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CONSENT AND LEGAL FRAMEWORK CONCERNING MEDICAL NEGLIGENCE CASES IN INDIA: A CRITICAL ANALYSIS AND NEED FOR COMPREHENSIVE REFORM

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ABSTRACT:

Medical negligence is a major problem in India's healthcare system, as patients' rights and medical practitioners' responsibilities frequently conflict with each other. The notion of informed consent is an important part of medical negligence because it protects a patient's right to be fully informed about the risks, benefits, and alternatives to any medical operation before proceeding. Despite its importance, informed consent is frequently ignored or badly addressed by healthcare practitioners, leading to allegations of negligence. This study critically investigates the function of consent in medical negligence cases and provides an overview of the current legal frameworks governing medical negligence in India. While many statutes, including the Consumer Protection Act, the Indian Penal Code, and judicial precedents, address the issue, the lack of a comprehensive and coherent legal framework leads to inconsistent application of the law and insufficient protection for patients. The analysis demonstrates how failures in informed consent can result in catastrophic medical effects, providing the basis for negligence claims. This article identifies substantial holes in the existing system by delving into legislative frameworks and landmark court judgments, such as the lack of mandated consent protocols and contradictory legal interpretations of carelessness. Furthermore, the study proposes for complete reforms to India's medical negligence legislation, including stronger legal protections for patients, clearer rules for healthcare providers, and obligatory consent protocols.

Keywords: Implied Consent, Judicial oversight, Medical Negligence, Professional Indemnity, Standard of Care.

Introduction:

"The practice of medicine is an art, not a trade; a calling, not a business; a calling in which your heartwill be exercised equally with your head."

– William Osler

When it comes to patients, 'Medical Negligence' is a major concern. In Bharath, medical practitioners were revered as a 'God' or deity. However, this belief is now uncertain. The main reason is an increase in medical malpractice cases in recent years. Medical negligence has been an ongoing concern in the country for decades. The medical profession, despite its noble reputation, is not immune to negligence, which can lead to fatalities, limb impairment, and patient agony. In numerous cases, patients have suffered damages at the hands of incompetent or uneducated doctors who chose to do so. Medical practitioners or claimants may have acted negligently or intentionally to take advantage of their entitlements. Medical negligence is an important threat for human rights, affecting the right to life and healthcare. Medical negligence cases in India often go unresolved due to a lack of legal action. As a result, public

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trust in medical practitioners is completely eroded. Despite restricted access to legal remedies, their attempts highlight shortcomings in the current law and judicial system. This study aims to assess medical negligence laws in India and determine their legal status. To understand *professional negligence and medical negligence*, it's crucial to first define the term ***'profession'***, particularly in the context of medico-legal conflicts. The Oxford Advanced Learner's Dictionary defines a 'profession' as a paid occupation that requires advanced education and training. Professionals' work is highly specialized, requiring more mental than physical effort. The terms 'profession' and 'occupation' differ on the same foundation.

Medical Negligence:

Medical negligence is a specific type of professional carelessness that occurs in the healthcare industry. It refers to a breach of duty by medical practitioners (doctors, nurses, or healthcare providers) who fail to meet the standard of care anticipated in their field, resulting in patient injury or harm. To demonstrate medical negligence, three things must be proved:

1. **Duty of Care:** The healthcare professional had a duty to the patient to provide competent care.
2. **Breach of Duty:** The provider did not fulfill the standard of care.
3. **Causation and Damage:** The breach resulted in genuine harm or injury to the patient.

