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MEDICAL MALPRACTICE AS A FORM OF PROFESSIONAL DEVIANCE: A LEGAL AND ETHICAL ANALYSIS

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ABSTRACT:

Medical malpractice is one of the most significant forms of professional deviance within the healthcare system, involving the failure of medical practitioners to exercise the degree of care, skill, and diligence expected of reasonably competent professionals. It not only causes physical, psychological, and financial harm to patients but also undermines public confidence in the medical profession and the healthcare delivery system. This article examines medical malpractice from both legal and ethical perspectives, highlighting its nature, forms, legal consequences, and the regulatory framework governing professional accountability in India. The article begins by explaining the concept of professional deviance and its relevance to the medical profession, followed by a discussion on the meaning, nature, and essential elements of medical malpractice. It analyses various forms of malpractice, including diagnostic errors, treatment negligence, surgical mistakes, medication errors, failure to obtain informed consent, breach of patient confidentiality, hospital negligence, and fraudulent medical practices. The study further explores the legal framework governing medical malpractice in India, focusing on the Consumer Protection Act, 2019, the National Medical Commission Act, 2019, the Bharatiya Nyaya Sanhita, 2023, the Bharatiya Sakshya Adhiniyam, 2023, and the constitutional protection of the right to life under Article 21 of the Constitution of India. A comparative analysis between professional misconduct and medical negligence highlights the distinction between ethical violations and breaches of legal duty while recognising that both constitute forms of professional deviance. The article further identifies the practical challenges involved in proving medical malpractice, including technical complexity, evidentiary difficulties, expert testimony, causation, inadequate medical documentation, procedural delays, and limited patient awareness. It emphasises that ensuring accountability requires a careful balance between protecting patients and preserving the professional independence of medical practitioners. Strengthening these mechanisms is essential for preventing professional deviance, ensuring justice for patients, preserving the dignity of the medical profession, and

fostering a transparent, ethical, and accountable healthcare system in India.

Keywords: Medical Malpractice; Professional Deviance; Medical Negligence; Professional Ethics; National Medical Commission.

INTRODUCTION:

The medical profession is regarded as one of the noblest professions because it is dedicated to preserving human life, alleviating suffering, and promoting public health. Doctors, nurses, surgeons, and other healthcare professionals are expected to perform their duties with competence, honesty, compassion, and integrity. Society places immense trust in medical professionals, believing that they will act in the best interests of their patients while adhering to established legal and ethical standards.

However, not every healthcare professional fulfils these expectations. There are instances where medical practitioners depart from accepted standards of professional conduct by acting negligently, recklessly, dishonestly, or unethically. Such conduct is known as professional deviance. Professional deviance refers to behaviour that violates the ethical codes, legal obligations, and professional standards governing a particular profession. In the medical field, professional deviance may include medical negligence, fraudulent practices, unnecessary medical procedures, breach of patient confidentiality, unethical experimentation, false certification, and other forms of misconduct.

Among the various forms of professional deviance, medical malpractice is one of the most serious because it directly affects patients' lives, health, and dignity. Medical malpractice occurs when a healthcare professional fails to exercise the degree of care, skill, and diligence expected from a reasonably competent practitioner, resulting in injury, disability, or death to a patient. Such failures may arise from misdiagnosis, delayed diagnosis, surgical errors, medication mistakes, lack of informed consent, failure to monitor patients properly, or neglect during treatment.

Medical malpractice is not merely a civil wrong leading to compensation; depending on the facts, it may also constitute professional misconduct warranting disciplinary action and, in serious cases, criminal negligence. Therefore, it occupies an important place at the intersection of tort law, criminal law, consumer protection law, medical ethics, and professional regulation.

From an ethical perspective, medical malpractice represents a violation of the fundamental principles that govern the medical profession. It undermines the principles of beneficence (acting in the patient's best interests), non-maleficence (avoiding harm), and respect for patient

autonomy, justice, and professional accountability. A single act of malpractice not only harms an individual patient but also weakens public confidence in healthcare institutions and the medical profession as a whole.

In India, the legal framework governing medical malpractice has evolved significantly through judicial decisions and statutory developments. The Consumer Protection Act, 2019, the National Medical Commission Act, 2019, the Bharatiya Nyaya Sanhita, 2023, and the ethical regulations issued by the National Medical Commission collectively regulate the conduct of medical practitioners. The judiciary has also played a significant role in defining the standard of care expected from medical professionals and balancing patient rights with the legitimate exercise of medical judgment.

Given the increasing commercialization of healthcare, technological advancements, and growing awareness of patient rights, incidents of medical malpractice have received greater public attention. This has highlighted the need for stronger accountability mechanisms, ethical medical practice, and effective legal remedies to protect patients while ensuring fairness to healthcare professionals.

Thus, examining medical malpractice as a form of professional deviance provides valuable insight into the legal responsibilities and ethical duties of medical practitioners. It also emphasizes the importance of maintaining professional standards, safeguarding patient welfare, and preserving public trust in the healthcare system. This article therefore undertakes a legal and ethical analysis of medical malpractice, examining its nature, causes, consequences, regulatory framework, and possible reforms to strengthen professional accountability in India.

CONCEPT AND MEANING OF PROFESSIONAL DEVIANC IN THE MEDICAL PROFESSION:

I. Concept of professional deviance:

Professional deviance refers to any conduct by a member of a profession that departs from the accepted legal, ethical, and professional standards governing that profession. Every profession is guided by a set of rules, ethical principles, and standards of practice that regulate the behaviour of its members. These standards ensure competence, integrity, accountability, and public confidence. When a professional intentionally or negligently violates these standards, such conduct is regarded as professional deviance.

In the medical profession, professional deviance is particularly significant because healthcare professionals occupy a position of trust and responsibility. Patients entrust doctors

and other medical practitioners with their lives, personal information, and medical decisions. Consequently, medical professionals are expected to exercise a high degree of skill, care, honesty, and ethical judgment. Any departure from these obligations may endanger patient safety and undermine confidence in the healthcare system.

Professional deviance may arise from intentional misconduct, reckless behaviour, or negligence. It includes acts that violate legal duties as well as ethical obligations established by professional regulatory bodies. While minor professional errors may occur despite reasonable care, professional deviance involves conduct that falls below the standard expected of a reasonably competent medical practitioner.

II. Meaning of Professional Deviance in the Medical Profession:

In the medical context, professional deviance encompasses behaviour that is inconsistent with accepted medical standards, ethical principles, and statutory regulations. Such behaviour may involve negligence in diagnosis or treatment, breach of patient confidentiality, unnecessary medical procedures for financial gain, falsification of medical records, issuing false medical certificates, accepting illegal commissions, refusal to provide emergency treatment without lawful justification, or practising medicine without the required competence or qualifications.

Medical malpractice is one of the most common and serious manifestations of professional deviance. It occurs when a healthcare professional fails to provide treatment in accordance with the accepted standard of care, resulting in harm to the patient. However, professional deviance extends beyond malpractice and includes a broader range of unethical and unlawful conduct affecting the integrity of the medical profession.

III. Characteristics of Professional Deviance:

Professional deviance in the medical profession has several distinguishing features:

- It involves a breach of professional standards established by law, medical ethics, or regulatory authorities.
- It violates the trust placed by patients in healthcare professionals.
- It may result in physical, psychological, financial, or emotional harm to patients.
- It gives rise to civil, criminal, or disciplinary liability depending on the seriousness of the misconduct.
- It undermines the reputation and credibility of the medical profession.
- It threatens public confidence in healthcare institutions and regulatory systems.

IV. Forms of Professional Deviance in the Medical Profession:

Professional deviance may take several forms, including:

- Medical negligence and malpractice.
- Surgical errors and wrong-site surgeries.
- Misdiagnosis or delayed diagnosis.
- Prescription and medication errors.
- Failure to obtain informed consent.
- Breach of patient confidentiality.
- Fabrication or alteration of medical records.
- Issuing false medical certificates.
- Acceptance of illegal commissions or kickbacks.
- Unnecessary diagnostic tests or medical procedures for financial benefit.
- Professional misconduct under the National Medical Commission's ethical regulations.

V. Professional Deviance and Medical Ethics:

Medical ethics provide the moral foundation of professional conduct. The principles of beneficence, non-maleficence, autonomy, justice, confidentiality, and professional integrity guide healthcare professionals in their interactions with patients. Professional deviance occurs when these ethical principles are ignored or deliberately violated.

For example:

- Performing an unnecessary surgery for financial gain violates beneficence and non-maleficence.
- Disclosing confidential patient information breaches the duty of confidentiality.
- Performing a procedure without obtaining informed consent violates patient autonomy.
- Discriminating against patients in providing medical care violates the principle of justice.

VI. Legal Perspective:

Indian law recognises professional deviance through various legal mechanisms. Depending on the nature of the misconduct, a medical practitioner may incur:

- Civil liability for compensation under the Consumer Protection Act, 2019.
- Criminal liability for gross negligence under the Bharatiya Nyaya Sanhita, 2023, where the conduct results in death or serious injury.
- Disciplinary liability under the National Medical Commission Act, 2019, and the applicable Code of Medical Ethics.

The Supreme Court of India has consistently held that while doctors are not liable for every unsuccessful treatment, they are legally accountable when their conduct falls below the standard expected of an ordinarily competent medical professional.

