



The Indian Journal for Research in Law and Management

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Editor-in-Chief – Dr. Muktai Deb Chavan; Publisher – Alden Vas; ISSN: 2583-9896

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Medical Negligence Laws

~Garima Malik

Abstract

Healthcare plays an important role in protecting and improving the lives of people, making the relationship between the medical professional or practitioner and a patient important. Patient trust their doctor to diagnose their disease. However, when this trust is broken due to the carelessness of a doctor or any medical practitioner, medical negligence comes into the picture. Medical negligence is a serious issue in healthcare law as it involves the responsibility of the medical professional to provide reasonable care to the patient. When a doctor fails to meet their duty of care, medical negligence comes into question. While not every treatment by a doctor may be successful, natural causes may cause damages or injuries to a patient. The question is whether the damages occurred under these circumstances. This article examines the concept of negligence and medical negligence in India and discusses various legal frameworks in India such as consumer, civil and criminal liability. It also discusses the difference between medical negligence and unsuccessful treatment. Along with that, relevant judicial decisions are discussed on how liability arises in cases of medical negligence. The article also discusses on how Indian law provides claims to the patient for damages caused by a medical practitioner but also ensures that they are not held liable for unsuccessful treatment. The article seeks to understand how Indian legal frameworks balance the rights of the patient and impose liabilities on the medical professional who fails to take reasonable care and duty and also fails to follow the ethical obligations.

Keywords: Negligence, Medical negligence, civil liability, Criminal liability, Consumer Protection

Introduction

The word negligence comes from the Latin word *negligentia*, which means “carelessness” or “failing to take care”. If someone is injured due to the negligence of the other’s party, then the injured person can sue that person and can claim compensation for their damages. For instance, a person was driving negligently and crashed into the other person’s vehicle, causing him a severe injury. The injured person has the right to compensation because the driver was driving negligently.

To claim compensation, the injured party must prove that four elements of negligence exist in their claim or case. These four elements are:-

1. Duty of care: It means that every person has a legal duty to act with care to avoid causing harm to others. This duty applies to everyone, whether a normal citizen, a construction worker, a driver, or government authorities. For instance, it is a duty of a manufacturer to make a safe product for consumers, or it is the duty of a government official to prevent undue hardship to its citizens.

2. Breach of duty of care: Breach of duty means when an individual fails to take reasonable care and causes harm to others. They have violated the law and incurred liability. For example, it is a driver’s duty to drive within the speed limit, but if he drives above the speed limit, it is against the law and a breach of duty of care.

3. Causation: It must be proved by the plaintiff that there is a direct link between a defendant’s breach of duty of care and the injuries suffered by the claimant. It has two components: (a) the “But for” test, which means whether harm has occurred due to the defendant's act. (b) “Proximate Causation” is a legal term meaning the plaintiff’s harm was caused by the defendant, directly or indirectly.

4. Damages: After establishing causation, the plaintiff must prove that damages or injuries have occurred as a result of the accident. If there is no damage, negligence remains incomplete even if duty and breach of duty of care are established.

What is Medical Negligence?

Medical negligence means improper or unskilled treatment of a patient by a medical practitioner. It includes negligence by a physician, surgeon, or taking care from a nurse. Medical negligence means injury suffered by the patient from the treatment given by the doctor

or medical practitioner, which leads to “Medical malpractice”. Examples of Medical negligence are:-

- Not giving proper medical advice.
- Delayed diagnosis
- A doctor or nurse gives improper administration of medicine
- A foreign object being left behind inside the patient, such as sponges, bandages, etc., during the surgery.

To prove medical negligence, the above-discussed four components should be proved by the plaintiff in order to claim compensation for the damages or injuries.

Medical Negligence under Indian Law

It is really important to distinguish between medical negligence and an unfortunate incident. It should not be confused with unsuccessful treatment. A medical practitioner is not expected to possess the highest possible degree of skill. The relevant question is whether the medical professional took reasonable care and followed the course of treatment without any negligence on his part.

A patient may still suffer damages, die during the process of surgery, or his condition can get worse even if reasonable care is taken by the doctor and medical staff, and it does not lead to negligence.

There are provisions under Indian law which provide remedy and compensation to the injured person and hold responsible whosoever neglects his or her medical practices. We are going to discuss that below.

1. Consumer Protection Act, 1986

In the case of *Indian Medical Association v. V.P Shantha*¹ the Supreme Court held that medical services fall under the Consumer Protection Act, 1986. This decision made patients consumers, and doctors and hospitals service providers, allowing medical negligence cases to be filed in consumer courts and permanently changing medico-legal practice in India.

¹ Indian Medical Association v. V.P. Shantha, (1995) 6 SCC 651

Section 2 (1) (o) defines 'deficiency of service' as a fault in the quality of performance of service which is required to be maintained under the law, contract or otherwise.

The judgment allowed patients to seek remedies through the consumer forum for deficiency in medical services. It also strengthened the legal remedies available to patients and led to development in the healthcare sector.