Actionable Medical Negligence:

The term "actionable negligence" refers to the act of importing or shifting the doer's liability. To establishliability for clinical negligence, it is necessary to demonstrate that:

1. The doctor had an 'obligation to take care' of the patient,
2. The doctor failed to perform that obligation,
3. The doctor has caused damages to the patient because of the breach of that duty.[928]

Clinical or medical negligence cannot be alleged unless all three conditions are present at the same time. The legal framework regulating medical negligence in India, particularly informed consent, has received extensive legal examination. Medical negligence is generally addressed through tort law, the Consumer Protection Act, and portions of the Indian Penal Code. The historic case of ***Indian Medical Association v. V.P. Shantha***[929] incorporated medical services into the Consumer Protection Act, allowing patients to make complaints about poor service. Similarly, in ***Samira Kohli v. Dr. Prabha Manchanda***[930], the Supreme Court stressed the need of informed consent, holding that patients must be fully informed of the risks, advantages, and alternatives before undergoing medical operations. However, researchers contend that informed consent is frequently not applied properly, particularly in underprivileged areas, resulting in gaps in patient safety. Furthermore, the absence of defined methods for informed consent has resulted in inconsistent judicial interpretations, as seen by analysis of current case law. Comparative studies reveal that nations such as the United Kingdom have clearer, more unified frameworks for medical negligence, emphasizing the need for complete legislative change in India. Legal experts have called for unified legislation that standardizes informed consent methods and provides consistent responsibility for healthcare practioners to better protect patient's rights.

Research Objectives:

- To critically examine the role of informed consent in cases of medical negligence.

[928] Ratan Lal Dhiraj Lal, the Law of Torts, 441 (2nd Edn. 2005)
[929] Indian Medical Association v. V.P. Santha and others, (1995) SCC (6) 651.
[930] 2008 (2) AIR BOM R 354

- To examine the current legal frameworks governing medical malpractice in India.
- Identify gaps and contradictions in the existing legal framework.
- To advocate for comprehensive legislative reforms to improve patient safety and medicalaccountability.

Nature of Study:

This study is ***doctrinal and analytical*** in nature, with an emphasis on examining legal statutes, judicial precedents, and existing legal frameworks governing medical negligence and informed consent in India. It critically examines the effectiveness of these laws in protecting patient rights and investigates anomalies in their application by courts. The study's goal is to identify gaps and recommend revisions to build a completer and more universal legal framework for dealing with medical negligence, with a focus on the role of informed consent.

2. Legal Framework of Medical Negligence in India:

The medical negligence legislation in India are discussed here under three categories: **civil remedies** under the Consumer Protection Act, 2019, tort law, and **criminal liability** under the Indian Penal Code, 1860 and the Evidence Act.

2.1. Civil Remedies:

2.1.1. <u>Civil Liability under Consumer Protection Act, 2019</u>

Section 20(a) of the Indian Medical Council Act of 1956[931], as modified in 1964, allows the Council to establish regulations defining which breaches constitute misconduct. Doctors who commit professional misconduct may face disciplinary action, including suspension or expulsion from the medical community. Council members' leniency with conferees renders this setup useless as a deterrence. The Council's presence was limited to the State Headquarters, making it unreachable to most patients living outside the state. The Council does not have authority to compensate patients for the injuries they have suffered. Patients who have been wronged can seek remedies under both civil and criminal laws. Criminal law was only enforced in cases involving death, and the prosecution was not always proactive. Civil law allows for the recovery of damages by addressing any subordinate court. Patients, on the other hand, must pay court expenses. The trial was lengthy due to complex procedural regulations and strict evidentiary requirements imposed by the courts. The patients became disillusioned due to the large time and financial investment required. As a result, physicians were largely protected from any wrongdoing.

The Consumer Protection Act of 1986 has been replaced by the ***Consumer Protection Act of 2019*** (the "CPA"), which establishes consumer dispute resolution forums at the district, state, and national levels.

Section 42(11) of CPA considers medical negligence on the part of service providers as a defect.

