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DOCTORS' NEGLIGENCE IN INDIA: COMMON FAILURES AND LEGAL OUTCOMES

AUTHORED BY - AJEET GHOSHI

Medical professionals are entrusted with the responsibility of safeguarding human life, yet mistakes in medical practice are not uncommon and can sometimes lead to serious legal consequences. Medical malpractice occurs when a patient suffers harm due to a doctor's failure to provide the standard level of care expected in the profession. While patients often place absolute trust in doctors, errors arising from negligence, oversight, or systemic failures can result in long-term disability, emotional distress, or even death, giving rise to civil or criminal liability.

One of the most frequent causes of legal action against doctors is the absence of informed consent. Indian courts have consistently emphasized that although doctors are not expected to guarantee recovery, they are legally bound to exercise reasonable care and skill. Informed consent requires doctors to clearly explain the nature of the treatment, potential risks, and available alternatives before performing any procedure. The Supreme Court, in *Samira Kohli v. Dr. Prabha Manchanda*, firmly established informed consent as a fundamental patient right. This obligation is also reinforced under the Indian Medical Council (Professional Conduct, Etiquette and Ethics) Regulations, 2002, which mandate consent prior to surgical or invasive procedures.

Where bodily harm is caused without consent, criminal liability may arise under Section 115 of the Bharatiya Nyaya Sanhita, 2023.

Misdiagnosis is another major area of medical negligence and occurs when a doctor incorrectly identifies a patient's illness or delays diagnosis, leading to inappropriate or delayed treatment.

Indian law applies the Bolam test to assess whether the doctor acted in accordance with accepted medical practice. The Supreme Court in *Kusum Sharma v. Batra Hospital* clarified that doctors are expected to possess a reasonable degree of skill, not the highest level of

expertise, and that unsuccessful treatment alone does not amount to negligence. However, if death results from negligent misdiagnosis, criminal liability may be imposed under Section 106 of the Bharatiya Nyaya Sanhita, which deals with death caused by negligence.

Surgical errors represent some of the most evident forms of medical negligence. Mistakes such as operating on the wrong body part or leaving surgical instruments inside a patient demonstrate a serious breach of duty. In such cases, courts often apply the doctrine of *res ipsa loquitur*, meaning that negligence is presumed from the very nature of the act. These errors may lead to civil liability under the Consumer Protection Act, 2019 for deficiency in service, along with criminal liability under Sections 117 or 106 of the Bharatiya Nyaya Sanhita if grievous harm or death is caused. The Supreme Court in *Spring Meadows Hospital v. Harjol Ahluwalia* held that administering incorrect medication clearly amounts to medical negligence.

Proper documentation is a critical component of medical practice, as medical records serve as vital evidence of diagnosis and treatment. Failure to maintain or preserve patient records can expose doctors and hospitals to legal liability. The Indian Medical Council Regulations, 2002 impose a duty on medical practitioners to maintain accurate and complete records, and neglect of this duty can result in civil consequences.

Prescription errors also frequently lead to malpractice claims. These errors may involve prescribing the wrong medication, incorrect dosage, drugs that interact adversely with existing medicines, or medicines to which the patient is allergic. Such mistakes often occur due to haste or inadequate patient evaluation. Courts have held that incorrect prescriptions, particularly in the case of children, impose liability on both doctors and hospitals, as reaffirmed in *Spring Meadows Hospital v. Harjol Ahluwalia*.

Doctors may also face legal action for violations of professional ethics. Practices such as misleading advertisements, unnecessary medical procedures, or excessive charging violate established ethical norms. The Indian Medical Council Regulations, 2002 and the National Medical Commission Act, 2019 provide for disciplinary action, including suspension or cancellation of medical registration, against professionals who engage in unethical conduct.

Medical negligence can attract liability under multiple legal frameworks. Under consumer law,

the Supreme Court in *Indian Medical Association v. V.P. Shantha* brought medical services within the scope of the Consumer Protection Act. The doctor-patient relationship is treated as a service contract, and any deficiency in service under Section 2(11) of the Consumer Protection Act, 2019 can result in compensation claims. Additionally, doctors may incur tortious liability where there is a breach of duty of care resulting in actual harm, whether physical, emotional, or financial. The essential elements of negligence include the existence of a duty of care, breach of that duty, and resulting damage to the patient.

Criminal liability arises only in cases of gross or reckless negligence, as criminal law focuses on the degree of negligence rather than compensation. The Supreme Court in *Dr. Suresh Gupta v. Government of NCT of Delhi* cautioned against unnecessary criminal prosecution of medical professionals, observing that fear of prosecution could discourage doctors from performing life-saving procedures. This principle was further strengthened in *Jacob Mathew v. State of Punjab*, which held that criminal charges should apply only where negligence is so severe that it demonstrates disregard for patient safety.

Under the Bharatiya Nyaya Sanhita, 2023, Section 106 corresponds to Section 304A of the IPC and addresses death caused by negligent acts. While the general punishment may extend up to five years, a reduced sentence of up to two years applies in cases involving medical procedures. Section 125 addresses rash acts endangering life or safety, subject to preliminary inquiry. In *Lalita Kumari v. Government of Uttar Pradesh*, the Supreme Court permitted such preliminary inquiries in medical negligence cases to prevent frivolous criminal proceedings while ensuring accountability in genuine cases.

Overall, Indian jurisprudence on medical negligence reflects a careful balance between protecting patient rights and preserving professional autonomy. Courts continue to recognize that medicine is not an exact science and that honest errors of judgment should not be equated with criminal wrongdoing, while still holding medical professionals accountable for clear and gross negligence.