, he underwent two tests in Pathology & Clinical Laboratory and the results showed that he was HIV-negative and not a carrier of the virus.

He said the hospital had defamed him by informing third parties, including his family members, friends and employer, that he was HIV-positive.