In ***Indian Medical Association vs. V.P. Santha and others,*** the Supreme Court ruled that the Consumer Protection Act's wording was broad enough to cover physician services. According to the CPA, the Act covers all services save those specifically excluded by the Central Government. ***Section 3 of the Consumer Protection Act, 1986*** states that the availability of alternative remedies does not prevent consumers from filing complaints with the adjudicative bodies created under the Act. The 2019 Act enhanced these protections by broadening the scope of "deficiency of service" to encompass unfair trade practices and defective services, which can readily be invoked in cases of medical negligence. Key Aspects of Civil Liability under CPA, 2019:

1. Patients getting medical treatment, whether paid or free (save for charity), are considered

[931] Indian Medical Council Act of 1956 (102 of 1956)

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consumers under the CPA, and they have the right to file complaints for malpractice.

2. ***Medical negligence*** is defined as a failure to provide satisfactory service. This includes errors in diagnosis, therapy, or surgical procedures in which the healthcare provider fails to offer the level of care anticipated of a competent professional.

3. The CPA has a ***three-tiered conflict resolution system*** based on claim value—***District Commission, State Commission, and National Commission.*** This makes the procedure of filing complaints for medical negligence easier and more accessible to the public.

4. In consumer forums, ***the complainant (the patient)*** bears the ***burden of proof*** that the healthcare practitioner failed to meet their duty of care. Consumer courts, on the other hand, typically take a more patient-centric approach, emphasizing consumer rights and protections.

5. The 2019 Act provides ***compensation*** for the patient's physical, mental, and financial suffering caused by carelessness. If the negligence causes death or permanent impairment, the court may award additional compensation to the patient or their family.

6. The CPA provides a ***more efficient and cost-effective legal remedy*** than traditional civil courts. Patients can defend themselves or seek legal advice, and complaints are resolved more quickly in consumer forums.

2.1.2 Civil Liability under Tort law

In India, tort law serves as a crucial framework for handling civil liability in medical negligence matters. Under tort law, medical negligence is considered a civil wrong when a healthcare provider's failure to exercise reasonable care causes injury or harm to a patient. The harmed patient may initiate a lawsuit to seek compensation for the losses caused by the doctor's or hospital's carelessness.

Key Elements of Civil Liability under Tort Law in Medical Negligence:

To establish civil liability for medical negligence under tort law, the following elements must be proven:

1. **Duty of Care**: A healthcare provider has a responsibility of care towards their patients. This responsibility requires the provider to perform with the skill and care that a reasonably competent practitioner in the same field would exhibit. In medical negligence cases, showing the presence of this duty is usually simple because a doctor-patient relationship implicitly implies this obligation.

2. **Breach of Duty**: To hold a healthcare provider responsible, it must be established that the duty of care was violated. A breach occurs when a medical professional fails to fulfill the expected level of care, whether by omission or deed. For example, poor diagnosis, erroneous therapy, or surgical errors may be considered breaches of the standard of care.

3. **Causation:** The patient must show that the healthcare provider's breach of duty caused the harm or injury. This is an important part of medical negligence lawsuits because the patient must demonstrate a direct relationship between the negligence and the injury, rather than the harm being caused by the patient's underlying illness.

4. **Damage**: The final component is demonstrating that actual harm or injury arose from the breach of duty. This could include physical harm, mental distress, or financial loss. Under tort law, the wounded patient has the right to seek compensation for the losses caused by carelessness.

Standard of Care in Medical Negligence:

Identifying the standard of care is one of the most difficult parts of finding civil responsibility under tort law. The **"Bolam test"** was devised in the landmark case of ***Bolam v. Friern Hospital***

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Management Committee (1957)[9325], and it has since been widely used in medical negligence trials. According to this criterion, a doctor is not considered negligent if they follow a practice that has been approved as proper by a responsible group of medical professionals trained in that specific sector. Indian courts have used the Bolam test to determine if the healthcare provider's activities were within established medical norms atthe time.

However, in ***Jacob Mathew v. State of Punjab (2005)***[6933]***,*** the Supreme Court of India underlined that, whilethe Bolam test is useful, it should not be used to mask gross negligence or recklessness. The court also emphasized the significance of safeguarding doctors from false claims while punishing negligent behavior.