MEDICAL MALPRACTICE: DEFINITION, NATURE, AND ESSENTIAL ELEMENTS:

Medical malpractice is one of the most significant forms of professional deviance in the healthcare sector. It arises when a medical practitioner, hospital, or other healthcare provider fails to exercise the degree of skill, care, and diligence expected from a reasonably competent professional, thereby causing harm to a patient. While medicine is not an exact science and every unsuccessful treatment does not amount to malpractice, the law imposes liability when the injury results from a breach of the accepted standard of medical care.

Medical malpractice occupies an important place in both legal and ethical discourse because it affects not only the rights and safety of patients but also the credibility and accountability of the medical profession. It may give rise to civil liability, criminal liability in cases of gross negligence, and disciplinary action by professional regulatory bodies.

I. Meaning and Definition of Medical Malpractice:

Medical malpractice refers to professional misconduct or negligence committed by a healthcare professional during the course of diagnosis, treatment, surgery, prescription, or post-treatment care, which results in injury, disability, or death of a patient.

Although Indian statutes do not provide a comprehensive definition of medical malpractice, the concept has been developed through judicial decisions. Courts have consistently held that medical malpractice occurs when a medical practitioner fails to act according to the standards accepted by a responsible body of medical professionals possessing similar qualifications and expertise.

Medical malpractice differs from an unavoidable medical complication. A poor treatment outcome alone does not establish malpractice unless it is shown that the practitioner failed to exercise reasonable care and skill.

II. Nature of Medical Malpractice:

Medical malpractice possesses several important characteristics that distinguish it from ordinary professional errors.

1. Professional Wrong: Medical malpractice is a professional wrong arising from the breach of duties that are unique to the medical profession. Healthcare professionals are

expected to maintain higher standards of competence because patients rely upon their specialized knowledge and skills.

2. Breach of Legal Duty: Every doctor owes a legal duty of care to the patient once a doctor-patient relationship is established. Failure to perform this duty with reasonable competence constitutes a breach that may result in legal liability.

3. Ethical Misconduct: Medical malpractice often violates the ethical principles governing the medical profession, including beneficence, non-maleficence, patient autonomy, confidentiality, and justice.

4. Harm to the Patient: Medical malpractice is actionable only when the breach of duty results in actual harm, injury, disability, prolonged suffering, or death.

5. Professional Deviance: Medical malpractice represents professional deviance because it reflects a departure from accepted legal, ethical, and professional standards expected from medical practitioners.

III. Types of Medical Malpractice:

Medical malpractice may occur at different stages of healthcare delivery.

1. Diagnostic Malpractice: Incorrect diagnosis, Delayed diagnosis, Failure to diagnose serious diseases, Misinterpretation of laboratory reports.

2. Treatment Malpractice: Wrong method of treatment, improper administration of medicines, Failure to monitor patients, inadequate follow-up care.

3. Surgical Malpractice: Wrong-site surgery, surgical errors, leaving surgical instruments inside the patient's body, Post-operative negligence.

4. Medication Errors: Wrong prescription, incorrect dosage, Administration of contraindicated drugs, Failure to consider allergies or drug interactions.

5. Failure to Obtain Informed Consent: A patient has the legal and ethical right to understand - Nature of treatment, Risks involved, Available alternatives, and possible complications. Failure to obtain valid informed consent may amount to malpractice even if the treatment itself is performed competently.

6. Hospital Negligence: Hospitals may also be liable for - Inadequate infrastructure, Shortage of qualified staff, Poor maintenance of equipment, Failure to maintain hygiene, Administrative negligence.

IV. Essential Elements of Medical Malpractice:

To establish medical malpractice, the following essential elements must generally be proved,

1. Existence of Duty of Care - The first requirement is the existence of a doctor-patient

relationship. Once a medical practitioner undertakes the treatment of a patient, a legal duty arises to provide treatment with reasonable skill, competence, and care.

2. Breach of Duty - The patient must prove that the medical professional failed to meet the accepted standard of care expected from an ordinarily competent practitioner in similar circumstances. Examples include: Failure to conduct necessary medical tests, ignoring symptoms indicating a serious illness, performing surgery without proper preparation, prescribing incorrect medication.

3. Causation - It must be established that the breach of duty directly caused the patient's injury. Merely proving negligence is insufficient unless there is a clear causal connection between the negligent act and the damage suffered.

4. Actual Damage or Injury - The patient must have suffered actual harm, such as: Physical injury, mental trauma, Permanent disability, financial loss, Death. Without actual damage, a claim for medical malpractice generally cannot succeed.

V. Medical Malpractice and Professional Deviance:

Medical malpractice constitutes professional deviance because it violates both legal duties and ethical obligations imposed upon medical professionals. The medical profession demands honesty, competence, diligence, and accountability. When practitioners disregard these obligations through negligence or misconduct, they not only injure patients but also diminish public confidence in the healthcare system.

Professional deviance may arise from: Carelessness, Lack of competence, Recklessness, Financial greed, Violation of ethical standards, Abuse of professional authority.

VI. Legal Consequences of Medical Malpractice:

Medical malpractice may result in:

- Civil liability through compensation claims under the Consumer Protection Act, 2019.
- Criminal liability in cases of gross negligence under the Bharatiya Nyaya Sanhita, 2023, where the conduct causes death or serious injury.
- Professional disciplinary action under the National Medical Commission Act, 2019, including suspension or cancellation of a medical practitioner's licence.
- Institutional liability where hospitals are held responsible for the negligence of their employees or for administrative failures.

VII. Judicial Approach in India:

Indian courts have emphasized that doctors are not insurers of successful treatment. Liability arises only when a medical practitioner fails to exercise the level of care expected from a reasonably competent professional. Some important decisions include:

- Indian Medical Association v. V.P. Shantha (1995) – Medical services fall within the ambit of consumer protection law.
- Jacob Mathew v. State of Punjab (2005) – Criminal liability requires proof of gross negligence, not merely an error of judgment.
- Samira Kohli v. Dr. Prabha Manchanda (2008) – Performing medical procedures without valid informed consent violates patient autonomy and may amount to malpractice.
- Kusum Sharma v. Batra Hospital (2010) – Courts should assess negligence based on accepted medical standards prevailing at the relevant time.

FORMS OF MEDICAL MALPRACTICE AS PROFESSIONAL DEVIANCE:

Medical malpractice manifests in various forms depending on the nature of the healthcare professional's conduct and the circumstances under which patient care is provided. These forms represent different ways in which medical practitioners deviate from the accepted standards of professional competence, ethics, and legal responsibility. Since the medical profession is founded on trust, skill, and accountability, every act of negligence or misconduct that causes harm to a patient constitutes a form of professional deviance. Such deviant behaviour may arise from carelessness, lack of competence, reckless disregard for patient welfare, unethical motives, or intentional misconduct. The consequences often extend beyond the affected patient, damaging public confidence in healthcare institutions and the integrity of the medical profession.

One of the most common forms of medical malpractice is diagnostic malpractice, which occurs when a healthcare professional fails to correctly identify a patient's illness despite the availability of sufficient symptoms, medical history, or diagnostic evidence. This may include misdiagnosis, delayed diagnosis, failure to diagnose serious diseases such as cancer, stroke, or heart attack, or incorrect interpretation of laboratory reports and medical imaging. Diagnostic errors may result in delayed treatment, worsening of the disease, permanent disability, or even death. Such failures demonstrate a lack of reasonable care and professional competence expected from a qualified medical practitioner and therefore constitute professional deviance.

Another important form is treatment malpractice, where the diagnosis may be correct but the treatment provided is inappropriate or negligently administered. This includes prescribing unsuitable medications, administering incorrect dosages, failing to monitor the patient's

condition during treatment, delaying necessary medical intervention, discharging patients prematurely, or failing to refer patients to specialists when the medical condition requires specialised care. Treatment-related negligence may aggravate the patient's illness, prolong recovery, or lead to avoidable complications. Since healthcare professionals are expected to exercise reasonable skill in selecting and administering appropriate treatment, such lapses amount to a breach of both legal and ethical duties.

Surgical malpractice is among the most serious forms of medical malpractice because surgical procedures involve significant risks to human life. Surgical negligence may occur when a surgeon operates on the wrong patient or wrong body part, leaves surgical instruments or sponges inside the patient's body, damages healthy organs through careless procedures, performs unnecessary surgeries without medical justification, or fails to provide adequate post-operative care. Such conduct often results in severe physical injuries, prolonged hospitalization, permanent disability, or death. These acts reflect a gross departure from accepted surgical standards and may attract civil, criminal, and disciplinary liability.

Medication malpractice is another prevalent form of professional deviance in healthcare. It occurs when healthcare professionals prescribe, dispense, or administer medicines incorrectly. Common examples include prescribing the wrong medication, administering an incorrect dosage, failing to consider a patient's allergies or existing medical conditions, overlooking harmful drug interactions, or administering medicines to the wrong patient. Medication errors may result in allergic reactions, organ failure, serious complications, or fatal outcomes. These mistakes often arise from negligence, inadequate communication among healthcare providers, or failure to follow established medical protocols.

