



MEDICAL NEGLIGENCE IN INDIA: LEGAL FRAMEWORK AND JUDICIAL APPROACH

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INTRODUCTION

Medical negligence refers to the failure of a healthcare provider to exercise an appropriate level of care, resulting in patient harm. In India, the issue of medical negligence has garnered significant attention in recent years due to the rising number of medical malpractice claims. The interplay between legal frameworks and judicial interpretations has shaped the landscape of medical negligence law in the country.

LEGAL FRAMEWORK

The legal framework governing medical negligence in India is primarily derived from the following sources:

Common Law Principles: Medical negligence falls under the domain of tort law, primarily governed by common law principles. The foundational case of **Bolam v. Friern Hospital Management Committee (1957)* established the "Bolam test," which asserts that a medical professional is not liable if they act in accordance with the standards set by a responsible body of medical opinion.

Consumer Protection Act, 1986: The landmark amendment to this Act in 2009 included medical services under the definition of 'consumer goods', thus allowing patients to file complaints against doctors and hospitals for deficiency in services. The Act facilitates easier access to justice for patients by enabling them to approach consumer forums.

Indian Penal Code, 1860: In certain cases, medical negligence may attract criminal liability under Section 304A of the IPC, which deals with death caused by negligence. It states that

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causing death by negligence is a punishable offence, although criminal prosecutions in medical negligence cases are rare.¹

Medical Council Regulations: Medical professionals are also governed by the standards set by the Medical Council of India (MCI) and various State Medical Councils. Violations of these standards can lead to disciplinary actions.

JUDICIAL APPROACH

The Indian judiciary has played a crucial role in evolving the law about medical negligence. The following cases illustrate the judicial approach:

Jacob Mathew v. State of Punjab (2005): This case reaffirmed the "Bolam test" in Indian jurisprudence. The Supreme Court emphasised that a medical practitioner cannot be held liable for negligence if they act in conformity with the standards of a reasonably competent peer.

Vishakha v. State of Rajasthan (1997): Although primarily focused on sexual harassment, this case highlighted the need for guidelines in the medical field, reinforcing the duty of care owed by medical professionals to their patients.

Laxman Balkrishna Joshi v. The State of Maharashtra (1969): In this case, the Supreme Court outlined the duty of care owed by medical professionals and acknowledged that even the most skilled practitioners may make errors. The Court ruled that negligence can be established not by mere error but by failing to uphold the standard of care that a reasonably competent practitioner would exhibit in similar circumstances.

A.S. Mittal v. State of U.P. (1990): This case dealt with the issue of performing surgeries without obtaining informed consent. The Supreme Court asserted that informed consent is a crucial element in medical treatment, as it respects the autonomy of patients. Failure to obtain informed consent can constitute negligence.

ETHICAL CONSIDERATIONS

In addition to legal liabilities, medical professionals must adhere to ethical standards set forth by the MCI. Codes of ethics govern the conduct of physicians and mandate the importance of informed consent, patient confidentiality, and continuous professional development.

¹ <https://www.livelaw.in> BHARATIYA NYAYA SANHITA (BNS) 2023: bns

CHALLENGES AND FUTURE DIRECTIONS

Despite the existing legal framework, several challenges persist in addressing medical negligence in India, including:

High Burden of Proof: The necessity for patients to provide substantial evidence of negligence can deter many from filing claims.

Awareness and Accessibility: There is a lack of awareness among patients regarding their rights and the remedies available in case of medical negligence.

Judicial Delays: Prolonged legal proceedings often discourage patients from pursuing justice.²

Greater awareness programs, simplification of legal processes, and prompt resolution of cases are essential to enhance access to justice for patients. Additionally, continuous medical education and training for healthcare professionals are crucial to mitigate negligence.

LANDMARK CASES

Jacob Mathews vs. State of Punjab (2005): This landmark Supreme Court case involved a doctor who was accused of negligence for not diagnosing a serious medical condition. The court held that medical professionals should be judged by the standard of care expected from an average qualified doctor, not by the highest standards. It clarified that negligence must be established through evidence of deviation from accepted medical practices.

Impact: This case set a precedent in defining the standards of care and established the criteria for determining negligence.

Indian Medical Association vs. V.P. Shantha (1995): In this case, the Supreme Court ruled that doctors could be held liable for negligence under the Consumer Protection Act. It was determined that medical services provided by doctors and hospitals fall within the definition of "service" under the Act, which meant patients could file complaints against healthcare providers.

Impact: This judgment opened the doors for patients to seek redress under consumer laws, making it easier to claim compensation for medical negligence.

² <https://www.scconline.com>

M.C. Mehta vs. State of Tamil Nadu (1997): While not strictly a medical negligence case, this case highlighted the responsibilities of hospitals and healthcare providers in ensuring proper medical care. It dealt with environmental hazards affecting a public health facility, and the Supreme Court emphasised the need for hospitals to maintain good standards.

Impact: This case reinforced the principle that healthcare providers have a duty to ensure safe medical practices and can be held accountable for neglecting environmental health.

A.K. Prabhakar vs. R. S. Venkatesh (2009): In this case, a patient sued a doctor for failing to diagnose a tumour, which led to severe complications. The court found the doctor negligent for not conducting necessary tests and awarded damages to the patient.

Impact: Reinforced the obligation of medical professionals to conduct adequate tests and follow proper diagnostic protocols.

Poonam Verma vs. Ashwin Patel (1996): In another landmark judgment, the Supreme Court upheld that negligence can be proven if the physician fails to follow standard medical procedures. In this instance, a doctor was held responsible for the death of a patient due to improper treatment during childbirth.

Impact: This case illustrated the importance of maintenance of records and proper communication between doctors and patients, emphasizing of failing to adhere to professional standards.

Laxman Balkrishna Joshi vs. Life Line Hospital (2012): The patient underwent a surgical operation, which led to further complications due to a lack of post-operative care. The Court ruled against the hospital for negligence.

Impact: This judgment underscored the importance of institutional responsibility for patient care, establishing hospitals' liabilities in cases of negligence.³

CONCLUSION

Medical negligence remains a relevant and complex issue in India. The evolving legal framework, alongside judicial interpretations, reflects the balance between protecting patients' rights and acknowledging the complexities of medical practice. Continuous efforts are needed

³ <https://www.aironline.in>

to improve the legal, ethical, and practical aspects surrounding medical negligence, ensuring that patients receive the care they deserve while safeguarding the interests of healthcare professionals.

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