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Avinash Kumar



Avinash Kumar has completed his Ph.D. in International Investment Law from the Dept. of Law & Governance, Central University of South Bihar. His research work is on "International Investment Agreement and State's right to regulate Foreign Investment." He qualified UGC-NET and has been selected for the prestigious ICSSR Doctoral Fellowship. He is an alumnus of the Faculty of Law, University of Delhi. Formerly he has been elected as Students Union President of Law Centre-1, University of Delhi. Moreover, he completed his LL.M. from the University of Delhi (2014-16), dissertation on "Cross-border Merger & Acquisition"; LL.B. from the University of Delhi (2011-14), and B.A. (Hons.) from Maharaja Agrasen College, University of Delhi. He has also obtained P.G. Diploma in IPR from the Indian Society of International Law, New Delhi. He has qualified UGC – NET examination and has been awarded ICSSR – Doctoral Fellowship. He has published six-plus articles and presented 9 plus papers in national and international seminars/conferences. He participated in several workshops on research methodology and teaching and learning.

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A CRITICAL ANALYSIS OF CONSUMER PROTECTION ACT IN MEDICAL FIELD IN INDIA

AUTHORED BY - AKSHAYA. R

Assistant Professor

VISTAS, Chennai

CO-AUTHOR - DR.A.SUGANTHINI

Assistant Professor

VISTAS, Chennai

INTRODUCTION:

Consumer rights in the medical field in India have gained significant attention over the years due to the growing awareness of patient protection and healthcare standards. With the rise in the number of private healthcare providers, and the increasing cost and complexity of medical treatments, the need to safeguard the rights of patients has become more pronounced. In India, patients are considered consumers under the Consumer Protection Act, 2019, which entitles them to certain rights in their healthcare journey. These rights include the right to be informed, the right to choose, the right to safety, the right to be heard, and the right to seek redressal in case of grievances. The medical field, however, poses unique challenges to the application and enforcement of consumer rights. Unlike traditional consumer goods or services, healthcare is a complex, evolving, and often unpredictable service. The medical profession carries inherent risks, and outcomes are not always guaranteed, which complicates the identification and resolution of issues related to negligence, malpractice, or exploitation. Despite the existence of legal frameworks, issues such as medical negligence, unethical practices, lack of transparency, and high treatment costs continue to affect consumers.

OBJECTIVES:

To critically analyses the provisions of the consumer protection act 1986 in relation to the medical field in India.

To examine the effectiveness of the consumer protection act in protecting patients right in India.

To identify the challenges and limitations in implementing the consumer protection act in the medical field.

To suggest recommendations for strengthening the consumer protection act and improving patient protection in India.

HYPOTHESIS:

The consumer protection act 1986, has been ineffective in protecting patients rights in India leading to a lack of accountability and transparency in the medical field.

THE CONSUMER PROTECTION ACT, 1986 PROVISIONS AND ANALYSIS:

The Consumer Protection Act, 1986 was a landmark legislation in India designed to protect the interests of consumers, including those availing of medical services. It provides a legal framework to safeguard consumers' rights and offers them avenues to seek redressal in cases of grievances. The Act established consumer forums at the district, state, and national levels to address disputes, making it more accessible for the common man to file complaints. However, while it laid down important provisions for consumer rights, its application in the medical field presents unique challenges that require critical analysis.

Definition of Consumer: Under Section 2(d) of the Consumer Protection Act, 1986, a "consumer" includes any person who avails of services for consideration. This includes patients who seek medical care, making them entitled to protection under the Act. Medical services, provided they involve consideration (payment), are covered under this definition.

Right to Protection Against Hazardous Goods and Services: Section 6 of the Act specifies that consumers have the right to be protected against services that are hazardous to health or safety. In the medical field, this right translates to patients being entitled to proper healthcare that does not jeopardize their well-being due to negligence, improper practices, or substandard facilities.

Right to be Informed: Section 2(7) of the Act emphasizes the right to be informed about the quality, quantity, potency, and price of services provided. In the medical field, this means that healthcare providers are expected to disclose the details of medical procedures, including potential risks, costs, and expected outcomes.