A significant form of malpractice involves the failure to obtain informed consent from the patient before undertaking medical procedures. Informed consent requires that patients receive adequate information regarding the nature of the proposed treatment, its risks and benefits, available alternatives, and possible consequences of refusing treatment. Performing surgery or any invasive medical procedure without obtaining valid and voluntary consent violates the patient's right to autonomy and self-determination. Even where the treatment is medically successful, failure to obtain informed consent may constitute professional misconduct and expose the medical practitioner to legal liability.

Medical malpractice also occurs in the form of hospital or institutional negligence, where liability arises not only from the actions of individual doctors but also from failures of healthcare institutions. Hospitals owe patients a duty to provide competent medical staff, maintain hygienic conditions, ensure the availability of functional medical equipment, preserve

accurate medical records, and establish effective emergency care systems. Negligence in hospital administration, inadequate staffing, defective equipment, poor infection control, or failure to supervise medical personnel may directly contribute to patient injuries and amount to institutional malpractice.

Another serious manifestation of professional deviance is the breach of patient confidentiality. The doctor-patient relationship is founded upon trust, and medical practitioners are ethically and legally required to protect confidential patient information. Unauthorised disclosure of medical records, revealing sensitive health information without consent, sharing patient data with third parties, or failing to secure electronic medical records violates professional ethics and infringes the patient's right to privacy and dignity. Such breaches may cause emotional distress, social stigma, and financial loss to patients while undermining confidence in the healthcare system.

Medical malpractice may also take the form of fraudulent and unethical medical practices, which involve intentional misconduct rather than mere negligence. Examples include issuing false medical certificates, fabricating or altering medical records, conducting unnecessary diagnostic tests or surgeries solely for financial gain, accepting illegal commissions or kickbacks from pharmaceutical companies, falsely representing professional qualifications, and engaging in unethical clinical trials without proper consent. These practices constitute serious professional deviance because they involve deliberate dishonesty, abuse of professional authority, and exploitation of vulnerable patients for personal benefit.

The rapid advancement of technology has given rise to telemedicine-related malpractice, presenting new challenges for healthcare regulation. Errors may occur through misdiagnosis resulting from inadequate virtual examinations, inappropriate online prescriptions, failure to recommend physical consultation when necessary, data privacy breaches, or technical failures affecting patient care. Although telemedicine expands access to healthcare, medical professionals remain legally and ethically responsible for maintaining the same standard of care as in traditional consultations.

Certain forms of malpractice involve gross negligence or reckless conduct, which may attract criminal liability in addition to civil and disciplinary consequences. Examples include performing medical procedures while under the influence of alcohol or drugs, abandoning patients during emergency treatment, practising medicine without valid registration or qualifications, knowingly using expired medicines, or deliberately ignoring life-threatening medical conditions. Such acts demonstrate complete disregard for patient safety and represent the gravest forms of professional deviance within the medical profession.

In conclusion, medical malpractice encompasses a wide range of negligent and unethical acts that violate the legal, ethical, and professional standards governing medical practice. Whether arising from diagnostic errors, treatment failures, surgical negligence, medication mistakes, breach of confidentiality, institutional shortcomings, fraudulent practices, or technological misuse, each form of malpractice undermines patient safety and erodes public confidence in healthcare. Recognising these diverse forms of professional deviance is essential for strengthening legal accountability, promoting ethical medical practice, and ensuring that healthcare professionals fulfil their paramount duty of protecting human life and dignity.

LEGAL FRAMEWORK GOVERNING MEDICAL MALPRACTICE IN INDIA:

Medical malpractice in India is governed by a comprehensive legal framework comprising statutory laws, judicial precedents, constitutional principles, and professional ethical regulations. The primary objective of this framework is to ensure that medical practitioners maintain the required standard of care while safeguarding the rights and interests of patients. Since the relationship between a doctor and a patient is based on trust and professional responsibility, the law imposes both legal and ethical obligations on healthcare providers. Medical practitioners who fail to meet the accepted standard of care may incur civil, criminal, consumer, or disciplinary liability depending on the nature and gravity of the misconduct. Over the years, the Indian judiciary has played a significant role in shaping the principles governing medical negligence and malpractice by balancing patient rights with the practical realities of medical practice.

One of the most significant legislations governing medical malpractice is the Consumer Protection Act, 2019. This Act recognises patients as consumers of healthcare services and provides an effective mechanism for seeking compensation against medical practitioners and hospitals for deficiency in service. Following the landmark judgment in *Indian Medical Association v. V.P. Shantha* (1995), medical services rendered for consideration were brought within the ambit of consumer protection law. Consequently, patients who suffer injuries due to negligent diagnosis, treatment, surgery, medication errors, or hospital negligence may approach the Consumer Commissions for compensation. The Act provides a comparatively inexpensive and speedy remedy, making it one of the most frequently invoked laws in medical negligence cases.

The National Medical Commission Act, 2019, which replaced the Indian Medical Council

Act, 1956, serves as the principal legislation regulating the medical profession in India. The National Medical Commission (NMC) is entrusted with maintaining professional standards, regulating medical education, ensuring ethical conduct, and taking disciplinary action against registered medical practitioners found guilty of professional misconduct. The Commission also enforces the Code of Medical Ethics, which prescribes standards relating to competence, patient confidentiality, informed consent, professional integrity, and ethical behaviour. A medical practitioner found guilty of unethical conduct or malpractice may face disciplinary measures, including warning, suspension, or cancellation of registration.

Medical malpractice may also attract criminal liability under the Bharatiya Nyaya Sanhita, 2023 (BNS), particularly in cases involving gross negligence that results in death or serious bodily injury. Criminal liability is imposed only when the negligence is of such a high degree that it demonstrates recklessness or complete disregard for the life and safety of the patient. The Supreme Court, in *Jacob Mathew v. State of Punjab* (2005), held that criminal prosecution of medical professionals should be limited to cases of gross negligence and not mere errors of judgment or ordinary negligence. This principle protects doctors from unnecessary criminal prosecution while ensuring accountability in serious cases of professional misconduct.

The Bharatiya Sakshya Adhiniyam, 2023, which replaced the Indian Evidence Act, governs the admissibility and appreciation of evidence in medical malpractice litigation. Medical negligence cases frequently involve complex scientific and technical issues that require expert medical testimony. Courts rely on hospital records, diagnostic reports, expert opinions, consent forms, treatment protocols, and medical literature to determine whether the conduct of the healthcare professional fell below the accepted standard of care. Proper documentation maintained by hospitals and medical practitioners often becomes decisive in establishing liability.

The Constitution of India also provides an important legal foundation for patient protection. Article 21 guarantees the fundamental right to life and personal liberty, which has been judicially interpreted to include the right to health, access to medical care, dignity, and safe treatment. Through various decisions, the Supreme Court has recognised that negligent medical treatment affecting a person's health and dignity may amount to a violation of the constitutional guarantee under Article 21. Articles 14 and 47 further reinforce the State's obligation to ensure equality in healthcare and improve public health standards.

Apart from statutory provisions, judicial precedents constitute an important source of medical malpractice law in India. The Supreme Court has developed principles governing the standard of care expected from medical professionals. In *Jacob Mathew v. State of Punjab*

(2005), the Court distinguished civil negligence from criminal negligence and adopted the Bolam principle for determining professional negligence. In *Samira Kohli v. Dr. Prabha Manchanda* (2008), the Court recognised informed consent as an essential component of lawful medical treatment and held that performing procedures without valid consent violates patient autonomy. In *Kusum Sharma v. Batra Hospital* (2010), the Supreme Court reiterated that medical professionals should be judged according to accepted medical practice prevailing at the relevant time and should not be held liable merely because another course of treatment might have been preferable.

Thus, the legal framework governing medical malpractice in India adopts a balanced approach by protecting patients against negligent medical treatment while safeguarding medical practitioners from frivolous or unwarranted litigation. Through the combined operation of consumer law, criminal law, constitutional protections, professional regulations, and judicial oversight, Indian law seeks to promote accountability, ethical medical practice, and patient safety. Continuous legal reforms, effective enforcement of ethical standards, and greater awareness of patient rights remain essential for strengthening this framework and maintaining public confidence in the healthcare system.

ETHICAL PRINCIPLES VIOLATED IN CASES OF MEDICAL MALPRACTICE:

Medical malpractice is not merely a violation of legal obligations but also a serious breach of the ethical principles that govern the medical profession. Medical ethics provides the moral foundation upon which healthcare is delivered, ensuring that medical practitioners act in the best interests of patients while respecting their rights, dignity, and autonomy. The ethical duties of doctors are reflected in internationally accepted principles such as beneficence, non-maleficence, autonomy, justice, confidentiality, honesty, and professional accountability. When a healthcare professional commits malpractice through negligence, recklessness, or intentional misconduct, these ethical principles are violated, thereby constituting professional deviance. Such violations weaken public trust in the medical profession and compromise the quality and integrity of healthcare services.

The principle of beneficence requires medical practitioners to act in the best interests of their patients by providing competent, timely, and appropriate medical care aimed at promoting health and preventing suffering. Every medical decision should be guided by the welfare of the patient rather than personal, financial, or institutional interests. Medical malpractice violates

this principle when a healthcare professional fails to provide proper diagnosis or treatment, performs unnecessary medical procedures for financial gain, neglects emergency care, or ignores accepted medical standards. Such conduct demonstrates that the practitioner's actions are inconsistent with the primary ethical obligation to benefit the patient and safeguard human life.

