Law lords give the go ahead for creation of “saviour siblings”

Clare Dyer *legal correspondent, BMJ*

The United Kingdom's highest court last week gave the go ahead for the creation of “saviour siblings” to give umbilical cord, blood, or bone marrow to try to save the life of a brother or sister. Five judges in the House of Lords unanimously ruled that the law that set up the Human Embryology and Fertilisation Authority gives the authority the power to licence, alone or separately, both preimplantation genetic diagnosis and tissue typing on embryos used in treatment for in vitro fertilisation.

The ruling, upholding an appeal court judgment in April 2003, removes all doubt for Raj and Shahana Hashmi, who have been trying to produce a sibling with the same tissue type as their son Zain, aged six, who was born with β thalassaemia major. The couple, from Leeds, have so far had six unsuccessful attempts at in vitro fertilisation, but each time they either failed to produce an

embryo of the right tissue type or the pregnancy ended in a miscarriage.

The case was taken to the House of Lords by Josephine Quintavalle and her campaigning group, Comment on Reproductive Ethics (CORE), who argued that the Human Embryology and Fertilisation Authority had no power to licence the creation of a baby to save the life of another.

The arguments hinged on the wording of the Human Fertilisation and Embryology Act 1990. Lawyers for Mrs Quintavalle, who had won her case in the high court before the judge's ruling was overturned by the appeal court (*BMJ* 2003;326:782), argued in the House of Lords that the act's wording allowed the authority to licence preimplantation genetic diagnosis but not tissue typing.

But the law lords decided that the authority's discretion was wide enough even to allow the selec-

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tion of an embryo's characteristics on social grounds, although it was unlikely that such a licence would be granted. Lord Hoffmann said that the technique of taking a single cell from an embryo and testing it for genetic disorders and tissue compatibility was “a way to save the Hashmi family from hav-

ing to play dice with conception.” He noted that parliament had said nothing about, for example, sex selection.

“In my opinion the only reasonable inference is that parliament intended to leave the matter to the authority to decide.” □

Dutch approve euthanasia for a patient with Alzheimer's disease

Tony Sheldon *Utrecht*

The Netherlands' first reported case of a doctor complying with a request for assisted suicide from a patient with Alzheimer's disease was lawful, a report has said.

The case was reported to the Netherlands' assessment committee system, which consists of five regional committees and checks whether doctors have followed the requirements of the law. If members of the relevant committee judge that the legal requirements have been met, they do not forward the case to the public prosecution service.

Committee members have

defended their decision, maintaining that approval for the case did not show that the country was on a “slippery slope” towards a general acceptance of euthanasia for cases of Alzheimer's disease.

The case emerged in the 2004 annual report of the five committees of doctors, lawyers, and ethicists to whom doctors must report euthanasia. The committees judged that four out of 1886 cases of euthanasia and assisted suicide in 2004 failed the legal requirements, and, as the law requires, forwarded these to the public prosecution service.

But, in contrast, the case of a patient with Alzheimer's disease was considered to have met requirements as a “well-considered and voluntary request” to die. The patient was also considered to be “suffering hopelessly and unbearably,” which is another of the criteria that makes euthanasia lawful.

The committees' report states that, in general, patients with Alzheimer's disease could not always comply with the requirements but that “in specific circumstances” they could. The 65 year old patient had had Alzheimer's disease for three years. Since his diagnosis he had said that he did not wish to endure the full course of his illness and had in the previous year repeatedly asked for help to commit suicide.

The doctor judged him to be suffering unbearably. He was

conscious that he could no longer function independently and faced the future prospect of increasing dementia.

A second opinion from a doctor trained through the national support and consultation with euthanasia programme, however, did not recognise such suffering. This doctor argued that the patient's awareness of his suffering would decline as the disease progressed and doubted that the patient was competent to express his wishes.

Further consultations with a psychologist, a nursing home doctor, and a gerontopsychiatrist, however, all concluded that the patient was suffering unbearably because he was conscious that the disease was removing control over his life. They believed too that he remained competent. □