Right to Redressal: Section 2(1)(g) of the Act ensures that consumers can seek redressal in case of unfair practices or exploitation. For patients, this means the right to lodge complaints regarding medical malpractice, negligence, or exploitation in the healthcare system. This provision is particularly significant in cases where patients face undue harm or are overcharged for treatments.

Establishment of Consumer Dispute Redressal Forums: The Act established District Consumer Forums, State Consumer Disputes Redressal Commissions, and the National Consumer Disputes Redressal Commission (NCDRC). These bodies are empowered to handle complaints, award compensation, and even issue directions to healthcare providers to improve their services. However, the effectiveness of these forums in dealing with medical complaints is often debated.

Challenges in the Medical Context:

Medical Negligence and Malpractice: The Act provides for redressal in cases of medical negligence, but the complexities involved in diagnosing and treating medical conditions make it challenging to prove negligence. Courts often require expert testimony, which can be difficult to obtain, leading to delays in justice. Furthermore, the concept of "informed consent" is not always fully explained to patients, making it harder for them to assert their rights if something goes wrong.

Lack of Proper Implementation: Despite the existence of legal provisions, patients often face difficulties in accessing consumer forums, especially in rural areas. The legal process can be lengthy and expensive, deterring many from pursuing their claims. This is compounded by the lack of awareness among patients about their rights under the Consumer Protection Act.

Medical Professionals' Defenses: Doctors and medical institutions often defend themselves against accusations of negligence by citing the unpredictable nature of medical treatments and their reliance on professional judgment. This can create difficulties in holding healthcare providers accountable under the provisions of the Act.

Fragmentation of Healthcare: India's healthcare system is divided into private and public sectors, with the private sector often being profit-driven. In such a fragmented system, patients may not always have access to transparent pricing or quality assurance, leading to exploitation.

Though the Act aims to protect consumers from unfair trade practices, medical institutions may continue to engage in unethical practices without adequate accountability. Consumer Forums' Limitations: Consumer forums, which are intended to expedite the process of redressal, often suffer from delays due to overburdened courts and a lack of medical expertise among judges. Moreover, medical disputes require specialized knowledge, and consumer forum judges are not always equipped to understand the technicalities of medical malpractice cases.

EFFECTIVENESS OF THE CONSUMER PROTECTION ACT IN PROTECTING PATIENT'S RIGHTS:

The Consumer Protection Act, 1986 was a significant piece of legislation aimed at safeguarding the rights of consumers, including those availing of medical services. However, the application of the Act in the medical field has faced both successes and challenges. While the Act has contributed positively to protecting patient rights, its overall effectiveness in the medical domain is mixed, and several improvements are needed to better address the complexities of medical services and the growing number of healthcare-related disputes.

Provisions of the Consumer Protection Act Relevant to Medical Field:

1. **Definition of 'Consumer':** The Act defines a consumer as anyone who avails of goods or services for consideration. This definition includes patients who pay for medical services, thus making them entitled to the protections under the Act. It provides the legal basis for patients to seek redress in case of unfair treatment, negligence, or malpractice.
2. **Right to Seek Redressal:** The Act gives patients the right to file complaints and seek compensation for negligence, substandard care, or unethical practices in medical services. It empowers consumers to approach district, state, and national consumer forums to resolve disputes without going through lengthy legal battles.
3. **Right to Information:** Section 6 of the Act states that consumers are entitled to be informed about the quality, quantity, price, and risks involved in the service provided. In healthcare, this provision demands that medical professionals disclose all relevant information to patients, including risks associated with treatments and costs, thereby enabling informed decisions.
4. **Protection Against Unfair Trade Practices:** The Act prohibits unfair trade practices such as overcharging or exploitation, which are significant concerns in the medical field.

Medical professionals and institutions are required to adhere to ethical standards, ensuring patients are not overcharged or subjected to unnecessary treatments.

Effectiveness of the Consumer Protection Act in the Medical Field:

Positive Impact on Patient Rights

Legal Recognition of Medical Services as Consumer Services: The Consumer Protection Act has helped recognize medical services as consumer services, empowering patients to seek legal remedies in cases of medical negligence. Prior to this, patients were not always treated as consumers, and their ability to hold healthcare providers accountable was limited.

