

# Court upholds malpractice suit against Surrey doctor, nurse

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VANCOUVER — B.C.'s Court of Appeal has upheld a malpractice verdict against a Surrey doctor and nurse who were found guilty of negligence in the case of a little girl suffering from severe cerebral palsy.

However, Justice Kenneth MacKenzie also shaved \$140,000 off the \$1,586,000 in damages that B.C. Supreme Court Justice Ian Pitfield had awarded to five-year-old Mirella Rochelle Steinebach after her mom, May Jean Steinebach, successfully sued the Fraser Health Authority (Surrey Memorial Hospital), Dr. Jodi Lock O'Brien and nurse Charito Hermogenes on her

daughter's behalf.

MacKenzie found Pitfield had not sufficiently taken into account the disparity in pay between men and women when he calculated damages for loss of future income.

"It was wholly erroneous for him to conclude on the dearth of evidence before him that the 40 per cent present gap will be almost entirely eliminated and that female earnings will rise to currently projected male earnings," MacKenzie remarked.

Otherwise, the verdict was upheld, with justices Harvey Groberman and Daphne Smith concurring.

Mirella suffers from severe cerebral palsy caused by oxygen deprivation to the brain

attributed to a placental abruption — a separation of the placenta from the wall of the uterus — which occurred some time before her birth.

The abruption cut the oxygen supply to her brain.

Pitfield found "that the negligence of both Dr. O'Brien and nurse Hermogenes caused Mirella's injury" and apportioned 60 per cent liability to the doctor and 40 per cent to the nurse and her employer, the Fraser Health Authority.

"The evidence indicates, and I find, that Mirella's physical injury at birth was catastrophic," Pitfield found. "I cannot quantify the extent to which she will experience pain or discomfort."