

# STUDY OF MEDICAL NEGLIGENCE: SPECIAL REFERENCE ON CRIMINAL LIABILITY

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## ABSTRACT

*In India, medical negligence is a major threat to the protection of patient rights, especially for those from lower socioeconomic groups who rely heavily on public healthcare facilities. Government hospitals frequently deal with fundamental issues such as poor infrastructure, a lack of trained medical personnel, and a high patient volume. These circumstances may make medical mistakes and careless treatment more likely, putting vulnerable patients at higher risk. The current legal structure in India that addresses criminal culpability for medical negligence is still disjointed and mostly relies on general criminal law provisions rather than a specific legislative process, notwithstanding the gravity of such instances. This article examines the issue of criminal liability for medical negligence from the perspective of patient rights, with a focus on the difficulties that economically disadvantaged groups that depend on public healthcare services confront. The paper makes the case for the creation of a unique legislative framework that guarantees accountability in medical practice while enhancing vulnerable patients access to justice by highlighting the structural and legal flaws in the current system and promoting egalitarian treatment, preserving patient dignity and reinforcing public trust in the healthcare system.*

**Keywords:** *Medical negligence, Criminal liability, Patient rights, Public healthcare, Economically weaker sections, Healthcare accountability*

## 1. INTRODUCTION

Medical negligence has gained legal attention in India as a result of the rapid expansion of healthcare services, commercialization of medical practice, and growing patient awareness of their rights. The doctor-patient relationship, which has traditionally been founded on trust and fiduciary duty, is increasingly being tested in court. While civil remedies like compensation seek to correct harm, criminal liability has a more severe purpose: punishment and deterrence.

The imposition of criminal culpability on medical professionals, however, poses special issues. Unlike ordinary negligence, medical decisions can require sophisticated

assessments under ambiguous circumstances. A simple error of judgment or an unfavorable outcome does not inevitably constitute criminal negligence. This complicates the application of general criminal law laws in medical settings. In India, criminal culpability for medical negligence is not defined by a specific statute, but rather by broad terms such as causing death via negligence. This lack of specialization leads to ambiguity, inconsistency, and, on occasion, abuse of legal processes. Doctors live in continual fear of prosecution, but victims frequently struggle to show the high threshold required for criminal responsibility. This study aims to critically examine the existing framework, identify legislative loopholes, and suggest a novel legal structure that balances

patient rights with medical professional protection. The study uses a doctrinal and comparative technique to examine statutes, court decisions, and international practices.

## 2. CONCEPTUAL AND THEORETICAL FRAMEWORK

Negligence, in legal terms, arises from the violation of a duty of care, leading to harm to another party. Negligence takes on a more serious meaning in criminal law, involving not only carelessness but also a level of recklessness or egregious disrespect for human life and safety. Duty of care, breach of that duty, causation, and resulting damage are the fundamental components of negligence. The obligation in medical situations stems from the doctor-patient professional relationship when behavior deviates from recognized medical standards, there is a breach. However, a number of contributing circumstances, including the patient's condition, inherent hazards, and treatment difficulties, make establishing causation frequently difficult.

The distinction between criminal and civil carelessness is crucial. While criminal negligence often referred to as "gross negligence" requires proof of a greater degree of blame, civil negligence concentrates on compensation. This entails actions that are so careless as to demonstrate an obvious disrespect for human life. In situations involving negligence, the notion of mens rea, or guilty mentality, is complicated. Courts frequently look for recklessness or awareness of risk, even in cases where purpose may not be evident.

Theoretical methods, such as utilitarian and corrective justice theories, make an effort to defend criminal penalties in situations where carelessness causes significant injury. It is essential to comprehend these fundamental ideas since India lacks precise statutory definitions, which leaves a lot up to court interpretation and leads to inconsistent results. The question of whether criminal culpability should be applied in professional negligence instances has been discussed by academics,

who contend that overcriminalization could discourage medical professionals and negatively impact healthcare delivery.