Encouraging Accountability in Medical Practices: The Act has led to greater accountability among healthcare providers. With the potential for legal action, hospitals, clinics, and doctors are more likely to adhere to established standards of care to avoid legal consequences. This has helped in minimizing some unethical practices such as unnecessary medical procedures or exploitation of patients for financial gain.

CHALLENGES AND LIMITATION IN IMPLEMENTING THE CONSUMER PROTECTION ACT:

The Consumer Protection Act, 1986 was a pioneering law in India that aimed to safeguard the rights of consumers, including those availing medical services. While the Act has provided a legal framework to address consumer grievances, its implementation in the medical field faces numerous challenges and limitations. These barriers hinder the full realization of the Act's potential in protecting patients' rights and ensuring justice in medical disputes.

1. Complexity of Medical Negligence Cases

Difficulty in Proving Negligence: One of the primary challenges in implementing the Consumer Protection Act in the medical field is the complexity involved in proving medical negligence. Medical cases are often highly technical, requiring expert testimony and an in-depth understanding of medical procedures. Determining whether a doctor or healthcare institution was negligent involves evaluating medical standards, which may vary depending on the context, leading to challenges in adjudicating such cases.

Medical Outcomes Are Uncertain: Medicine is an inherently uncertain field, and not all outcomes are predictable, even with the best care. Courts may find it difficult to

distinguish between genuine negligence and bad outcomes due to the inherent risks of medical procedures. As a result, medical professionals often defend themselves by citing the unpredictability of medical outcomes.

2. Lack of Medical Expertise in Consumer Forums

Limited Expertise in Medical Matters: The Consumer Protection Act empowers district, state, and national consumer forums to handle disputes. However, these forums often lack judges with sufficient expertise in medical issues. While judges may be well-versed in legal matters, they may not fully understand the nuances of medical practices and standards. This lack of specialized knowledge can result in inadequate judgments or the misapplication of legal provisions in complex medical cases.

Dependency on Expert Witnesses: In many cases, medical negligence claims require the testimony of medical experts to determine whether the healthcare provider's actions were in line with established medical standards. The availability and reliability of expert witnesses can complicate the process, leading to delays or even wrongful dismissals of cases.

3. Lengthy and Costly Legal Process

Time-Consuming Process: Despite the intention of consumer forums to provide a quicker alternative to traditional courts, the legal process for resolving medical disputes under the Consumer Protection Act remains lengthy. Medical negligence cases often take several years to reach a final verdict, resulting in prolonged distress for patients and their families. The delays in obtaining justice can discourage victims from pursuing their claims, particularly when they are facing financial hardship.

High Costs of Litigation: Legal proceedings can be expensive, especially when expert medical testimony is required. Many patients, particularly those from low-income backgrounds, may not have the resources to navigate the legal process. Even though consumer forums are meant to be more accessible than traditional courts, the costs involved in hiring lawyers and experts can still be prohibitive for many.

4. Ineffective Enforcement of Judgments

Difficulty in Enforcing Compensation: Even if a consumer forum rules in favor of the patient and orders compensation, enforcing the judgment can be difficult. Medical professionals or institutions may delay or refuse to pay compensation, leading to prolonged legal battles and a lack of accountability. This reduces the overall effectiveness of the Act in ensuring justice for patients.

Lack of Institutional Accountability: While individual doctors can be held liable under

the Act, hospitals or medical institutions are more challenging to hold accountable. Many private healthcare providers may resist compliance with consumer forum rulings, especially if they are part of larger corporate entities. The lack of a robust mechanism to ensure compliance with judgments makes it harder for patients to receive redress.

5. Awareness Deficiency Among Consumers

Limited Public Awareness: One of the major barriers to the effectiveness of the Consumer Protection Act in the medical field is the lack of awareness among patients about their rights. Many individuals, especially in rural and underserved areas, are unaware of the provisions of the Act and how to file complaints against healthcare providers. Without this knowledge, patients may not even recognize instances of negligence or exploitation, let alone seek legal recourse.