Examples of medical negligence include transfusing blood from the wrong group, leaving a mop in a patient's abdomen after surgery, removing organs without consent, and providing improper medication that causes injury.[7]

2.2. Criminal Remedies:

Criminal Liability under Medical Negligence

In the ***State of Haryana vs. Smt Santra***[934] case, the Supreme Court of India declared that doctors must exercise reasonable care and skill. The Indian Penal Code, 1860 (the "IPC") covers a wide range of offenses,but does not specifically address "medical negligence." In the Santra case, the Supreme Court clarified that while civil law determines culpability based on losses, criminal law considers both quantity and degree of carelessness when determining accountability for crimes. To determine criminal responsibility, various criteria must be proven, including motivation, severity, and the offender's character.

2.2.1. Indian Penal Code (IPC):

1. **Section 304A - Causing Death by carelessness:** This is the most usually used clause in circumstances where medical carelessness causes death. It states that anyone who causes death through a reckless or careless conduct that does not constitute culpable murder is punishable by up to two years in prison, a fine, or both. For a doctor to be held accountable under this clause, it must be demonstrated that their negligence was so severe that it directly caused the patient's death. Ordinary errors in judgment or unintended blunders made during medical procedures are often insufficient to trigger Section 304A.

2. **Section 337 - Causing Hurt by Endangering Life or Personal Safety:** If a healthcare professional's negligence causes harm (i.e., injury or harm), they may face imprisonment for up to six months, a fine, or both. The prosecution must show that the negligent act jeopardized the patient's life or personalsafety.

3. **Section 338 - Inflicting grievous harm by endangering life or personal safety:** This rule applies when a healthcare provider's negligence causes terrible harm to a patient, such as lifelong impairment or serious injury. Section 338 imposes a maximum two-year prison sentence, a fine, or both.

2.2.2. Evidence Act:

1. **Burden of Proof (Section 101):** In a criminal medical negligence case, the prosecution must prove the doctor's or healthcare provider's culpability beyond a reasonable doubt. This is a significantly higher standard than in civil suits, where carelessness is judged by a "balance of probabilities." The Evidence Act requires the prosecution to produce concrete and persuasive evidence to prove that the accused behaved with gross negligence, carelessness, or disregard for the patient's safety or life.

2. **Presumption of Innocence (Section 103)**: In accordance with criminal law principles, Section 103 of the Indian Evidence Act

[932] Bolam v Friern Hospital Management Committee [1957] 1 WLR 583
[933] AIR 2005 SUPREME COURT 3180
[934] (2000) 5 SCC 182

strengthens the presumption of innocent. This means that the accused medical professional is assumed innocent unless the prosecution can demonstrate otherwise. The prosecution must prove that the healthcare provider violated the duty of care to the point that it constituted criminal negligence, rather than just an error in judgment or a mistake.

3. **Expert Testimony (Section 45)**: Expert testimony is critical in medical negligence trials to determine whether the accused met the standard of care expected of a medical professional. Under Section 45 of the Indian Evidence Act, courts frequently rely on medical specialists to interpret complex medical facts and determine whether the healthcare provider's actions constituted criminal negligence. The expert's judgment assists the court in determining whether the standard of care was violated and whether the breach was severe enough to constitute a criminal offense.

1. Res Ipsa Loquitur (The Thing Speaks for Itself): In some circumstances, courts use the *res ipsa loquitur* concept when the facts are plain enough to establish negligence without having specific evidence. For example, if a surgical device is left inside a patient's body after surgery, the mere existence of such an incident can be used to prove negligence. However, in criminal instances, the application of this theory is limited because the burden of proof is higher, and courts require more clear evidence of gross negligence to convict.

