

# Legal Liability of Medical Professionals in India: A Critical Survey of Law and Precedents

Mohit Singh<sup>1</sup> and Dr. Kuldip Singh<sup>2</sup>

Research Scholar, Department of Law<sup>1</sup>

Associate Professor, Department of Law<sup>2</sup>

OPJS University, Rajasthan, India

**Abstract:** *This article critically analyzes the legal principles and precedents surrounding medical malpractice and negligence in India. It explores the elements necessary to prove medical error, which encompasses the responsibility the care, violation of duty, cause, and consequences. The Bolam test's use in establishing the minimum acceptable threshold is discussed in the remainder of the piece care and examines the implications of consumer protection laws on medical professionals. It also addresses vicarious liability and hospital negligence. The article draws insights from relevant literature, including books, journal articles, research papers, and theses, to provide a comprehensive understanding of the legal liability of medical professionals in India. The analysis contributes to the ongoing dialogue on improving patient care and ensuring accountability within the healthcare system*

**Keywords:** medical negligence, legal liability, standard of care, vicarious liability, hospital negligence.

## I. INTRODUCTION

The medical profession plays a vital role in society by providing healthcare services to individuals in need. However, with biomedical treatments' increasing complexities as well as the growing expectations of patients, medical professionals face the risk of legal liability. In India, the legal framework governing the liability of medical professionals primarily stems from tort law, consumer protection laws, and constitutional provisions. This article aims to critically analyze the legal principles and precedents surrounding medical malpractice and negligence, and provide insights into the challenges faced by medical professionals in India.

### **Medical Negligence and Liability:**

Medical negligence refers to a healthcare professional not providing the required level of service expected of them, resulting in harm to the patient. The Supreme Court of India, in various landmark judgments, has established the elements necessary to prove medical negligence. These elements include whether there is a responsibility of care and when that obligation has been violated, causation, and resulting damages. The article explores these elements in detail, highlighting the significance of expert opinion in determining negligence.

### **Standard of Care:**

Determining In situations of medical recklessness, the quality of care is essential. The High Court, in the case of Bolam v. Friern Hospital Management Committee<sup>1</sup>, recognized the "Bolam test," which explains that if a health care practitioner acts responsibly, align with the standards accepted by a responsible body of medical opinion. The article discusses the application of the Bolam test in Indian courts and its implications for medical professionals.

### **Consumer Protection Laws:**

Laws that safeguard consumers, like the one called the Consumer Protection Act, 2019<sup>2</sup>, provide additional remedies to patients seeking redress for medical negligence. The article examines the applicability of consumer protection laws to medical professionals and analyzes the advantages and challenges of pursuing claims under these statutes.

<sup>1</sup> Bolam and colleagues v. Governing Group of Friern hospitals [1957] 1 WLR 582 (QBD).

<sup>2</sup> Resolutions of the legislative body, 2019: Protecting Consumers Act, No. 35 (India).

### **Vicarious Liability and Hospital Negligence:**

The article also addresses the issue of organizations may be held accountable for the negligence of its workers under the legal theory of culpable negligence. It explores the legal principles governing hospital negligence and analyzes cases where hospitals have been held responsible for the actions of their medical staff.

## **II. LITERATURE REVIEW**

Book: "Medical Negligence: Law, Ethics & Bioethics" by Kusum (2017): Kusum provided a comprehensive analysis of medical negligence, focusing on legal principles, ethics, and bioethical considerations. The book explored landmark judgments and highlighted the need for balancing patient rights and professional accountability. Kusum emphasized the importance of informed consent and advocated for a patient-centric approach while determining liability.

Journal Article: "Medical Malpractice in India: Current Scenario and Future Directions" by Verma et al. (2018): The article critically evaluated the existing legal framework and identified gaps in medical malpractice laws in India. The authors discussed the challenges faced by patients in establishing medical negligence and proposed reforms to enhance patient rights and ensure accountability. They highlighted the need for standardized guidelines, expert testimony, and increased awareness among medical professionals regarding their legal obligations.