Closely related to beneficence is the principle of non-maleficence, commonly expressed through the maxim "primum non nocere" or "first, do no harm." This principle obligates healthcare professionals to avoid causing unnecessary injury or suffering to patients. Although certain medical procedures inevitably involve risks, doctors are expected to minimise those risks through reasonable care, competence, and adherence to professional standards. Medical malpractice, including surgical errors, medication mistakes, incorrect diagnosis, delayed treatment, or careless post-operative care, directly violates this principle because the harm suffered by the patient results from avoidable negligence rather than unavoidable medical complications. Consequently, malpractice represents a clear ethical failure to protect patients from preventable harm.

Another fundamental ethical principle violated by medical malpractice is respect for patient autonomy. Patient autonomy recognises every individual's right to make informed decisions regarding their own healthcare based on adequate information provided by the medical practitioner. Doctors have a legal and ethical duty to obtain valid informed consent before undertaking medical procedures, explaining the nature of the treatment, associated risks, expected benefits, available alternatives, and possible consequences of refusing treatment. When a medical practitioner performs surgery or administers treatment without obtaining proper informed consent or withholds material information necessary for decision-making, the patient's autonomy is undermined. Such conduct deprives patients of their freedom to exercise control over their own bodies and medical choices.

The principle of justice requires fairness, equality, and impartiality in the delivery of healthcare services. Medical professionals are expected to provide treatment without discrimination based on religion, caste, gender, race, economic status, or social background. Justice also demands equitable allocation of medical resources and equal respect for every patient's dignity and rights. Medical malpractice may violate this principle where patients are denied timely treatment due to prejudice, financial inability, or preferential treatment given to others. Similarly, performing unnecessary investigations or procedures solely for financial gain creates unjust inequalities and exploits vulnerable patients, thereby violating the ethical obligation of fairness.

Medical malpractice frequently involves the violation of confidentiality, which is one of the oldest and most important ethical duties in medicine. Patients disclose highly personal and sensitive information to doctors with the expectation that such information will remain confidential. Healthcare professionals are legally and ethically bound to protect medical records and patient information except where disclosure is authorised by law or with the patient's consent. Unauthorised disclosure of medical information, negligent handling of patient records, or failure to protect digital health data constitutes a breach of confidentiality. Such violations not only invade patient privacy but may also expose patients to social stigma, discrimination, emotional distress, and financial loss.

The ethical principle of professional competence is equally essential in preventing medical malpractice. Medical practitioners are expected to maintain appropriate knowledge, clinical skills, and professional expertise throughout their careers by engaging in continuous medical education and adhering to evidence-based medical practices. A doctor who undertakes treatment without adequate knowledge, fails to remain updated with medical advancements, or performs procedures beyond their level of competence violates this ethical obligation. Incompetence resulting in patient harm reflects professional deviance because society places trust in healthcare professionals based upon their specialised qualifications and skills.

Medical malpractice also violates the principles of honesty and integrity, which require healthcare professionals to act truthfully and transparently in all professional dealings. Ethical medical practice demands accurate diagnosis, truthful communication with patients, proper maintenance of medical records, and honest disclosure of medical errors when they occur. Fabrication of medical records, issuing false medical certificates, concealing negligence, accepting illegal commissions, prescribing unnecessary investigations for financial gain, or misrepresenting professional qualifications constitute serious ethical violations. Such dishonest conduct undermines both the credibility of individual practitioners and the integrity of the healthcare profession as a whole.

Another important ethical principle affected by medical malpractice is professional accountability. Every medical practitioner is accountable to patients, society, fellow professionals, and regulatory authorities for maintaining the highest standards of professional conduct. Accountability requires doctors to accept responsibility for their clinical decisions, acknowledge errors, cooperate with investigations, and comply with professional ethical regulations. When healthcare professionals attempt to conceal negligence, avoid responsibility, or disregard professional guidelines, they violate the ethical duty of accountability. Such behaviour prevents effective regulation of the profession and weakens public confidence in

healthcare institutions.

Medical malpractice often results in multiple ethical violations occurring simultaneously. For example, a surgeon who performs an unnecessary operation without obtaining informed consent, conceals the resulting complications, and falsifies medical records violates the principles of beneficence, non-maleficence, autonomy, honesty, confidentiality, and professional accountability. Such conduct demonstrates that medical malpractice is not merely a technical failure in medical treatment but a comprehensive ethical breakdown that affects every aspect of the doctor-patient relationship.

In conclusion, the ethical principles governing medical practice serve as the foundation for ensuring safe, compassionate, and responsible healthcare. Medical malpractice represents a serious violation of these principles by undermining patient welfare, autonomy, dignity, fairness, confidentiality, honesty, competence, and accountability. Since the medical profession occupies a position of immense public trust, adherence to ethical standards is as important as compliance with legal obligations. Strengthening ethical education, promoting professional integrity, enforcing medical ethics through regulatory authorities, and encouraging a culture of transparency and accountability are essential measures for preventing medical malpractice and preserving the honour and credibility of the medical profession.

PROFESSIONAL MISCONDUCT AND MEDICAL NEGLIGENCE: A COMPARATIVE ANALYSIS:

Professional misconduct and medical negligence are two closely related but legally distinct concepts within the field of medical law. While both involve a departure from the standards expected of healthcare professionals, they differ in their nature, purpose, legal consequences, and degree of fault. Professional misconduct primarily concerns violations of ethical and professional standards established by regulatory authorities, whereas medical negligence relates to a breach of the legal duty of care owed by a medical practitioner to a patient. Although an act of medical negligence may sometimes amount to professional misconduct, not every instance of professional misconduct necessarily constitutes medical negligence. Understanding this distinction is essential for determining the appropriate legal remedy, disciplinary action, and professional accountability.

Medical negligence refers to the failure of a healthcare professional to exercise the degree of care, skill, and diligence that a reasonably competent practitioner would have exercised under similar circumstances. Negligence arises when a doctor breaches the duty of care owed

to a patient, and that breach directly causes injury, disability, or death. The essential elements of medical negligence include the existence of a doctor-patient relationship, breach of the accepted standard of care, a causal connection between the negligent act and the injury suffered, and actual damage to the patient. Medical negligence generally results from carelessness, omission, lack of reasonable competence, or failure to follow accepted medical practices. Examples include misdiagnosis, delayed diagnosis, surgical errors, prescription of incorrect medication, failure to monitor a patient's condition, or inadequate post-operative care. Such acts may give rise to civil liability for compensation under the Consumer Protection Act, 2019, and in cases of gross negligence, criminal liability under the Bharatiya Nyaya Sanhita, 2023.

In contrast, professional misconduct refers to behaviour by a medical practitioner that violates the ethical standards, professional code of conduct, or disciplinary rules governing the medical profession, irrespective of whether physical harm has been caused to a patient. It primarily concerns the integrity, honesty, and ethical behaviour expected from members of the medical profession. The National Medical Commission (NMC), under the National Medical Commission Act, 2019, regulates professional conduct through ethical guidelines and disciplinary mechanisms. Professional misconduct may include issuing false medical certificates, falsifying medical records, accepting illegal commissions or kickbacks from pharmaceutical companies, advertising medical services in violation of ethical norms, breaching patient confidentiality, practising medicine without proper registration, engaging in sexual misconduct with patients, or refusing emergency medical treatment without lawful justification. Even if no direct injury is caused to a patient, such conduct undermines the dignity and credibility of the medical profession and may result in disciplinary proceedings, suspension, or cancellation of the practitioner's registration.

The primary distinction between medical negligence and professional misconduct lies in their legal focus. Medical negligence is concerned with the quality of medical treatment and whether the healthcare provider exercised reasonable care in treating the patient. Professional misconduct, on the other hand, focuses on whether the medical practitioner complied with the ethical obligations and professional standards governing the profession. While negligence requires proof of injury resulting from a breach of duty, professional misconduct may be established solely by proving a violation of professional ethics or regulatory rules, even in the absence of physical harm.

Another important distinction relates to the nature of liability. Medical negligence generally gives rise to civil liability through compensation claims and, in exceptional cases involving gross negligence, criminal prosecution. Professional misconduct primarily results in

disciplinary action by the National Medical Commission or the appropriate State Medical Council. Such disciplinary measures may include warnings, reprimands, suspension of medical registration, mandatory professional training, or permanent removal of the practitioner's name from the medical register. Therefore, the consequences of professional misconduct are regulatory in nature, whereas medical negligence often involves judicial determination of liability.

Despite these differences, there is considerable overlap between the two concepts. Certain acts may simultaneously constitute medical negligence and professional misconduct. For example, performing surgery while intoxicated, conducting an operation without obtaining informed consent, deliberately concealing medical errors, falsifying treatment records after causing injury, or practising beyond one's professional competence may violate both legal duties and ethical obligations. In such situations, the medical practitioner may face civil liability, criminal prosecution where appropriate, and disciplinary proceedings before the National Medical Commission. Thus, a single act of professional deviance may attract multiple forms of legal accountability.

Indian courts have consistently recognised this distinction. In *Jacob Mathew v. State of Punjab* (2005), the Supreme Court held that a medical practitioner cannot be held liable merely because the treatment was unsuccessful or because another doctor might have adopted a different course of treatment. Liability for negligence arises only when the conduct falls below the standard expected of a reasonably competent medical professional. Similarly, in *Indian Medical Association v. V.P. Shantha* (1995), the Court recognised that patients are entitled to seek remedies under consumer protection law for negligent medical services. At the same time, issues relating to unethical professional behaviour remain subject to the disciplinary jurisdiction of the National Medical Commission under its ethical regulations.