2. Causation and Proof of Gross Negligence: The Indian Evidence Act also requires the prosecution to show a direct link between the medical professional's activities and the injury caused to the patient. This means that in criminal medical malpractice trials, demonstrating causation is important. The prosecution must prove not only that the doctor acted carelessly, but that the conduct was the direct cause of the patient's death or serious harm. This is often difficult because medical operations inherently involve risks, and not all negative results are the consequence of negligence.

Here are a few more important judicial precedents in India that have affected the law of medicalnegligence:

In ***Kusum Sharma v. Batra Hospital***[9358], the Supreme Court emphasized that ***criminal responsibility in medical negligence instances necessitates a very high level of proof***. Expert medical evidence is crucial in many circumstances, and courts must use caution when determining whether the medical professional's actions constituted gross negligence. This case reaffirmed the concept that the mere presence of a medical issue or an undesirable outcome does not necessarily entail criminal responsibility.

In ***Suresh Gupta v. Govt. of NCT of Delhi***[936], the Court concluded that a doctor can only be held criminally accountable if there is gross negligence or an act of reckless disregard for the patient's life. The ruling clarified that simple negligence, error in judgment, or accident would not result in criminal culpability under the IPC, and that the burden of proof required for conviction must be reached under the Indian Evidence Act.

In ***Mohanan vs Prabha G Nair***[937], the Supreme Court found that dismissing a civil case at an early stage, where guilt could only be proven by expert evidence given by the plaintiff, was not justified. The appellant did not have a complete opportunity to present information to the magistrate, and determining a healthcare professional's negligence requires a thorough review of evidence and expert testimony.

3 Comparison of the Indian Medical laws with United Kingdom & U.S.A.

Medical negligence, defined as a healthcare professional's violation of duty to a patient that results in injury or loss, is a major legal concern around the world. While the essential concepts of medical negligence are same throughout

935 2010 (3) SCC 480
936 AIR 2004 SUPREME COURT 4091
937 Mohanan v. Prabha G Nair, 8 (2004) 3 SCC 391

jurisdictions, there are significant variances in the legal frameworks and potential remedies. This comparative analysis will look at the legislation governing medical negligence in India, the United Kingdom (UK), and the United States. Countries like India have inclusive systems. Each Indian state governs healthcare professionals. The Indian Medical Register is maintained and valid throughout India by a Medical Council. People are also included in these registers under the Indian Medical Register. Those with a university degree, typically an M.B., B.S., or L.M.P., are eligible for these registrations. There are also several foreign qualifications that are recognized.

3.1. Definition of Medical Negligence:

○ **India:** In India, medical negligence is essentially defined under the *Consumer Protection Act of 2019*, which classifies medical professionals as service providers. The landmark case of *Jacob Mathew v. State of Punjab (2005)* established that a medical practitioner is expected to provide the same level of care as a reasonably competent peer. The negligence test entails establishing whether a breach of duty resulted in injury.

○ **United Kingdom**: In the United Kingdom, common law serves as the legal underpinning for medical negligence. *The Bolam v. Friern Hospital Management Committee (1957)* case created the negligence test, which states that a medical professional is not liable if they followed a practice acknowledged as proper by a reputable body of medical opinion. The standard is one of reasonableness, which frequently includes expert testimony.

○ **United States:** In the United States, medical negligence (sometimes known as "medical malpractice") is defined similarly yet differently by state. The standard of care is typically decided by what a similarly qualified practitioner would have done in comparable circumstances. Cases like *Hoffman v. Board of Education (1997)* demonstrate the reliance on the "reasonable physician" test, with variances in particular standards based on state law.

3.2. Legal Framework:

○ **India:** The legal basis for medical negligence in India is comprised of numerous statutes, including the Consumer Protection Act and the Indian Penal Code. Medical negligence lawsuits can be heard in civil courts or consumer forums, which are more accessible and informal than traditional court systems. The Supreme Court has underlined the importance of striking a balance between safeguarding patients and not jeopardizing medical practice through excessive litigation.