## 3. DOCTRINES AND PRINCIPLES GOVERNING MEDICAL NEGLIGENCE

The assessment of medical negligence is governed by recognized legal principles. Medical negligence is determined using known legal theories. The Bolam Test, which is based on English law, states that if a doctor's acts are backed by a credible body of medical opinion, they are not negligent. Indian courts have adopted the criteria in large numbers. When the conduct itself demonstrates negligence, the Res Ipsa Loquitur concept is applicable. Leaving a surgical device within a patient's body, for example, would trigger this doctrine and transfer the burden of proof to the defendant.

The concept of standard of care is equally crucial, this idea of a standard of care is also essential. A medical practitioner must behave with acceptable ability and competence rather than the highest degree of expertise. This threshold is assessed by courts using the viewpoint of a practitioner who is fairly competent in comparable circumstances. Furthermore, the importance of the informed consent concept has increased. Patients are entitled to information regarding treatment risks, options, and outcomes. Liability could arise from not obtaining informed consent. These concepts, although thoroughly evolved, remain uncodified in India, resulting in dependence on judicial interpretation and engendering confusion in their application.

## 4. EXISTING LEGAL FRAMEWORK IN INDIA

The Indian legal framework addressing criminal negligence is fundamentally grounded in ordinary criminal laws. The Bharatiya Nyaya Sanhita now contains Section 106 which addresses causing death by rash or negligent. Nevertheless, it offers no particular recommendations for medical professionals.

In addition to criminal law, organizations that oversee professional behavior and ethics, such as the National Medical Commission, provide

regulatory control. But rather of dealing with criminal culpability, these organizations mostly handle disciplinary actions. By establishing rules for the prosecution of medical professionals, the judiciary has tried to close this gap. Because medical practice is inherently risky, courts have stressed the importance of exercising prudence.

Despite these initiatives, the lack of a defined statutory framework leads to inconsistent enforcement and inconsistent standards across cases.

### 5. JUDICIAL TRENDS AND LANDMARK CASE LAWS

Judicial decisions have played a pivotal role in shaping the law on medical negligence in India. The Supreme Court, through various landmark judgments, has attempted to strike a balance between protecting doctors and ensuring justice for victims.

In *Jacob Mathew v. State of Punjab*<sup>2286</sup> the Court held that criminal liability should only be imposed in cases of gross negligence. It also laid down safeguards, including the need for credible medical opinion before initiating prosecution.

Similarly, in *Kusum Sharma v. Batra Hospital*<sup>2287</sup> the Court reiterated that a doctor cannot be held negligent simply because a treatment failed or a better alternative was available.

These decisions highlight the judiciary's cautious approach in criminalizing medical negligence. However, reliance on case law rather than statutory clarity leads to variability in interpretation and application.

### 6. PROCEDURAL FRAMEWORK AND ENFORCEMENT MECHANISM

The procedural handling of medical negligence cases involves multiple stages, including the filing of a First Information Report (FIR), police investigation, and trial. However, the lack of specialized procedures often leads to inefficiencies.

One major issue is the registration of FIRs without prior expert medical opinion. This can result in unnecessary harassment of doctors. The Supreme Court has recommended that an independent medical opinion be obtained before proceeding with criminal charges.

Investigating officers often lack the technical expertise required to understand complex medical issues, leading to flawed investigations. Additionally, evidentiary challenges arise due to the technical nature of medical records and expert testimony.

Although procedural laws such as the *Bharatiya Nagarik Suraksha Sanhita*<sup>2288</sup> aim to streamline criminal processes, they do not specifically address medical negligence cases, leaving significant gaps.