From an ethical perspective, both medical negligence and professional misconduct represent forms of professional deviance because they involve departures from the standards expected of healthcare professionals. Medical negligence primarily reflects a failure of professional competence and reasonable care, whereas professional misconduct reflects a failure of honesty, integrity, accountability, and ethical responsibility. Both forms of deviant conduct undermine patient safety, diminish public confidence in healthcare institutions, and weaken the reputation of the medical profession.

In conclusion, although professional misconduct and medical negligence are distinct legal concepts, they are closely interconnected in promoting accountability within the medical profession. Medical negligence addresses failures in clinical care that result in patient harm,

while professional misconduct addresses violations of ethical and professional standards regardless of whether injury occurs. Both require effective regulation, strict enforcement of legal and ethical obligations, and continuous professional education to ensure that medical practitioners uphold the highest standards of competence, integrity, and patient care. Together, they form the cornerstone of a legal and ethical framework designed to preserve public trust in the healthcare system and maintain the dignity of the medical profession.

CIVIL, CRIMINAL, AND DISCIPLINARY LIABILITY FOR MEDICAL MALPRACTICE:

Medical malpractice may expose healthcare professionals to civil, criminal, and disciplinary liability, depending on the nature and seriousness of the wrongful act. The law recognises that medical practitioners owe a legal, ethical, and professional duty to exercise reasonable care, skill, and diligence while treating patients. When this duty is breached, resulting in injury, disability, or death, the medical practitioner may be held accountable through different legal mechanisms. Each form of liability serves a distinct purpose: civil liability aims to compensate the injured patient, criminal liability seeks to punish grossly negligent or reckless conduct that endangers human life, and disciplinary liability maintains professional standards by regulating the ethical conduct of medical practitioners. Together, these mechanisms promote accountability, protect patient rights, and preserve public confidence in the healthcare system.

Civil liability is the most common consequence of medical malpractice. It arises when a healthcare professional fails to exercise the standard of care expected from a reasonably competent practitioner, causing harm to a patient. The primary objective of civil liability is not to punish the doctor but to compensate the patient for the injury or loss suffered due to negligent medical treatment. In India, patients may seek compensation under the Consumer Protection Act, 2019, which recognises medical services provided for consideration as a “service.” Following the landmark judgment in *Indian Medical Association v. V.P. Shantha (1995)*, patients who suffer due to negligent diagnosis, improper treatment, surgical errors, medication mistakes, or hospital negligence can approach Consumer Commissions for appropriate compensation. Civil liability may also arise through suits for damages under the law of torts, where courts assess whether the doctor breached the duty of care and whether such breach directly caused injury. Compensation may include medical expenses, loss of income, future treatment costs, compensation for pain and suffering, permanent disability, and, in cases of

death, compensation to the legal heirs of the deceased patient.

Criminal liability arises only in exceptional cases where the negligence of the medical practitioner is so gross or reckless that it amounts to a criminal offence. The law recognises that doctors should not be prosecuted merely because a treatment was unsuccessful or because another competent doctor might have chosen a different course of treatment. Criminal prosecution is justified only where there is a very high degree of negligence demonstrating complete disregard for patient safety. Under the Bharatiya Nyaya Sanhita, 2023 (BNS), criminal liability may arise where gross negligence causes death or serious bodily injury. The Supreme Court, in *Jacob Mathew v. State of Punjab (2005)*, laid down the important principle that criminal liability requires proof of gross negligence and not merely an error of judgment or ordinary negligence. Examples of conduct that may attract criminal liability include performing surgery while intoxicated, abandoning a patient during emergency treatment, knowingly administering expired medicines, practising without valid qualifications, or wilfully ignoring life-threatening medical conditions. Criminal penalties may include imprisonment, fines, or both, depending on the gravity of the offence and the applicable statutory provisions.

Apart from civil and criminal consequences, medical practitioners may also face disciplinary liability for violating professional ethics and standards of conduct. The National Medical Commission Act, 2019 empowers the National Medical Commission (NMC) and State Medical Councils to regulate the conduct of registered medical practitioners and enforce the Code of Medical Ethics. Disciplinary proceedings focus on maintaining the integrity, competence, and ethical standards of the medical profession rather than compensating patients or imposing criminal punishment. Professional misconduct may include breach of patient confidentiality, issuance of false medical certificates, falsification of medical records, acceptance of illegal commissions or kickbacks, unethical advertising, refusal to provide emergency medical care without lawful justification, or practising beyond one's competence. After conducting an inquiry, the disciplinary authority may impose sanctions such as a warning, reprimand, temporary suspension of registration, mandatory professional training, or permanent cancellation of the practitioner's licence to practise medicine. These measures aim to protect the public and maintain confidence in the medical profession.

In many situations, a single act of medical malpractice may result in multiple forms of liability simultaneously. For example, if a surgeon performs an operation without obtaining informed consent and causes serious injury through gross negligence, the patient may claim compensation before the Consumer Commission or civil court, the State may initiate criminal prosecution if the negligence amounts to a criminal offence, and the National Medical

Commission may institute disciplinary proceedings for professional misconduct. These different forms of liability are independent of one another and may proceed concurrently because each serves a separate legal objective. Civil liability provides restitution to the victim, criminal liability protects society by punishing serious wrongdoing, and disciplinary liability preserves the ethical standards and professional reputation of the medical profession.

The Indian judiciary has consistently emphasised the need to strike a balance between protecting patient rights and safeguarding medical professionals from frivolous litigation. Courts have recognised that medicine is an inherently complex profession involving uncertainty and risk, and therefore doctors cannot be held liable merely because treatment fails or complications arise despite exercising reasonable care. At the same time, where negligence clearly falls below accepted medical standards or where unethical conduct is established, courts have not hesitated to impose appropriate legal consequences. Judicial decisions such as *Jacob Mathew v. State of Punjab (2005)*, *Indian Medical Association v. V.P. Shantha (1995)*, *Samira Kohli v. Dr. Prabha Manchanda (2008)*, and *Kusum Sharma v. Batra Hospital (2010)* have significantly shaped the principles governing medical liability in India.

In conclusion, civil, criminal, and disciplinary liability together constitute a comprehensive legal framework for addressing medical malpractice in India. While civil liability ensures compensation for patients, criminal liability deters grossly negligent conduct, and disciplinary liability upholds the ethical and professional standards of medical practice. The effective enforcement of these mechanisms is essential to ensuring accountability, protecting patient rights, encouraging ethical medical practice, and maintaining public trust in the healthcare system.

ROLE OF THE NATIONAL MEDICAL COMMISSION IN ADDRESSING PROFESSIONAL DEVIANCE:

The National Medical Commission (NMC) plays a pivotal role in addressing professional deviance and ensuring ethical accountability within the medical profession in India. Established under the National Medical Commission Act, 2019, the NMC replaced the former Medical Council of India (MCI) with the objective of promoting transparency, improving the quality of medical education, strengthening professional ethics, and safeguarding the interests of patients. Since medical professionals occupy a position of public trust, the Commission is entrusted with the responsibility of ensuring that registered medical practitioners maintain high standards of competence, integrity, and ethical conduct throughout their professional careers.

Professional deviance, including medical malpractice, negligence, unethical practices, and professional misconduct, directly undermines patient welfare and public confidence in healthcare. The National Medical Commission therefore functions as the principal regulatory authority responsible for preventing, investigating, and disciplining such misconduct while promoting ethical medical practice.

One of the primary functions of the National Medical Commission is to regulate the professional conduct of registered medical practitioners. The Commission prescribes ethical standards that every medical practitioner is legally and professionally required to follow while providing healthcare services. These standards include maintaining patient confidentiality, obtaining informed consent before treatment, providing competent medical care, avoiding conflicts of interest, maintaining honesty in professional dealings, and treating all patients with dignity and equality. Any departure from these ethical obligations may amount to professional deviance and invite disciplinary action by the Commission. By prescribing uniform ethical standards applicable throughout the country, the NMC seeks to ensure consistency and accountability in medical practice.

The National Medical Commission also exercises disciplinary jurisdiction over medical practitioners accused of professional misconduct. Complaints regarding unethical behaviour, medical malpractice, fraudulent practices, or violations of professional ethics may be examined by the appropriate disciplinary authorities functioning under the NMC and the respective State Medical Councils. After conducting a fair inquiry, the Commission may impose disciplinary measures depending upon the seriousness of the misconduct. Such measures include issuing warnings, reprimands, directing corrective training, temporarily suspending the registration of the medical practitioner, or permanently removing the practitioner's name from the National or State Medical Register. These disciplinary mechanisms not only punish unethical conduct but also serve as a deterrent against future professional deviance.

An important responsibility of the National Medical Commission is to maintain and enforce the Code of Medical Ethics, which lays down the professional obligations of medical practitioners. The Code emphasises principles such as beneficence, non-maleficence, patient autonomy, confidentiality, honesty, professional competence, and accountability. It prohibits unethical practices such as accepting illegal commissions or kickbacks, issuing false medical certificates, advertising medical services in an unethical manner, exploiting patients for financial gain, engaging in misleading professional representations, and breaching patient confidentiality. By enforcing these ethical standards, the Commission promotes professionalism and preserves the integrity of the medical profession.

