

MEDICAL NEGLIGENCE IN INDIA: INTRODUCTION

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Description:

Medical negligence happens when a healthcare professional fails to provide the expected level of care, leading to harm or injury to a patient. With more cases in India of patients going to court over alleged mistakes by doctors or medical staff, this topic has gained significant attention. Medical negligence cases examine whether a healthcare professional broke their duty of care, causing harm that could have been avoided with proper care. India's legal system has developed laws, guidelines, and rulings to address such cases, aiming to balance patient rights with the responsibilities of healthcare providers.

2. Laws Related to Medical Negligence in India

Indian law includes several provisions specifically addressing medical negligence, focusing on the duties and liabilities of healthcare providers.

Indian Penal Code (IPC), 1860

Sections 304A, 337, and 338 deal with causing death or harm due to careless or negligent actions. Section 304A penalizes those who cause death by negligence, which applies when doctors fail in their duty to exercise reasonable care.

class="MsoNormal">1. Duty of Care: The doctor must have owed a duty of care to the patient.<o:p></o:p></p><p class="MsoNormal">2. Breach of Duty: The doctor must have failed to provide the expected level of care, skill, or knowledge in the situation.<o:p></o:p></p><p class="MsoNormal">3. Injury Caused by Breach: The harm caused must be directly linked to the doctor's breach of duty.<o:p></o:p></p><p class="MsoNormal">4. Damage: The patient must show actual loss, such as physical harm, emotional distress, or financial loss.<o:p></o:p></p><p class="MsoNormal"> </p><p class="MsoNormal">The Jacob Mathew v. State of Punjab (2005) case is a landmark ruling that provided guidelines for criminally charging a doctor. The

Supreme Court ruled that, before charging a doctor with criminal negligence, courts must make sure that the doctor's actions involved more than simple carelessness and showed extreme recklessness. This judgment protects doctors from unnecessary criminal charges in cases of unsuccessful treatments or surgeries.

4. Important Tests Used in Medical Negligence Cases

Certain tests are applied to assess whether a healthcare provider met the required standard of care. Two well-known tests are the Bolam Test and the Bolitho Test , which have influenced Indian law.

Bolam Test

The Bolam Test was established in Bolam v. Friern Hospital Management Committee (1957). This test states that a doctor is not guilty of negligence if they acted according to practices accepted by a responsible group of medical professionals. It emphasizes that medical negligence isn't simply about a difference in opinion but about not following an accepted standard.

Bolitho Test

The Bolitho Test emerged from Bolitho v. City and Hackney Health Authority (1998), which refined the Bolam Test by adding that even if a doctor's actions are supported by some professionals, the approach must still have logical reasoning behind it. This test provides patients with more grounds for proving negligence by challenging practices that may lack sound logic.

5. Detailed Analysis of Jacob Mathew v. State of Punjab

In Jacob Mathew v. State of Punjab (2005), the Supreme Court addressed the question of what constitutes medical negligence and the criminal liability of doctors. This case involved a patient who died because of a delay in oxygen supply, allegedly due to a malfunctioning oxygen cylinder. Dr. Jacob Mathew faced criminal charges for not ensuring the equipment was functional.

The court, led by Hon'ble Lahoti J, evaluated whether the doctor's actions amounted to mere negligence or to criminal negligence under Section 304A of the IPC. Hon'ble Lahoti J, emphasized that, to hold a doctor criminally liable, there must be "gross negligence"—meaning that the doctor's actions must reflect a reckless disregard for the patient's safety.

The Supreme Court issued guidelines to balance the rights of patients and the responsibilities of doctors:

No Criminal Liability in Ordinary Cases

: Doctors should not face criminal charges unless their actions involve severe carelessness or recklessness.

Need for Expert Opinion

: In criminal cases of medical negligence, expert medical opinion is required to support that the treatment did not meet standard medical practices.

Consideration of Circumstances

spacerun:'yes';font-family:Calibri;mso-bidi-font-family:'Times New Roman';
font-size:12.0000pt;mso-font-kerining:1.0000pt;">: The context, situation, and treatment
options should be evaluated to avoid holding doctors accountable for every unfortunate
outcome.<span style="mso-spacerun:'yes';font-family:Calibri;mso-bidi-font-
family:'Times New Roman';
font-size:12.0000pt;mso-font-kerining:1.0000pt;"><o:p></o:p></p><p
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family:'Times New Roman';
font-size:12.0000pt;mso-font-kerining:1.0000pt;">>These guidelines were intended to prevent
criminalization of doctors' honest mistakes while still allowing patients to seek justice in
genuine cases of recklessness.<span style="mso-spacerun:'yes';font-
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font-size:12.0000pt;mso-font-kerining:1.0000pt;"> </p><p
class="MsoNormal"><u><span style="font-family: Calibri; font-weight: bold; font-size:
12pt;">6. Current Legal Approach to Medical Negligence in
India</u><u><span style="font-family: Calibri; font-weight: bold; font-size:
12pt;"><o:p></o:p></u></p><p class="MsoNormal"><span style="mso-
spacerun:'yes';font-family:Calibri;mso-bidi-font-family:'Times New Roman';
font-size:12.0000pt;mso-font-kerining:1.0000pt;">>Indian courts continue to use the guidelines
established in Jacob Mathew. The Consumer Protection Act, 2019 <span style="mso-spacerun:'yes';font-family:Calibri;mso-bidi-font-
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font-size:12.0000pt;mso-font-kerining:1.0000pt;"><o:p></o:p></p><p
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family:'Times New Roman';
font-size:12.0000pt;mso-font-kerining:1.0000pt;">>The National Medical Commission (NMC)
was also created to monitor healthcare standards, including guidelines for negligence cases.
The NMC aims to set standards for medical education and practice to minimize ambiguity
around what qualifies as acceptable care.<span style="mso-spacerun:'yes';font-
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class="MsoNormal"><u><span style="font-family: Calibri; font-weight: bold; font-size:
12pt;">7. Conclusion</u><u><span style="font-family: Calibri; font-weight:
bold; font-size: 12pt;"><o:p></o:p></u></p><p class="MsoNormal"><span

Medical negligence is a delicate issue in Indian law, balancing patient rights with the professional freedoms of healthcare providers. Landmark rulings, like the Jacob Mathew v. State of Punjab, have brought clarity, adding safeguards for doctors while protecting patient rights. Tests like the Bolam and Bolitho tests offer structured methods to assess negligence, recognizing that doctors need the freedom to practice without fear of prosecution for every unsuccessful treatment.

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In summary, India's medical negligence law aims to protect patients from preventable harm while respecting the complex nature of medical practice. Legal principles developed in recent years serve as a guide to ensure that healthcare is both accountable and fair for medical practitioners.

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