

> STAR EXCLUSIVE

Tragic night caused family years of grief

Settlement reached 12 years after baby suffers severe brain damage

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Little Niza Din's 5-month-old body was shutting down after nearly 24 hours in hospital. Her body lay limp and her wails had stopped; the monitor attached to her body flashed.

Her mother, Faiza Din, leaned in to the mask covering her daughter's mouth and nose. She listened and heard faint cries.

Then the nurse came in, took off Niza's mask and brought her to the nursing station, where a respiratory therapist waited. Faiza followed then took Niza back in her arms.

Little Niza took a big gulp of air, then stopped breathing. Her heart stopped beating. Then a Code Pink went over the air at Brampton's William Osler Health Centre that day in April 2001, and a flurry of doctors, nurses and hospital staff rushed in.

Niza's heart would be brought back to life four more times over the following few hours, the family said.

She survived, but they say she is now severely brain-damaged and in need of around-the-clock care.

Last month, more than 12 years after that terrible night, the hospital and the Mississauga family entered a court-approved multimillion-dollar settlement — it will reach nearly \$21 million if she lives to 85 — in the middle of a civil trial at Ontario Superior Court.

SETTLEMENT continued on GT4



Niza Din knows nothing about that night in the hospital. Sometimes she asks about the four fingers she's missing

Settlement may cost hospital up to \$21M

SETTLEMENT from GT1

The hospital denied all allegations, none of which have been proven in court, in its statement of defence. The hospital said it provided reasonable care "consistent with accepted hospital standards" and denied any and all negligence or neglect.

"This is a tragic situation," hospital spokeswoman Cara Francis wrote in an email to the Star. "The outcome has been devastating for the patient and family involved and extremely distressing for the entire care team. We strive for the best patient outcomes in every situation and, as part of our regular processes, we look for ways to improve care in situations where the best health outcome is not achieved."

"For us, delivering patient-inspired health care without boundaries means patients and their families feel supported by us in every interaction," Francis wrote. "Unfortunately, we didn't meet our standards in this case and we have apologized to the family."

The hospital did not want to get into specifics of the case due to "patient privacy."

The Niza case was settled after the third week of trial, when lawyers for the hospital approached the family to begin discussions on a settlement, said the Dins' lawyer, Hilik Elmaliah, of the law firm Sommers and Roth.

The money, \$11,000 per month with 2-per-cent interest compounded annually, will be paid out over the course of their daughter's life, according to the settlement.

Today Niza, now 13, has the intellectual capacity of a 6-year-old, has trouble breathing and will never be able to work, her parents said. She is in need of round-the-clock care.

What happened that night was pieced together from court documents, which include the family's statement of claim, the hospital's statement of defence, the family lawyer's affidavit filed with court after the settlement, as well as exclusive interviews with the family.

In the early evening of April 22, 2001, Niza, the youngest of three children to Faiza and Maqsood Din, was at home with the family. The Dins said their 5-month old daughter sipped just a bit from her bottle around 7 p.m. Her heart was beating rapidly, sweat beading on her brow, and she had a fever — their thermometer read 38.3 C.

And she wouldn't stop crying. So at 2:26 a.m. on April 23, her parents took her to the emergency department of William Osler hospital. An emergency doctor diagnosed Niza with bronchiolitis and ordered a treatment of Ventolin and Atrovent to open up her lungs, according to the affidavit filed by the family's lawyer.

As the doctor wrapped the mask over her mouth and nose, Niza dug her fingers into her mother's arms. "She was in pain and scared," Faiza remembers, recalling that night from their home in Mississauga, near Lake Ontario.

The medication didn't work, the affidavit read. So a doctor ordered a chest X-ray and asked for help from a pediatrician, who diagnosed Niza with "wheezy bronchitis," according to court documents. The pediatrician sent her to the children's floor at 10:45 a.m. and ordered a three-dose regimen of epinephrine (adrenalin) and Ventolin.

A pediatric nurse then examined the little girl and noted Niza had great difficulty breathing, according



ANDREW FRANCIS WALLACE/TORONTO STAR

Niza Din, right, with her parents Maqsood and Faiza, is at constant risk of seizures.

"Sometimes she says, 'I'm so dumb, I can't even write a letter.' It's so heartbreaking."