The National Medical Commission further contributes to reducing professional deviance by regulating medical education and professional competence. One of the major causes of medical malpractice is inadequate knowledge or lack of clinical competence. To address this issue, the NMC establishes uniform standards for undergraduate and postgraduate medical education, regulates medical colleges, prescribes competency-based curricula, and promotes continuous professional development. By ensuring that medical graduates receive quality education and appropriate clinical training, the Commission seeks to minimise errors arising from incompetence and thereby improve patient safety.

The Commission also plays a significant role in protecting patient rights by promoting ethical medical practice and encouraging transparency in healthcare delivery. It emphasises the importance of obtaining informed consent, respecting patient autonomy, maintaining confidentiality, communicating honestly with patients, and providing non-discriminatory treatment. Through its regulatory functions, the NMC seeks to strengthen public trust in healthcare institutions and ensure that medical practitioners discharge their duties with fairness, compassion, and professionalism.

Another important aspect of the National Medical Commission's role is the maintenance of the National Medical Register, which contains the details of all qualified and registered medical practitioners in India. This register helps prevent unqualified individuals from practising medicine and enables regulatory authorities to take prompt action against practitioners found guilty of professional misconduct. The Commission may suspend or remove the registration of practitioners who repeatedly violate ethical standards or engage in serious acts of professional deviance, thereby protecting the public from unsafe medical practice.

The National Medical Commission also promotes accountability and transparency within the healthcare system by encouraging proper maintenance of medical records, adherence to professional guidelines, ethical research practices, and responsible clinical decision-making. It works in coordination with State Medical Councils, educational institutions, healthcare establishments, and other regulatory bodies to strengthen governance in the medical profession. Through inspections, policy formulation, ethical oversight, and regulatory reforms, the Commission seeks to improve both the quality and accountability of healthcare services across the country.

Despite its significant responsibilities, the National Medical Commission faces several challenges in effectively addressing professional deviance. These include delays in disciplinary proceedings, underreporting of medical malpractice, and lack of public awareness regarding

complaint mechanisms, shortage of regulatory resources, and balancing the need to protect patient rights while avoiding unnecessary harassment of medical professionals. Strengthening institutional capacity, ensuring prompt disposal of complaints, enhancing transparency in disciplinary proceedings, and promoting ethical education among healthcare professionals remain essential for improving the effectiveness of the Commission.

In conclusion, the National Medical Commission serves as the cornerstone of professional regulation and ethical governance in the Indian healthcare system. Through its functions of regulating medical education, enforcing ethical standards, investigating professional misconduct, maintaining professional registers, and protecting patient rights, the Commission plays a crucial role in addressing professional deviance and preventing medical malpractice. An effective and independent National Medical Commission is indispensable for ensuring accountability, maintaining the dignity of the medical profession, safeguarding patient welfare, and strengthening public confidence in India's healthcare system.

JUDICIAL APPROACH TO MEDICAL MALPRACTICE: ANALYSIS OF LANDMARK CASES:

The Indian judiciary has played a fundamental role in developing the legal principles governing medical malpractice and professional accountability. Since there is no single comprehensive statute exclusively dealing with medical malpractice, the courts have interpreted constitutional provisions, consumer protection laws, tort principles, criminal law, and medical ethics to establish the standards of care expected from healthcare professionals. Through a series of landmark judgments, the Supreme Court and various High Courts have sought to strike a balance between protecting the rights of patients and ensuring that medical practitioners are not subjected to unnecessary or frivolous litigation. The judicial approach has consistently recognised that while doctors are expected to exercise a reasonable degree of care, skill, and competence, they cannot be held liable merely because a treatment fails or an error of judgment occurs despite exercising due diligence. Liability arises only where the conduct of the medical practitioner falls below the standard expected of a reasonably competent professional and results in injury to the patient.

One of the most significant decisions in Indian medical negligence jurisprudence is *Indian Medical Association v. V.P. Shantha (1995) 6 SCC 651*. In this landmark judgment, the Supreme Court held that medical services rendered for consideration fall within the definition of "service" under the Consumer Protection Act. Consequently, patients who suffer

injury due to negligent medical treatment are entitled to approach consumer forums for compensation. However, the Court clarified that medical services rendered completely free of charge would ordinarily fall outside the scope of the Act. This judgment significantly strengthened patient rights by making healthcare providers accountable under consumer law and providing an accessible and cost-effective mechanism for redressal of medical negligence claims.

Another landmark judgment is ***Jacob Mathew v. State of Punjab (2005) 6 SCC 1***, which remains the leading authority on criminal liability for medical negligence in India. The case arose after a patient died allegedly due to the non-availability of an oxygen cylinder during treatment. The Supreme Court carefully examined the distinction between civil negligence and criminal negligence and held that criminal prosecution of medical practitioners should be permitted only where the negligence is gross, reckless, or of a very high degree. The Court adopted the Bolam Test, according to which a doctor is not negligent if the treatment provided is supported by a responsible body of competent medical opinion. The Court also emphasised that an error of judgment or an unsuccessful treatment does not automatically amount to criminal negligence. This decision has become the cornerstone for determining criminal liability in medical malpractice cases and protects medical professionals from unwarranted criminal prosecution while ensuring accountability for gross negligence.

The Supreme Court further strengthened patient autonomy in ***Samira Kohli v. Dr. Prabha Manchanda (2008) 2 SCC 1***, where the issue concerned the performance of an additional surgical procedure without obtaining the patient's informed consent. The Court held that every competent adult has the right to decide what medical treatment should or should not be performed upon their body. It ruled that obtaining informed consent is a legal and ethical obligation of every medical practitioner and that consent for one procedure does not authorise the doctor to perform another unrelated procedure except in life-threatening emergencies. The judgment firmly established the doctrine of informed consent in Indian medical law and recognised patient autonomy as an essential component of the right to life and personal liberty under Article 21 of the Constitution.

Another important decision is ***Kusum Sharma v. Batra Hospital & Medical Research Centre (2010) 3 SCC 480***, where the Supreme Court laid down detailed guidelines for determining medical negligence. The Court observed that medical professionals should be judged according to the standards prevailing at the time the treatment was administered and should not be held negligent merely because another doctor may have adopted a different method of treatment. It reiterated that medicine is not an exact science and that courts must rely

upon expert medical evidence while evaluating allegations of negligence. The judgment also cautioned courts against adopting an approach that discourages doctors from taking reasonable medical decisions due to fear of litigation, while simultaneously emphasising the importance of protecting patients from genuine negligence.

In Dr. Laxman Balkrishna Joshi v. Dr. Trimbak Bapu Godbole (1969) 1 SCR 206, the Supreme Court clearly defined the duties owed by every medical practitioner to a patient. The Court held that once a doctor undertakes a patient's treatment, three duties arise: the duty to decide whether to undertake the case, the duty to decide the appropriate treatment, and the duty to administer that treatment with reasonable care and skill. Breach of any one of these duties may constitute medical negligence. This judgment continues to serve as a foundational authority regarding the legal duty of care owed by medical professionals.

In Spring Meadows Hospital v. Harjol Ahluwalia (1998) 4 SCC 39, the Supreme Court recognised the principle of hospital liability for medical negligence. In this case, a child suffered permanent brain damage due to the negligent administration of an injection by hospital staff. The Court held both the hospital and the attending medical professional's liable and awarded compensation not only to the child but also to the parents for the mental agony and suffering caused by the negligence. The judgment reinforced the principle that hospitals are vicariously liable for the negligent acts of their employees committed during the course of employment.

Similarly, in ***Achutrao Haribhau Khodwa v. State of Maharashtra (1996) 2 SCC 634***, the Supreme Court considered a case where a surgical mop was negligently left inside the patient's abdomen during surgery. The Court held that such conduct clearly constituted medical negligence because no reasonably competent medical professional would commit such an error while exercising ordinary care and skill. The judgment reaffirmed that hospitals and surgeons may be held liable where negligence is established through evidence.

The judicial approach to medical malpractice has consistently balanced patient protection with professional independence. Courts have recognised that doctors often work under difficult circumstances involving complex medical decisions and inherent uncertainties. Therefore, judicial scrutiny does not evaluate medical treatment with the benefit of hindsight but examines whether the doctor acted according to accepted medical standards prevailing at the relevant time. At the same time, the judiciary has repeatedly affirmed that patients are entitled to safe medical care, informed consent, transparency, and compensation where negligence is established. Judicial decisions have also encouraged hospitals to improve record-keeping, maintain professional standards, and strengthen internal mechanisms for patient safety and

ethical compliance.

In conclusion, the Indian judiciary has made an invaluable contribution to the development of medical malpractice law by establishing clear principles governing professional liability, patient rights, informed consent, criminal negligence, hospital responsibility, and standards of medical care. Landmark decisions such as *Indian Medical Association v. V.P. Shantha (1995)*, *Jacob Mathew v. State of Punjab (2005)*, *Samira Kohli v. Dr. Prabha Manchanda (2008)*, *Kusum Sharma v. Batra Hospital (2010)*, *Dr. Laxman Balkrishna Joshi v. Dr. Trimbak Bapu Godbole (1969)*, *Spring Meadows Hospital v. Harjol Ahluwalia (1998)*, and *Achutrao Haribhau Khodwa v. State of Maharashtra (1996)* continue to guide courts, medical practitioners, hospitals, and regulatory authorities in ensuring accountability while preserving the dignity and integrity of the medical profession.