○ **United Kingdom:** In the United Kingdom, medical negligence claims are often prosecuted through civil action. The claimant must prove the following components of negligence: duty of care, breach, causation, and damages. The *NHS Redress Act, 2006* further allows for non-litigious resolutions of claims within the National Health Service (NHS). The legal framework is strongly impacted by case law, and the process can be time-consuming and expensive.

○ **United States:** In the United States, the legal framework for medical malpractice is defined by state and federal legislation. Most states require a plaintiff to produce a certificate of merit, which indicates that the case was assessed by an expert. Some states have statutory damage caps, notably for noneconomic damages. The litigation process can be complex, with considerable differences in laws and procedures between jurisdictions.

3.3. Burden of Proof:

○ **India:** In India, the complainant has the burden of proof in medical negligence lawsuits. They must show that the medical professional failed to uphold the standard of care, resulting in injury. The reliance on expert testimony is crucial, and courts frequently seek unambiguous evidenceof negligence.

○ **United Kingdom:** In the United Kingdom,

the burden of proof is likewise on the claimant. They must show that the medical expert behaved below the required standard, which directly caused their damage. The involvement of expert witnesses is critical in determining the standard of treatment.

○ **United States:** In the United States, the plaintiff bears a comparable burden of proof. They must show that the medical professional's acts were below the standard of care, resulting in damage. Expert testimony is critical in these situations, as it frequently serves as the foundation for the plaintiff's position.

3.4. Role of Medical Councils

○ **India:** The Medical Council of India (MCI) supervises medical practice and has the authority to withdraw a doctor's license for carelessness. It was replaced by the National Medical Commission in 2020. Disciplinary proceedings are frequently criticized for being delayed and less rigorous.

○ **United Kingdom: The General Medical Council (GMC)** regulates the medical profession and has the authority to suspend or remove doctors from practice due to carelessness. The GMC plays an important role in preserving professional standards, and its actions are generally regarded as more transparent and timelier than those in India.

○ **United States:** Every state has its own medical board in charge of licensing and penalizing doctors. ***The National Practitioner Data Bank (NPDB)*** collects reports of malpractice and disciplinary actions, helping to maintain a nationwide standard of accountability.

3.5. Defenses to Medical Negligence

○ **India:** In India, defenses to medical negligence claims may include the notion of *"informed consent,"* in which the patient acknowledges comprehending the risks associated with a surgery. Furthermore, the defense may argue that the activities were consistent with standard medical practices.

○ **United Kingdom:** In the United Kingdom, defenses include the *"Bolam test,"* which permits medical professionals to claim that they followed a practice approved by a responsible body of medical opinion. Contributory negligence, in which the patient's conduct may have contributed to their injury, is also a defense.

○ **United States:** In the United States, common defenses include the *standard of care claim, informed consent, and contributory or comparative negligence.* Some states also provide for a *"reasonable physician"* defense, which asserts that the actions conducted were appropriate for the circumstances.

4. Future Directions and Recommendations

4.1. Strengthening the Informed Consent Process

ô **Standardized Consent Forms**: To achieve uniformity and clarity, standardized permission forms should be implemented throughout all healthcare organizations. These forms must be available in regional languages and written in clear, intelligible words so that patients can make informed judgments.

ô **Mandatory Counselling Before Consent**: In addition to written consent, healthcare providers should be required to conduct pre-consent counseling sessions in which they thoroughly explain the procedure, risks, alternatives, and patient rights.

ô **Digitalization of Consent**: Introducing digital permission forms with video

explanations and confirmation procedures can help patients become more informed. Such digital record can potentially be used as evidence in a dispute.

4.2. Comprehensive Reform of Medical Negligence Laws

ô **Amending the Consumer Protection Act, 2019**: The concept of "deficiency in

service" in the Consumer Protection Act should

be amended to encompass cases of medical negligence including consent. Furthermore, limiting the timelines for dispute resolution would boost patient confidence.