Vulnerability of Rural Populations: Patients in rural areas face unique challenges, such as a lack of access to information, limited healthcare options, and a general lack of awareness about consumer rights. These patients are often more vulnerable to exploitation by unscrupulous medical practitioners and institutions. The Act's impact is diminished in these regions because patients are less likely to seek redress or even recognize that their rights have been violated.

6. Inconsistent Standards of Healthcare

Variation in Quality of Medical Services: India's healthcare system is highly fragmented, with significant differences in the quality of services provided by public and private healthcare institutions. In some cases, private hospitals may offer high-quality care, while government hospitals may struggle with inadequate resources. This disparity in healthcare standards makes it challenging to apply consistent benchmarks for medical negligence, leading to subjective interpretations of what constitutes substandard care.

Lack of Uniformity in Regulation: There is no single regulatory authority that oversees healthcare quality across both private and public sectors. While bodies like the Medical Council of India (MCI) regulate medical professionals, the regulation of healthcare institutions remains decentralized. This lack of central oversight results in inconsistent enforcement of medical standards, leading to variable patient experiences.

7. Overburdened Consumer Forums

Excessive Caseload: Consumer forums are often overburdened with a high volume of cases. This backlog can delay proceedings and make it difficult for patients to receive timely resolutions. As a result, many patients may lose confidence in the system,

especially when the legal process drags on for years without resolution.

Limited Resources: Consumer forums, particularly at the district level, often lack the necessary resources to handle the increasing number of cases. This resource limitation affects the overall efficiency of the system, leading to delays in hearings, judgments, and the overall delivery of justice.

8. Medical Profession's Defense Mechanisms

Relying on Medical Exceptions: In cases of medical negligence, healthcare providers often defend their actions by citing medical exceptions. For example, medical professionals argue that the risks of certain procedures are inherently unpredictable, making it difficult to establish negligence. This can create a barrier to patients seeking redress, as courts may be more sympathetic to these arguments, especially in complex medical cases. **High Cost of Healthcare Litigation:** Doctors and healthcare institutions often have access to resources that allow them to hire expert witnesses and legal teams to defend against claims. This makes it more difficult for patients, particularly those with limited financial resources, to mount an effective challenge.

9. Inadequate Regulations for Private Healthcare

Profit-Motivated Healthcare Institutions: Many private healthcare providers in India operate on a profit-driven model, which may lead to ethical compromises, such as overcharging or recommending unnecessary procedures. While the Consumer Protection Act addresses unfair trade practices, there is a lack of strong regulatory mechanisms to curb these practices consistently across the healthcare sector. The focus on profits over patient care can undermine the intent of the Act.

V. K. Verma v. Union of India (1993): The National Consumer Disputes Redressal Commission (NCDRC) ruled that doctors are service providers and can be held liable under the Consumer Protection Act for medical negligence. This landmark case paved the way for patients to seek compensation for substandard medical care.

Indian Medical Association v. V.P. Shanta (1995): This case clarified that medical practitioners and institutions are subject to the Consumer Protection Act and can be held accountable for negligence. The Court ruled that healthcare services, even if provided by doctors as part of their professional duties, qualify as "services" under the Act.

RECOMMENDATIONS FOR STRENGTHENING THE CONSUMER PROTECTION:

Legal Framework and Consumer Protection: The Consumer Protection Act of 2019 defines a consumer as anyone who avails of services, including medical services. This gives patients a legal right to hold healthcare providers accountable for substandard services. However, despite legal recognition, implementation of these rights remains a challenge. Many consumers are unaware of their rights, and there is often a lack of proper legal recourse, especially in rural or underserved areas where medical infrastructure is inadequate.

Medical Negligence and Malpractice: One of the central issues in the medical field is medical negligence, which occurs when a healthcare professional fails to provide the standard of care expected. While the Indian courts have made strides in holding doctors and hospitals accountable, the complexities of medical procedures often make it difficult for patients to prove negligence. In addition, malpractice claims are often lengthy and costly, which deters many patients from seeking legal redress.