2. Criminal Liability for Medical Negligence

Section 106 (1) of the Bharatiya Nagrik Sanhita defines causing death by negligence. It states that whoever causes the death of any person by doing any rash or negligent act not amounting to culpable homicide, if such act is done by a registered medical practitioner while performing a medical procedure, shall be punished for a term which may extend to two years and shall also be liable for a fine.

In the case of *Jacob Mathew v. State of Punjab*², the court distinguished between civil and criminal liability. Civil liability could occur from a mere lack of due care or error in a judgment, and criminal liability requires a much higher degree of negligence. Such negligence must be gross negligence, which does not require mere compensation but deserves punishment. In this case, the court, instead of holding the doctor liable, held the hospital liable for the patient's unfavourable outcome.

Therefore, the court held that a doctor cannot be held liable merely because the treatment did not succeed, provided that proper and reasonable care was followed by the doctor.

The court in this judgment also noted that unless there is a *prima facie* act of gross negligence, a doctor cannot be prosecuted. According to the **Bolam Test**, derived from the English case *Bolam v. Friern Hospital Management Committee*³, a medical professional cannot be held guilty of negligence if they acted with due diligence.

The Bolam test emphasises the need to consider the opinions of a professional medical practitioner instead of letting the case be decided by laypersons or the judiciary. This test is a foundation for determining medical negligence.

3. Civil Liability

² Jacob Mathew v. State of Punjab, (2005) 6 SCC 1

³ Bolam v. Friern Hospital Management Committee, [1957] 1 W.L.R. 582 (Q.B.).

When a medical practitioner fails to take reasonable care and causes injury, the patient may seek compensation through the appropriate legal remedy. The negligent medical provider is liable for the damages arising from the incident. In both civil and criminal cases, the wrongdoer must face legal liability, but the two are structured differently. Civil cases are usually brought against an individual, while criminal cases are crimes against society and are initiated by the government prosecutor.

In civil cases, a person does not go to prison and has to pay monetary damages, comply with injunctions and follow other court orders. All forms of civil liability are designed to compensate a party who has suffered a civil wrong and to deter people from causing harm to others. In the medical field, civil liability provides added incentive for healthcare providers to meet or exceed the standard of care for their patients.⁴

4. Professional and Disciplinary Committee

A medical practitioner may face disciplinary action for not taking reasonable care, violating professional standards, or ethical obligations. The regulatory committee may take action against the medical practitioner for violating ethical obligations or professional standards. This mechanism is pivotal because providing compensation is important, but it is also important to maintain professional standards and ethical obligations and to protect patient rights.

The above legal frameworks provide remedies to the patient who suffers any kind of injury by a medical professional, and if the damage is serious, the practitioner can also face criminal liability, making sure that they are not held liable just for negligent treatment by giving compensation to the injured person.

The important question that arises in medical negligence cases is whether the medical professional failed to take reasonable care as per the medical standards and ethical obligations and whether that led to the unsuccessful treatment of the patient. Thus, Indian law maintains a balance between patient rights and protection, accountability and reasonable medical judgment.

Difference between Medical Negligence and Unsuccessful Treatment

Unsuccessful treatment should not be confused with medical negligence. If a patient suffers complications, does not recover well, or some issues arise during the surgery or treatment, it

⁴ Indigo, *Civil Liability: What Is It & How Does It Work?*, (Aug. 12, 2025)
<https://www.getindigo.com/blog/civil-liability-definition-meaning-lawsuits-examples>

cannot be declared as medical negligence by a medical professional. Even if a medical practitioner takes reasonable care and follows every procedure, complications can still arise.

To establish medical negligence, it must be proven that reasonable care was not taken by the medical professional. Or the doctor failed to exercise the reasonable skill that is required of a medical professional and that this failure caused damages to the patient. Therefore, a failed medical outcome cannot be said to be medical negligence by the doctor.

Challenges in Proving Medical Negligence

Proving medical negligence is not easy because it has a very complicated procedure and circumstances that cannot be understood by a patient. He might not get the idea of where the treatment went wrong. It is challenging to prove that a medical professional was required to follow a standard of care in a particular situation.

Another challenge is to prove a link between the alleged negligence and the injury suffered by the patient. A patient may suffer complications; his condition might get worse, or any unknown risk might arise associated with treatment. Therefore, it is really important to prove that the patient is suffering due to the negligence of the doctor and not of a natural cause.

Evidence can play a pivotal role in proving medical negligence by the practitioners. However, obtaining such evidence can be difficult and increase the time and cost involved in making such claims.

Conclusion

Medical negligence laws protect the rights of the patient who suffers damages due to the negligence of a medical professional, while also recognising that a medical treatment cannot always guarantee a successful outcome. It also ensures that a doctor is not held liable for an unsuccessful treatment even though reasonable care was being taken. At the same time, when a medical practitioner fails to take a reasonable standard of care, which causes harm to a patient, an appropriate legal remedy is available under the Indian legal framework.