ô **Introduction of a Separate Medical Negligence Statute**: India should consider enacting a dedicated statute that only addresses medical negligence, with a focus on consent, standards of care, and patient rights. This law should explicitly state the legal implications for providing insufficient or misleading informed consent.

ô **Periodic Review of Medical Standards**: The government should establish a body toassess and revise the standards of care expected of medical practitioners on a regular basis, considering developing technologies and medical procedures. This group should also oversee developing guidelines on consent requirements for new medical procedures.

4.3. Revisiting the Role of Courts

ô **Establishment of Dedicated Medical Tribunals**: Specialized medical negligence tribunals, staffed by legal and medical professionals, would assist cases be resolved more quickly. Such authorities would be better prepared to deal with the complexities of medical evidence, assuring fair outcomes.

ô **Judicial Training in Medical Law**: Judges should be required to attend mandatory training seminars on medical negligence and consent concerns. A more knowledgeable judge will result in more consistent decisions and a better balance of patient and doctor rights.

ô **Guidelines for Proportional Liability**: Courts should use a proportional responsibility paradigm, which holds medical professionals accountable based on the gravity of their breach of duty. Informed consent cases should focus on whether a lack of appropriate information caused the damage.

4.4. Enhancing Patient Rights and Awareness

ô **Patient Rights Charter**: A comprehensive Patient Rights Charter centered on consent should be widely distributed and made necessary in all healthcare institutions. Hospitals should clearly display this charter, and patient awareness campaigns should be launched to educate individuals about their rights in medical care.

ô **National Helpline for Medical Negligence**: A nationwide helpline and digital platform for patients to report incidences of medical malpractice, particularly those involving consent, should be created. This would help to centralize data on medical malpractice while also serving as a resource for patients.

4.5. Role of Medical Councils and Professional Bodies

ô Medical Ethics Training: All healthcare practitioners should receive regular trainingin the ethical elements of obtaining consent. Medical councils should monitor compliance with these criteria and guarantee that doctors follow changing legalobligations.

ô **Disciplinary Mechanisms**: Medical councils should develop clear and speedy disciplinary measures to deal with situations of medical malpractice, particularly where proper consent is not obtained. These boards should also have the authority torevoke licenses or impose penalties on practitioners who are found guilty of severe negligence.

4.6. Technological Integration in Legal Processes

ô **AI-Based Systems for Consent Monitoring**:Hospitals can use AI and machine learning to determine whether consent forms and patient counselling fulfill legal andethical criteria. These technologies could potentially identify high-risk locations thatrequire more in-depth consent conversations.

ô **Blockchain for Consent Records**: Blockchain technology might be used

to securelyrecord consent forms, making them tamper-proof and easy to access during legal processes.

Conclusion:

Medical negligence in India, particularly when evaluated through the perspective of informed consent, reveals considerable inadequacies in the existing legal and healthcare frameworks. While medical carelessness is not a new issue, it has been a growing worry as healthcare services expand and medical treatments get more complex. Many medical negligence lawsuits revolve around a failure to get sufficient informed consent, which frequently results in patient injury, loss of trust in the healthcare system, and protracted legal fights.

Informed consent is a key element of medical ethics and legal accountability, intended to protect patients' autonomy and rights. It guarantees that patients are fully informed about the risks, benefits, alternatives, and potential consequences of medical operations prior to providing their consent. However, in India, the use of informed consent frequently falls short due to a variety of variables, including patient understanding, insufficient communication from healthcare practitioners, andstructural difficulties within the medical and legal frameworks.

The current legal framework in India for medical malpractice, particularly informed consent, is insufficient to completely protect patient rights. The lack of uniform consent methods, conflicting legal interpretations, and a fragmented redress system put patients at risk and weaken public trust in the healthcare system. Comprehensive improvements, such as mandated pre-consent counselling, legal overhaul, and technological integration, are required to solve these inadequacies. By focusing on patient safety and legal accountability, India can build a more strong and fair healthcare system that protects both patients and medical workers.

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