

## **\$6 million awarded to care for disabled girl**

By Chauncey Ross

Gazette Staff Writer

JANUARY 23, 2001

In a milestone case in the Indiana County Common Pleas Court, a jury Friday awarded \$6 million in damages to a Glen Campbell child who was born prematurely with cerebral palsy.

The panel of 10 women and two men deliberated just over three hours before holding Dr. Sharad Ghate and Indiana Hospital liable for April Nicole Chichy's birth defects. The jury ruled Ghate 75 percent liable and the hospital 25 percent liable for the child's condition.

Although it could not be confirmed, the award is believed to be the largest ever delivered by an Indiana County jury.

Initially, members of the Chichy family sued Ghate, Indiana Hospital and its parent company, Indiana Healthcare Corporation for medical malpractice.

Later, the National City Bank joined the family in the suit. Attorney [Tom Kline](#) said Friday that the Chichys dropped out of the suit, meaning that only the bank will receive and control the money on behalf of Nicole.

"Its sinking in," Michael Chichy, Nicole's father, said of the verdict. "All the money in the world is not going to change Nikki. All it can do is make life a bit easier."

"we'll just go on raising our child, that's all ," said Tabatha Chichy.

Friday morning, jurors watched a videotape that showed Tabatha feeding Nicole and massaging her feet. Kline reminded them that Nicole cannot walk, talk or feed herself and will always be in diapers.

"It couldn't be worse," Kline said. "She knows...she has a mom and dad and sister. She smiles, she cries. She knows some joy but a lot of sadness.

"And she never did nothin' to nobody."

When polled by Judge Gregory Olsen, one juror said she did not agree with the \$6 million award. She said it should have been higher. Two other women, when polled said they did not agree with the 75-25 division of liability but did not explain further.

Kline, of the Kline and Specter law firm in Philadelphia told the jury that Nicole was entitled to up to \$1.5 million for her lost earning capacity, according to an economist's estimate. The economist estimated her life expectancy at about 76 years.

The jury was told that Nicole's medical and custodial care would cost \$66,205 a year for the rest of her life. All attorneys agreed on the amount and called no witnesses to dispute or support it.

Kline also urged the jury to compensate Nicole for pain and suffering, mental anguish, embarrassment, humiliation, disfigurement and loss of life's pleasures.

The jury reported only a lump-sum damage amount and did not explain how it arrived at the figure.

Ghate on Monday had conceded liability for Nicole's birth defects. He testified that he failed to meet the standard of care for Tabatha Chichy while she was pregnant with Nicole in 1995.

Walter Wall, Ghate's attorney, told the jury Friday that Ghate chose to withdraw his defense after testimony had been presented against him.

"That takes quite a bit of courage in a community of this size."

"All of us, as far as I know, are imperfect and deviate from standards in our daily life," Wall said in his closing statement. "I only ask that you make a fair and reasonable decision for my client."

"You should commend Dr. Ghate (for accepting liability)," said John McIntyre, the hospital's defense counsel. "But you won't hear me admit anything. Indiana Hospital did the right thing."

Ghate and Wall, of the Altoona law offices of Meyer Darragh Buckler Bebenek & Eck, had no comment on the verdict.

The lawsuit charged that Ghate diagnosed pre-eclampsia in Tabatha Chichy as she reached the seventh month of pregnancy in May 1995, but he failed to admit her to a hospital so the condition could be monitored.

Pre-eclampsia occurs in pregnant women and its symptoms are high blood pressure, high urine protein levels and retention of fluid, according to the Merck Manual of Medical Information.

On June 3, 1995, an Indiana Hospital technologist found a heightened level of protein in Tabatha's urine but failed to promptly notify Ghate, according to the lawsuit. A reading of 14,199 compared to the normal 300 was a sign that Tabatha's pre-eclampsia had worsened.

Ghate learned of the test result June 5 and summoned Tabatha to the hospital while he kept appointments with other patients in his office, the family charged.

Although Ghate told the hospital nurses during several telephone calls that he would come to see Tabatha, a nurse failed to follow the chain of command to get another physician to care for Tabatha in his absence, the suit charged.

Eventually Ghate ordered Tabatha to be transferred by helicopter to Western Pennsylvania Hospital in Pittsburgh where Nicole was born later that day.

"There is no presumption of negligence just because there was a bad outcome," McIntyre said. "The standard of care is what the professional person should have done,"

In his closing argument, McIntyre said the hospital workers followed the book in caring for Tabatha Chichy.

"Nobody claimed the policies were deficient or not in line with national standards of care. They did what they were supposed to do.

McIntyre, of the Pfaff McIntyre Dugas & Hartye law firm in Hollidaysburg, tried to prove through the testimony of medical expert witnesses that pre-eclampsia developed and harmed the unborn baby over a long period and not in the final days and hours before Nicole was born.

Afterward he declined to comment on whether the hospital may appeal the verdict.