### 7. CHALLENGE IN CRIMINAL LIABILITY FOR MEDICAL NEGLIGENCE

In India, people living in rural areas face numerous challenges in accessing adequate healthcare services. One of the most significant issues is the lack of proper medical infrastructure, as many rural hospitals are poorly equipped and lack essential facilities such as diagnostic tools, ICU units, and sufficient beds. Additionally, there is a severe shortage of qualified doctors and trained medical staff, which forces many patients to rely on untrained practitioners or travel long distances to urban centres for treatment.

Emergency services are often inadequate, with limited availability of ambulances and delayed response times, which can prove fatal in critical situations. Financial constraints further worsen the situation, as many individuals cannot afford private healthcare and must bear additional costs for medicines, transportation, and tests. Moreover, low health awareness and social barriers, particularly among women, lead to delays in seeking timely medical care. The irregular supply of essential medicines and poor accountability mechanisms also contribute to the problem. Altogether, these challenges

<sup>2286</sup> *Jacob Mathew v. State of Punjab*, (2005) 6 SCC 1.

<sup>2287</sup> *Kusum Sharma v. Batra Hospital*, (2010) 3 SCC 480.

<sup>2288</sup> *Bharatiya Nagarik Suraksha Sanhita*, 2023

highlight the urgent need for strengthening rural healthcare infrastructure and ensuring equitable access to medical services across India.

The criminalization of medical negligence presents several challenges. One of the most significant is the ambiguity surrounding the concept of “gross negligence.” Without a clear definition, courts rely on subjective interpretation.

The fear of criminal prosecution has led to the practice of defensive medicine, where doctors prioritize legal safety over patient welfare, often resulting in unnecessary tests and procedures.

Another challenge is the rise in frivolous complaints, which burden the legal system and create undue pressure on medical professionals. At the same time, genuine victims often face difficulties in proving negligence due to the high standard of proof required.

These challenges highlight the need for a balanced approach that ensures accountability without discouraging medical practice<sup>2289</sup>.

### 8. LEGISLATIVE GAPS IN THE EXISTING FRAMEWORK

The Indian legal framework for criminal medical negligence is primarily based on general criminal law provisions. Section 304A of the IPC (now under the Bharatiya Nyaya Sanhita) deals with causing death by negligence. However, it does not provide specific guidance for medical professionals.

Regulatory oversight is exercised by bodies such as the National Medical Commission, which governs professional ethics and discipline. However, these bodies do not deal with criminal liability<sup>2290</sup>.

Investigation guidelines are also inadequate, with no standardized procedures for handling medical evidence. Additionally, the lack of a graded liability system fails to differentiate between varying degrees of negligence

The judiciary has attempted to fill legislative gaps by issuing guidelines, particularly emphasizing the need for expert medical opinion before initiating criminal proceedings.

Despite these efforts, the lack of codification results in uncertainty and inconsistent application of the law.

### 9. COMPARATIVE ANALYSIS

A comparative analysis of other jurisdictions provides valuable insights. In the United Kingdom, criminal liability arises under the concept of gross negligence manslaughter, which requires a high threshold of proof and relies heavily on expert testimony<sup>2291</sup>.

In contrast, the United States primarily treats medical negligence as a civil matter, with criminal liability being rare and reserved for extreme cases.

These systems emphasize clarity, expert involvement, and balanced accountability. India can adopt similar principles while tailoring them to its socio-legal context.

### 10. PROPOSED LEGAL FRAMEWORK AND REFORMS

To address existing shortcomings, there is a pressing need for a distinct legal framework governing criminal liability for medical negligence in India.

A proposed statute should include:

- Clear definitions of negligence and gross negligence
- A graded liability system
- Mandatory expert review before prosecution

Institutional reforms should include the establishment of independent medical review boards and specialized tribunals for handling such cases.