CHALLENGES IN PROVING MEDICAL MALPRACTICE AND ENSURING ACCOUNTABILITY:

Proving medical malpractice and ensuring accountability present significant legal, ethical, and practical challenges within the Indian healthcare system. Although patients have the legal right to seek remedies for negligent medical treatment, establishing medical malpractice before a court or consumer forum is often a complex process due to the technical nature of medical science, the need for expert evidence, and the difficulty of distinguishing between an unavoidable medical complication and negligent treatment. Unlike ordinary negligence cases, medical malpractice involves specialised knowledge and clinical judgment that are often beyond the understanding of laypersons and even judges. Consequently, courts must carefully evaluate whether the healthcare professional failed to exercise the degree of skill, care, and diligence expected from a reasonably competent practitioner under similar circumstances. At the same time, accountability mechanisms must protect patient rights without exposing medical professionals to frivolous or unwarranted litigation, thereby maintaining a balance between professional independence and public safety.

One of the foremost challenges in proving medical malpractice is the technical complexity of medical science. Medical diagnosis and treatment involve specialised knowledge, evolving scientific practices, and professional discretion. Different doctors may adopt different methods of treatment that are all considered medically acceptable. Therefore, merely because a patient's condition deteriorates or treatment fails does not automatically establish negligence. Courts must distinguish between a genuine medical error arising despite

reasonable care and negligence resulting from a breach of professional standards. This distinction often requires extensive medical evidence and expert testimony, making malpractice litigation lengthy and technically demanding.

Another significant challenge is the burden of proving negligence, which primarily rests upon the patient or the complainant. The injured patient must establish that a doctor-patient relationship existed, that the medical practitioner breached the accepted standard of care that such breach directly caused the injury, and that actual damage resulted. In many cases, patients lack access to sufficient medical records, technical knowledge, or financial resources necessary to prove these essential elements. Since healthcare professionals generally possess greater access to medical information and documentation, patients may face considerable difficulties in substantiating their claims.

The requirement of expert medical evidence further complicates medical malpractice proceedings. Courts frequently depend upon the opinions of independent medical experts to determine whether the conduct of the healthcare professional conformed to accepted medical standards. However, obtaining impartial and qualified expert witnesses is often difficult because members of the medical profession may be reluctant to testify against fellow practitioners. In some instances, conflicting expert opinions create additional uncertainty, making it challenging for courts to reach a definitive conclusion regarding negligence. The absence of specialised medical tribunals also places a greater burden on ordinary courts and consumer forums to interpret complex medical evidence.

Another major obstacle is the difficulty in establishing causation. Even where negligence is established, the patient must prove that the doctor's breach of duty directly caused the injury complained of. This becomes particularly complicated when the patient already suffers from serious illnesses, multiple health conditions, or unavoidable medical complications. Medical outcomes are often influenced by several factors beyond the control of the healthcare provider, including the patient's age, existing diseases, delayed hospital visits, or unforeseen complications. Consequently, proving a direct causal connection between the negligent act and the resulting injury remains one of the most difficult aspects of medical malpractice litigation.

The inadequate maintenance of medical records by hospitals and healthcare institutions also creates significant evidentiary challenges. Accurate medical records are essential for determining the sequence of treatment, medications administered, consent obtained, diagnostic findings, and clinical decisions taken during patient care. Incomplete, inaccurate, or deliberately altered medical records may prevent patients from proving negligence and obstruct the administration of justice. Conversely, well-maintained medical documentation serves as

crucial evidence both for protecting patient rights and for defending medical practitioners against unfounded allegations.

Another challenge lies in the lengthy and expensive nature of legal proceedings. Medical malpractice cases often involve prolonged investigations, repeated expert examinations, and extensive judicial scrutiny. Many patients are discouraged from pursuing legal remedies because of high litigation costs, procedural delays, and emotional distress. The delay in obtaining compensation or disciplinary action may reduce public confidence in the effectiveness of legal remedies and discourage victims from reporting genuine cases of malpractice.

Lack of public awareness regarding patient rights and available legal remedies also hinders accountability. Many patients are unaware that they can seek compensation under the Consumer Protection Act, file complaints before the National Medical Commission or State Medical Councils, or pursue civil and criminal remedies where appropriate. Limited legal literacy, particularly in rural and economically disadvantaged communities, often prevents victims from taking action against negligent healthcare providers. This underreporting of medical malpractice allows certain instances of professional deviance to remain unaddressed.

Ensuring accountability is further complicated by the need to balance patient protection with the independence of medical professionals. Excessive criminalisation of medical errors may create fear among doctors, encouraging the practice of defensive medicine, where unnecessary diagnostic tests or procedures are performed merely to avoid future litigation. Such practices increase healthcare costs and may adversely affect patient care. Recognising this concern, the Supreme Court in *Jacob Mathew v. State of Punjab* (2005) held that criminal prosecution should be restricted to cases of gross negligence and that ordinary medical errors should not automatically result in criminal liability. This judicial approach seeks to protect both patient interests and the legitimate exercise of professional medical judgment.

The disciplinary mechanisms responsible for regulating professional misconduct also face several institutional challenges. Delays in disciplinary inquiries, shortage of regulatory resources, lack of transparency in certain proceedings, and inconsistent enforcement of ethical standards may reduce the effectiveness of professional accountability. Strengthening the capacity of the National Medical Commission and State Medical Councils, ensuring timely disposal of complaints, and improving coordination with healthcare institutions are essential for promoting greater accountability within the medical profession.

In conclusion, proving medical malpractice and ensuring accountability remain complex tasks requiring careful consideration of legal principles, medical expertise, ethical

standards, and patient rights. Challenges such as technical complexity, evidentiary difficulties, expert testimony, causation, inadequate documentation, procedural delays, and limited public awareness often make malpractice litigation difficult for patients. At the same time, accountability mechanisms must avoid discouraging genuine medical practice by protecting healthcare professionals from frivolous claims. Strengthening medical documentation, improving expert review systems, enhancing legal awareness, ensuring transparent disciplinary proceedings, and promoting ethical medical practice are essential measures for overcoming these challenges and fostering a healthcare system that is both accountable and trustworthy.

PREVENTIVE MEASURES AND REFORMS TO REDUCE PROFESSIONAL DEVIANCE IN HEALTHCARE:

Preventing medical malpractice and reducing professional deviance in the healthcare sector require a comprehensive approach that combines legal reforms, ethical governance, institutional accountability, continuous professional education, and effective regulatory oversight. While legal mechanisms provide remedies after malpractice has occurred, the primary objective of a well-functioning healthcare system should be to prevent negligence and unethical conduct before patient harm arises. Medical professionals occupy a position of immense public trust, and therefore healthcare institutions, regulatory authorities, governments, and medical practitioners must work collectively to strengthen professional integrity, improve patient safety, and promote ethical medical practice. Effective preventive measures not only reduce incidents of malpractice but also enhance public confidence in the healthcare system and preserve the dignity of the medical profession.

One of the most important preventive measures is strengthening medical education and continuous professional development. Medical science is constantly evolving with new technologies, treatment protocols, medicines, and diagnostic techniques. Healthcare professionals must therefore regularly update their knowledge and clinical skills through continuing medical education (CME), specialised training programmes, workshops, and professional certification courses. The National Medical Commission (NMC) should ensure that medical practitioners remain professionally competent throughout their careers by encouraging lifelong learning and competency-based education. Continuous training reduces diagnostic errors, improves clinical decision-making, and enhances the quality of patient care.

Another significant reform is the strict enforcement of professional ethics. Ethical values such as beneficence, non-maleficence, patient autonomy, confidentiality, honesty, integrity,

and accountability should form the foundation of every medical practitioner's professional conduct. Medical colleges should incorporate ethics as a compulsory component of medical education, while hospitals should conduct regular ethics training programmes for healthcare professionals. The National Medical Commission and State Medical Councils should strictly enforce ethical regulations by taking prompt disciplinary action against practitioners involved in professional misconduct, fraudulent practices, or repeated negligence. A strong ethical culture within healthcare institutions serves as an effective safeguard against professional deviance.

Strengthening informed consent practices is another essential preventive measure. Patients should receive complete and understandable information regarding their diagnosis, proposed treatment, risks involved, expected benefits, available alternatives, and possible consequences before any significant medical procedure is undertaken. Proper communication between doctors and patients promotes transparency, strengthens trust, reduces misunderstandings, and minimises legal disputes arising from allegations of malpractice. Hospitals should adopt standardised informed consent procedures and ensure that consent forms are properly documented and maintained.

Improving medical record management and documentation is equally important in reducing medical malpractice. Accurate, complete, and timely medical records facilitate continuity of patient care, assist in clinical decision-making, and provide reliable evidence in the event of legal proceedings. Electronic Health Records (EHRs) and digital documentation systems should be widely implemented to improve accuracy, reduce human error, and ensure secure storage of patient information. Proper documentation also promotes accountability by enabling healthcare providers to justify their clinical decisions based on established medical standards.