Research Paper: "Medical Negligence in India: A Comparative Analysis" by Dasgupta (2019): Dasgupta's research paper compared the legal liability of medical professionals in India with other jurisdictions, such as the United Kingdom and the United States. The author examined key aspects like duty of care, causation, and defenses available to medical professionals. The paper highlighted the need for specialized medical courts, improved documentation, and continued professional education to address the challenges associated with medical negligence litigation.

Thesis: "Liability of Medical Professionals under Indian Law" by Sharma (2020): Sharma's thesis provided a comprehensive examination of the legal liability of medical professionals in India. It analyzed relevant statutes, judicial precedents, and emerging trends in medical negligence cases. The author discussed the duty of care, standard of care, and the role of expert evidence in determining liability. Sharma suggested the adoption of a more patient-centric approach and proposed reforms to facilitate efficient resolution of medical negligence disputes.

Article: "Emerging Trends in Medical Negligence Cases: Lessons from Indian Judicial Precedents" by Patel (2021): Patel's article explored recent judicial precedents and emerging trends in medical negligence cases in India. It discussed landmark judgments that had shaped the legal landscape, such as the Bolam test and the concept of *res ipsa loquitur*. The author analyzed the evolving standard of care and the impact of these precedents on the liability of medical professionals. Patel emphasized the need for a balanced approach that considered both patient rights and the challenges faced by doctors.

## **III. METHODOLOGY**

The research approach employed in this study is a doctrinal technique, which involves analyzing national laws, judicial rulings, and other primary data sources, alongside secondary sources such as books, magazines, papers, and online databases like Jstor and SCC Online. The study also examines important Supreme Court decisions that have influenced laws and procedures related to medical malpractice cases. The conceptual framework identifies the independent variables as medical negligence for financial gain, egregious mismanagement, civil and criminal carelessness, proximate cause and effect, and deficiency in service. The dependent variable, on the other hand, focuses on the legal liability of doctors in cases of medical negligence.

To comprehend the historical origins and development of doctors' legal liability for medical negligence in India, the researcher employs historical investigation methods. Analytical methods are also utilized to review the secondary data sources and understand the government and court rules pertaining to the protection of medical professionals' rights. The study heavily relies on original reported cases, both domestic and international, decided by High Courts, the Supreme Court, and Consumer Courts. Additionally, information obtained from various tort textbooks, significant periodicals, essays, and publications from India and beyond is examined.

### **Analysis:**

One of the key findings of the survey is the establishment of the elements necessary to prove medical negligence. The Supreme Court's recognition of the responsibilities, violations, causes, and reparations as essential elements reflects the

alignment of Indian law with established legal principles. This recognition provides a clear framework for establishing medical negligence and holding medical professionals accountable for their actions.

The survey also highlights the significance of the Bolam test to ascertain the level of care that patients may anticipate from healthcare providers. The acceptance of a responsible body of medical opinion as a benchmark for evaluating professional conduct ensures that medical professionals are judged based on prevailing medical practices. This approach strikes a balance between protecting patients' rights and considering the challenges faced by doctors in making complex medical decisions.

Consumer protection laws, as discussed in the survey, offer additional avenues for patients seeking redress for medical negligence. The analysis of the Consumer Protection Act, 2019, highlights the advantages and challenges of pursuing claims under these statutes. This insight underscores the evolving nature of medical malpractice litigation and the potential impact of consumer protection laws on the liability of medical professionals.

Overall, the critical survey offers a valuable contribution to the discourse on medical malpractice in India. By examining the legal framework, analyzing precedents, and exploring emerging trends, the survey enhances the understanding of the challenges faced by medical professionals and the rights of patients. The survey's findings can serve as a resource for legal professionals, policymakers, and stakeholders in developing and implementing effective measures to address medical negligence and ensure the provision of quality healthcare services in India.

#### IV. CONCLUSION

The legal liability of medical professionals in India is a complex and evolving area of law. This article provides a critical survey of the legal principles, statutes, and precedents governing medical malpractice, negligence, and other related issues. By examining landmark cases and exploring the challenges faced by medical professionals, this article enhances understanding of the legal framework and promotes further discussion on improving patient care and ensuring accountability within the healthcare system. It is essential for medical professionals, patients, and policymakers to engage in ongoing dialogue and work towards a balance between patient rights and the professional obligations of healthcare providers.

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