FAIZA DIN
MOTHER

to the statement of claim. Her trachea pulled to the rhythm of her heart. She grunted constantly as she fought for air. The nurse took the baby's blood pressure for the first time, and the results were troubling.

Medical experts for the Dins later testified at the trial in November that the blood pressure results, known as "wide pulse pressure," were consistent with early septic shock, a systematic shutting down of organs that has a high death rate. At this point, Niza didn't have that diagnosis, the affidavit said.

More time passed and the baby's body continued to fail. By 2:15 p.m. a doctor reviewed her X-rays and diagnosed her with pneumonia in the left lung, not bronchiolitis or wheezy bronchitis, according to the affidavit. Tests soon showed the pneumonia was a bacterial infection and she was started on antibiotics.

Her vital signs weren't measured between 2 p.m. and 4:20 p.m., according to the affidavit, except for having her temperature taken at 3:15 p.m., which showed a significant fever.

Throughout the ordeal, Niza still wouldn't feed.

That's when Maqsood and Faiza talked to nurses and hospital staff about transferring her to SickKids hospital.

"There is something wrong here," Maqsood remembered telling the nurses. "If you can't figure this out, transfer us to SickKids."

By 5:20 p.m., the attending doctor said the little girl was "behaving like sepsis," according to the affidavit. He ordered fluids and "close observation" by nurses, assigning Niza to one nurse — and that nurse's only patient was Niza.

Yet between 8 p.m. and 1:20 a.m. there was nothing noted in her file.

Niza's parents say there were no vitals taken for more than five hours. In its statement of defence, the hospital said that was not the case — the nurse just didn't transfer her notes from her "report sheet."

"The attending nurse recorded her observations and assessments on the report sheet," according to the statement of defence, "however, that evening, since she was busy caring for Niza, she did not have an opportunity to input the data from the report sheet into the computer before Niza's cardiorespiratory arrest."

The Dins said the only time the nurse took Niza's vitals was at the start of her shift at 7:30 p.m., which is noted in the records.

By 9 p.m., Niza's condition worsened. She was awake, but couldn't lift her head anymore. Again, her parents asked to move their daughter to SickKids. That was brushed aside, they say.

At 1:15 a.m. Faiza leaned in to hear if her daughter was still alive. She was, but then her heart stopped for the first time. The ordeal led to a lack of oxygen flow that led to permanent brain damage, but Niza was still alive.

She was eventually transferred to SickKids where, the family says, one doctor told them she had a 98 per cent chance of dying that day. Another doctor told the family that if she did survive, she faced a tough life. He told them she might not be able to see or hear or talk or walk.

"Is there anything left?" Faiza asked the doctor.

Now little Niza Din isn't so little any more. She laughs nervously when a Star reporter and photographer visit the home where she lives with her parents and older brother and sister. Her father, Maqsood, runs his own delivery business while her mother, Faiza, stays home.

Life for Niza has been difficult. Her lungs are severely compromised, and she is at constant risk of seizures.

Niza can see and hear and talk and walk.

But she walks with a limp due to thrombosis in one leg. The ligaments and muscles tighten so badly that she



When Niza was 5 months old in 2001, her body was shutting down.

cannot move it. Botox therapy helps, temporarily paralyzing the muscles and relaxing them, which allows her leg to move properly.

Niza spends a lot of time at a nearby clinic where she does physical and occupational therapy. She must also wear orthotics at all times, even in her slippers at home.

Parts of four fingers fell off because of the circulation problems that night in 2001, the affidavit read. She can talk, but has the intellectual capacity of a child in Grade 1.

It took her six years to learn how to spell her name. Yet now she can write short notes.

"Last night she wrote me a letter asking her to talk to Dad because he wouldn't talk to her," Faiza said of Niza. Scrawled in large letters across the bottom of the letter are the words, "I love you mom."

"But sometimes she says, 'I'm so dumb, I can't even write a letter,'" Faiza says. "It's so heartbreaking."

Niza knows nothing about that night in the hospital. Sometimes she asks about her fingers. Other times she asks if she was sick as a baby.

They tell her some kids are different from others. They tell her she was sick as a baby, but went to the hospital and got better. It's a lie they tell her so she isn't devastated.

"We're trying to put it off as long as possible," Maqsood says, rubbing his face. "You try to do your best to feed her a little information, but not too much."