Reforms in the framework of criminal liability for medical negligence in India must be oriented toward strengthening patient rights, particularly

<sup>2289</sup> Law Commission of India, 201<sup>st</sup> Report on Medical Treatment to Terminally Ill Patients (2006)

<sup>2290</sup> Law Commission of India, 196<sup>th</sup> Report on Medical Negligence (2006)

<sup>2291</sup> R v. Adomako [1995] 1 AC 171 (HL)

in rural areas where healthcare vulnerabilities are most pronounced. A distinct legislative framework should incorporate a context-sensitive standard of care, recognizing the infrastructural and resource limitations faced by rural healthcare providers, while ensuring that such limitations do not become a shield for gross negligence.

The law must mandate the establishment of independent medical review boards at the district level, especially in rural regions, to ensure fair and expert evaluation before initiating criminal proceedings. Simultaneously, patient rights must be reinforced through statutory recognition of the right to timely treatment, informed consent, and access to essential medicines, with strict accountability mechanisms for violations. The introduction of a graded liability system is essential to differentiate between minor lapses and gross negligence, ensuring that only serious misconduct attracts criminal sanctions. Further, the government should strengthen rural healthcare by investing in infrastructure, ensuring the availability of qualified professionals, and improving emergency services, thereby reducing instances of negligence arising from systemic deficiencies. Ultimately, a balanced approach is required—one that protects medical practitioners from undue harassment while prioritizing the dignity, safety, and rights of patients, particularly those in underserved rural communities.

Procedural safeguards must ensure that doctors are not subjected to arbitrary arrest or prosecution. At the same time, mechanisms should be strengthened to ensure timely justice for victims.

Such a framework would enhance clarity, fairness, and efficiency in handling medical negligence cases<sup>2292</sup>.

## 11. CONCLUSION

The issue of criminal liability for medical negligence in India continues to remain

inadequately addressed within the existing legal framework. The reliance on general criminal provisions, coupled with the absence of a dedicated statute, has resulted in ambiguity, inconsistency, and, at times, injustice to victims. While the judiciary has attempted to strike a balance between protecting medical professionals and ensuring accountability, the current system still falls short in delivering effective and timely justice.

From a critical standpoint, it is imperative to recognize that medical negligence, particularly when it rises to the level of gross negligence, cannot be treated lightly. The medical profession, by its very nature, involves a high degree of trust, responsibility, and ethical obligation.

When this trust is breached through reckless or negligent conduct, especially resulting in serious harm or loss of life, the law must respond with appropriate criminal sanctions. The absence of a clear and stringent framework not only weakens deterrence but also allows certain negligent or even corrupt medical practitioners to escape accountability.

In the present system, victims often face significant hurdles in establishing criminal liability due to high evidentiary standards, lack of expert support, and procedural delays. This is particularly evident in rural areas, where infrastructural deficiencies and lack of awareness further compound the problem. Consequently, many genuine cases of negligence go unreported or unpunished, leading to a denial of justice and erosion of public confidence in the healthcare system.

In my considered view, there is an urgent need to establish a robust and well-defined legal framework that ensures proper criminal liability for medical negligence. Such a framework must clearly define the threshold of gross negligence, incorporate mandatory expert evaluation mechanisms, and introduce strict accountability measures to identify and penalize erring practitioners. Importantly, the law should not be overly protective of medical

<sup>2292</sup> Law Commission of India, 264<sup>th</sup> Report (2017)

professionals at the cost of patient rights. Instead, it must prioritize the protection of human life and dignity, ensuring that victims are not left remediless.

At the same time, safeguards must be in place to prevent misuse of criminal law against honest practitioners. A balanced approach is therefore essential—one that distinguishes between genuine errors of judgment and culpable negligence. However, where negligence is evident and severe, the imposition of criminal liability is not only justified but necessary to maintain professional integrity and public trust.

Ultimately, the goal of reform should be to create a system where accountability is certain, justice is accessible, and unethical practices are effectively exposed and deterred. Only through a clear and enforceable legal framework can India ensure that victims of medical negligence receive the justice they deserve, and that the medical profession remains guided by the highest standards of care and responsibility.

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