Quality of Care and Transparency: Patients have the right to receive quality healthcare, yet there is a significant variation in healthcare standards across India. The absence of a robust regulatory body to oversee the quality of care in private healthcare facilities has led to unethical practices, including overcharging, unnecessary medical procedures, and insufficient patient care. Transparency in pricing, billing practices, and the availability of accurate medical information is often lacking, undermining patient autonomy.

Disparity in Access to Healthcare: A critical challenge to consumer rights in the medical field is the stark disparity in healthcare access between urban and rural populations, as well as between different socio-economic groups. While urban areas have relatively better access to quality medical care, rural areas suffer from a shortage of medical professionals and inadequate facilities. As a result, a significant portion of the population remains vulnerable to substandard care and exploitation.

Ethical Issues and the Profit Motive: Many private healthcare providers are profit-driven, which can sometimes conflict with ethical medical practices. In some cases, financial motives may lead to the prioritization of high-revenue procedures or treatments, disregarding the actual

needs of the patient. This issue calls for more stringent regulatory mechanisms to ensure that the rights of consumers are not compromised in favor of profit.

Awareness Campaigns: There should be widespread public education campaigns to inform patients about their rights under the Consumer Protection Act. These campaigns should focus on educating patients about how to identify substandard medical services and file complaints effectively.

Specialized Medical Consumer Forums: Establishing specialized medical consumer forums with judges who have medical expertise could help resolve medical disputes more effectively. This would ensure that cases are handled with a deeper understanding of medical practices and ethics.

Simplified Legal Procedures: Legal procedures for medical negligence cases should be simplified to make them more accessible to patients. This could include reducing the time taken for hearings, offering legal assistance for those who cannot afford it, and implementing clear guidelines for medical cases.

Stronger Regulatory Oversight: Strengthening regulatory mechanisms in the healthcare sector can ensure that healthcare providers adhere to ethical standards. Regulatory bodies should monitor medical practices closely and enforce strict penalties for violations to maintain public trust.

Transparency in Healthcare Pricing: Clear, standardized pricing structures should be enforced in healthcare institutions, ensuring that patients are fully informed about treatment costs before proceeding with care. This would prevent financial exploitation and promote fairness in medical billing.

CONCLUSION AND SUGGESTION:

While India has made considerable progress in enacting laws to protect consumer rights in the medical field, several challenges remain. The legal system needs to be more patient-friendly, and there is a need for greater awareness and education regarding consumer rights in healthcare. Additionally, there must be increased accountability and transparency in both public and private healthcare institutions to ensure that patients receive the quality of care they are entitled

to. Only through a combination of legal reform, public awareness, and ethical practices can the full protection of consumer rights in India's medical field be achieved.

The Consumer Protection Act, 1986, has certainly contributed to the empowerment of patients as consumers in India, offering them legal protection against unfair practices, negligence, and exploitation in the healthcare sector. However, the application of the Act in the medical field faces several challenges, including the complexity of medical practices, implementation issues, and barriers in accessing consumer forums. Addressing these challenges and enhancing the provisions for medical consumer protection will help ensure that patients' rights are adequately protected, and the healthcare system becomes more accountable, transparent, and patient-centric. And also the has played a crucial role in safeguarding patient rights and holding healthcare providers accountable in India, its effectiveness is hampered by several factors. Medical negligence cases are often difficult to prove, consumer forums are overburdened, and a lack of awareness among the public prevents many from accessing the protections offered by the Act. Addressing these challenges through reforms in the legal process, better public education, and enhanced regulatory measures could significantly improve the effectiveness of the Act in protecting patients' rights in the medical field.

The Consumer Protection Act 1986, has provided a significant legal framework to protect patients' rights and hold healthcare providers accountable, its implementation in the medical field faces several challenges. The complexity of medical negligence cases, lack of specialized knowledge in consumer forums, lengthy legal processes, inadequate enforcement mechanisms, and a general lack of awareness among consumers all contribute to the limitations in its effectiveness. To overcome these challenges, reforms such as specialized medical tribunals, enhanced public awareness campaigns, improved regulatory oversight, and a more efficient legal framework are necessary to ensure that the Act can more effectively protect patient rights and improve healthcare quality in India.