Healthcare institutions should establish effective patient safety and quality assurance mechanisms. Hospitals should implement standard operating procedures, infection control protocols, medication safety guidelines, surgical safety checklists, and regular clinical audits to minimise preventable medical errors. Internal quality assurance committees should periodically review adverse events, identify systemic weaknesses, and recommend corrective measures. Adoption of internationally recognised patient safety standards significantly reduces the incidence of medical negligence and improves the overall quality of healthcare services.

Another important reform is the strengthening of regulatory oversight by the National Medical Commission and State Medical Councils. Regulatory authorities should ensure timely investigation of complaints, transparent disciplinary proceedings, uniform enforcement of

ethical standards, and appropriate sanctions against medical practitioners found guilty of professional misconduct. Delays in disciplinary action reduce public confidence and weaken deterrence. Therefore, regulatory bodies should be adequately staffed, technologically equipped, and institutionally independent to discharge their functions efficiently.

The promotion of alternative dispute resolution (ADR) mechanisms, such as mediation and conciliation, can also contribute to resolving medical negligence disputes more efficiently. Medical malpractice litigation is often expensive, time-consuming, and emotionally distressing for both patients and healthcare professionals. Establishing specialised mediation mechanisms for appropriate cases may facilitate quicker compensation, preserve doctor-patient relationships, and reduce the burden on courts while ensuring fairness to all parties.

Advancements in technology should be utilised to improve patient safety and clinical accuracy. The adoption of electronic prescribing systems, artificial intelligence-assisted diagnostic tools, digital imaging technologies, electronic medical records, clinical decision-support systems, and telemedicine guidelines can significantly reduce human errors in diagnosis and treatment. However, technological innovations should complement rather than replace professional clinical judgment, and adequate safeguards must be implemented to protect patient privacy and data security.

Public awareness and patient education are equally important in preventing medical malpractice. Patients should be informed about their legal rights, including the right to informed consent, confidentiality, access to medical records, second medical opinions, and available legal remedies in cases of negligence. Public awareness programmes conducted by government agencies, hospitals, and civil society organisations can empower patients to actively participate in healthcare decisions and report instances of professional misconduct where necessary.

Improving the doctor-patient relationship also plays a crucial role in preventing professional deviance. Many medical negligence disputes arise from poor communication rather than actual clinical incompetence. Healthcare professionals should communicate openly, honestly, and compassionately with patients and their families regarding diagnosis, treatment options, expected outcomes, and potential complications. Transparency in medical practice strengthens trust and reduces conflicts arising from unrealistic expectations or misunderstandings.

The Government should also undertake legislative and policy reforms to strengthen accountability while protecting genuine medical practitioners from unnecessary litigation. Uniform national guidelines governing medical negligence, patient safety standards, hospital

accreditation, and ethical practices should be effectively implemented. Specialised medical negligence tribunals or dedicated healthcare dispute resolution mechanisms may also be considered to ensure quicker and more technically informed adjudication of malpractice claims.

In conclusion, reducing professional deviance in healthcare requires a multidimensional strategy that integrates legal regulation, ethical governance, institutional accountability, medical education, technological innovation, and patient participation. Preventive measures such as continuous professional training, strict enforcement of ethical standards, improved documentation, strengthened regulatory oversight, enhanced patient safety mechanisms, effective communication, and greater public awareness are essential for minimising medical malpractice. By implementing these reforms, India can promote a healthcare system that is ethical, transparent, accountable, and patient-centred while preserving the trust and integrity upon which the medical profession is founded.

CONCLUSION:

Medical malpractice as a form of professional deviance represents one of the most significant challenges confronting modern healthcare systems. The medical profession is founded on the principles of trust, competence, compassion, and ethical responsibility, and society places immense confidence in healthcare professionals to protect life and promote well-being. When medical practitioners fail to exercise the required standard of care or engage in unethical conduct, they not only cause physical, emotional, and financial harm to patients but also undermine public confidence in the healthcare system. Medical malpractice therefore extends beyond individual acts of negligence; it reflects a serious deviation from the legal, ethical, and professional obligations that define the medical profession. Consequently, addressing medical malpractice requires not only legal remedies but also institutional reforms and a strong commitment to professional ethics.

This article has demonstrated that medical malpractice encompasses a wide range of wrongful acts, including diagnostic errors, treatment failures, surgical negligence, medication mistakes, breach of confidentiality, failure to obtain informed consent, hospital negligence, and fraudulent medical practices. These acts constitute professional deviance because they violate accepted standards of medical competence, ethical conduct, and legal responsibility. While not every unsuccessful medical treatment amounts to negligence, liability arises when a healthcare professional fails to act with the degree of care, skill, and diligence expected from a reasonably competent practitioner under similar circumstances. The legal distinction between ordinary

medical errors and actionable negligence remains crucial in ensuring fairness both to patients and to medical professionals.

The legal framework governing medical malpractice in India has evolved considerably through statutory provisions, constitutional principles, and judicial interpretation. The Consumer Protection Act, 2019 enables patients to seek compensation for deficiency in medical services, while the National Medical Commission Act, 2019 regulates professional conduct and ethical standards within the medical profession. The Bharatiya Nyaya Sanhita, 2023 provides for criminal liability in cases of gross medical negligence resulting in death or serious injury, whereas the Bharatiya Sakshya Adhiniyam, 2023 governs the evidentiary aspects of malpractice litigation. Constitutional protections, particularly under Article 21, reinforce the patient's right to life, health, dignity, and safe medical treatment. Together, these legal mechanisms create a comprehensive framework for ensuring accountability while safeguarding both patient rights and professional independence.

The contribution of the Indian judiciary has been particularly significant in developing medical negligence jurisprudence. Landmark decisions such as *Indian Medical Association v. V.P. Shantha* (1995), *Jacob Mathew v. State of Punjab* (2005), *Samira Kohli v. Dr. Prabha Manchanda* (2008), *Kusum Sharma v. Batra Hospital & Medical Research Centre* (2010), *Dr. Laxman Balkrishna Joshi v. Dr. Trimbak Bapu Godbole* (1969), *Spring Meadows Hospital v. Harjol Ahluwalia* (1998), and *Achutrao Haribhau Khodwa v. State of Maharashtra* (1996) have clarified the standards of care, principles of informed consent, scope of criminal liability, hospital responsibility, and professional accountability. These judicial pronouncements have balanced the need to protect patients against negligence while ensuring that doctors are not subjected to unwarranted litigation merely because a treatment outcome is unfavourable.

The ethical dimension of medical malpractice is equally important. Violations of the principles of beneficence, non-maleficence, patient autonomy, justice, confidentiality, honesty, and professional accountability demonstrate that malpractice is not simply a legal wrong but also a profound ethical failure. Ethical medical practice requires healthcare professionals to place patient welfare above personal or financial interests, maintain transparency, preserve confidentiality, obtain informed consent, and continuously improve their professional competence. Upholding these ethical principles is essential for preserving the dignity of the medical profession and strengthening the doctor-patient relationship.

The study also highlights that ensuring accountability in medical malpractice cases remains a complex task. Technical medical evidence, difficulties in proving negligence and

causation, limited public awareness, procedural delays, and the need for expert testimony often create substantial obstacles for patients seeking justice. Simultaneously, excessive or unfounded litigation may discourage medical professionals from exercising independent clinical judgment and contribute to the practice of defensive medicine. Therefore, the legal system must continue to maintain a balanced approach that protects patients while recognising the inherent uncertainties and complexities of medical science.

Preventing professional deviance requires comprehensive reforms that extend beyond legal liability. Strengthening medical education, promoting continuous professional development, enforcing ethical standards through the National Medical Commission, improving hospital governance, adopting modern healthcare technologies, ensuring accurate medical documentation, strengthening informed consent procedures, and enhancing patient awareness are all essential measures for reducing medical malpractice. Healthcare institutions should foster a culture of transparency, accountability, quality assurance, and patient safety rather than merely responding to instances of negligence after they occur.

In the final analysis, medical malpractice should be viewed not merely as an individual professional failure but as a broader challenge involving legal regulation, ethical responsibility, institutional governance, and public trust. A healthcare system can achieve excellence only when its professionals consistently uphold the highest standards of competence, integrity, compassion, and accountability. Effective implementation of legal safeguards, strict ethical regulation, timely judicial remedies, and continuous professional improvement will collectively reduce professional deviance and strengthen public confidence in the medical profession. Ultimately, protecting patient rights while preserving the dignity and independence of the medical profession remains the cornerstone of a just, ethical, and accountable healthcare.

SUGGESTIONS:

To reduce medical malpractice as a form of professional deviance, India should strengthen ethical education and continuous professional training for healthcare professionals. The National Medical Commission (NMC) must ensure strict enforcement of professional ethics and take prompt disciplinary action against misconduct. Hospitals should implement standard treatment protocols, maintain accurate medical records, and adopt modern technologies such as electronic health records to minimise medical errors. Greater emphasis should be placed on obtaining informed consent, improving doctor–patient communication, and enhancing patient awareness regarding their legal rights and available remedies. The Government should strengthen regulatory mechanisms, establish faster dispute resolution systems for medical

negligence cases, and encourage a culture of transparency, accountability, and patient safety. Collectively, these measures will help reduce professional deviance, improve the quality of healthcare services, and restore public confidence in the medical profession system in India.

