



MEDICOLEGAL ASPECTS OF MEDICAL NEGLIGENCE IN STATE OF MAHARASHTRA

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Abstract

Professional Negligence is also called as malpractice or malpraxis. Professional medical negligence is a lack of reasonable care, skill or knowledge or willful negligence on the part of the doctor during the practice of medical profession so as to lead to some damage to the patient. Damage may be physical, mental or financial. Professional negligence on the part of doctor has to be proved by the patient or his relatives. Professional negligence can be a civil professional negligence or a criminal professional negligence. Cases of professional negligence are dealt by the consumer court, civil court or criminal court. Punishment in civil and consumer courts is the Compensation to patient in terms of money and in criminal courts there will be a fine in terms of money or imprisonment to the concerned doctor. An appeal can be made to the next higher court.

Key Words: Malpractice or Malpraxis, Professional Negligence, Criminal, Civil, Court, Consumer, Vicarious, Res Ipsa Loquitur, Res Judicat, Ipsofacto.

1. Introduction

Definition

Professional negligence is defined as a lack of reasonable care, skill or knowledge or willful negligence on the part of the doctor during practice of medical profession so as to lead to some damage to the patient.

Damage may be -

1. Physical - death of patient or delayed recovery.
2. Mental - mental tension or anxiety.
3. Financial.

As per **Lord Baron Alderson**, professional negligence is defined as an act of omission, i.e. not doing what a reasonable man will do or an act of commission, i.e. doing what a reasonable man would not.

Mc Nair - A doctor is not guilty of negligence if he acted in accordance with a practice considered as proper by a reasonable body of medical men skilled in that particular art.

Lord Tindal - A surgeon does not undertake that he will perform a cure nor does he undertake to use the highest possible degree of care. There may be persons who have higher education and greater advantages than he has, but he undertakes to use a fair, reasonable and competent degree of skill.

Lancet - when a wrong diagnosis is neither impossible, nor unreasonable at the times and in the circumstances of the case nothing but overwhelming evidence to the contrary should justify a finding of negligence. In the event that the diagnosis was probably wrong or in adequate steps were taken to make the diagnosis, the doctor may be found negligent.

Elewes J - There are risks inherent in most forms of medical treatment. All that one can ask is that the doctor should keep these risks to the minimum. If he has done this, no injury which occurs, however serious, is actionable.

Procedure for Action

The law considers every Medical Officer is innocent and he is held guilty only when he fell short of standard of reasonable medical care.

As per Supreme Court, "The medical profession is a very respectable profession. Doctor is looked upon by the common man as the only hope when a person is hanging between life and death."

Therefore professional negligence on the part of doctor has to be specifically proved by the patient or his relatives. They have to prove [4 Ds] -

- a. That the doctor had a legal **duty to confirm to reasonable standard of skill, care and knowledge.**
- b. That the doctor was derelict and he breached that duty [that the doctor was careless and **he has not done the duty**].
- c. That the patient has suffered some **damage.**
- d. That the **damage is due to the conduct of the doctor.**



However in certain situations negligence of doctor may be self evident. In this situation, doctrine of **Res ipsa loquitur** [it speaks for itself] is used and therefore in these cases the patient does not have to prove anything, rather the doctor has to defend himself, e.g. -

- Leaving sponges or instruments in body during operation.
- Operation on wrong patient.
- Operation on wrong side.
- Prescribing drugs through wrong route.

In case full care was taken by the doctor and still there occurs some error of judgment or damage to the patient, the doctor cannot be charged for professional negligence.

2. Literature Review

Cases of professional negligence are dealt by the consumer court, civil court or criminal courts. Patient may take the case to both consumer/civil and criminal court. Punishment is -

- a. In civil and consumer courts - Compensation to patient.
- b. In criminal courts - Fine or imprisonment to doctor.

Appeal can be made to the next higher court.

Types and Examples of Professional Negligence

Depending upon the court to which the case of professional negligence is taken, professional negligence is of two types -

1. Civil professional negligence.
2. Criminal professional negligence.

1. Civil Professional Negligence

It refers to negligence of doctor when patient or his relatives take the case to civil court demanding compensation for the damage caused to the patient. e.g.

A) Failure in Regard to Contractual Obligations

The doctor patient relationship puts an obligation on the doctor that he will, -

- Continue treating the patient, with his consent till he is all right or refuses treatment or dies.
- Using maximum care, skill and knowledge.
- Allowing second opinion whenever indicated.
- Maintaining professional secrecy.

b) Investigations

- Not ordering proper investigations.
- Unnecessary investigation.
- Not taking biopsy when indicated.
- Not taking an x-ray in suspected bone injury case and not using ophthalmoscope in raised intracranial tension is **ipsosfacto** [in itself] evidence of negligence.

c) Diagnosis

- Wrong diagnosis.
- Wrong interpretation of investigations.

d) Treatment

- Unnecessary treatment.
- Prolonged treatment.
- Delayed treatment.
- Treatment leading to further complications.

e) Operations

- Operations without consent.

F) Issuing Wrong Certificates or Reports

2. Criminal Professional Negligence

It refers to professional negligence for which, the patient or his relatives alleging gross negligence on the part of doctor, take the case of professional negligence to criminal court, demanding punishment to doctor.



The case is usually tried by [Magistrate First Class, usually under section 304 A of IPC to charge the doctor for professional negligence].

Examples of Criminal Professional Negligence

1. Criminal abortion.
2. Criminal operation.
3. Lack of care during selection of patient.
4. Lack of care during examination of patient.
5. Lack of care during investigation of patient.
6. Lack of care during diagnosis of patient.
7. Lack of care during treatment of patient.
8. Lack of care during operation on patient.
9. Lack of care during post operative follow up.
10. Operation without consent.
11. Not doing operation in time though the patient has given consent.
12. Operation causing mutilation.
13. Operation interfering with reproductive capacity.
14. Operation interfering with reproductive capacity.
15. Death during operation.
16. Operation on wrong patient.
17. Operation on wrong side.
18. Leaving sponges or instruments in body during operation.
19. Anaesthesia in wrong dose.
20. Anaesthesia by wrong route.
21. Wrong preparation of anaesthesia.
22. Improper oxygenation during anaesthesia.
23. Giving wrong blood.
24. Giving blood infected with Hepatitis B or HIV.
25. Not doing sensitivity test when indicated.
26. Giving wrong drugs causing blindness.
27. Giving wrong drugs causing deafness.
28. Preparing wrong or misfitting dentures.
29. Too tight plaster leading to gangrene.
30. Over exposure to radiations.
31. Not attending the patient in labour.

Contributory Negligence

It is defined as concurrent or simultaneous negligence of doctor and patient so as to lead to damage to the patient, e.g.-

1. Moving the part when advised not to move.
2. Taking food when advised not to take.
3. Not following instructions about investigations.
4. Not following instructions about treatment.
5. Not following instructions about surgery.
6. Not following instructions about diet.

Contributory negligence can be used as defense by the doctor, but in civil cases only. It cannot be used as defense in following-

- a. The last clear chance doctrine -i.e. in between negligence of patient and resultant damage, the doctor had a clear chance to avoid damage, but the doctor was careless and did not take sufficient precautions.
- b. Avoidable consequence rule - i.e., due to negligence of doctor, there occurs damage to patient, but due to later negligence of patient, damage becomes more. The doctor cannot take the plea that damage could be avoided if the patient was careful.
- c. Criminal professional negligence



Vicarious Responsibility [Respondent superior i.e. let the master answer]

Vicarious responsibility refers to the responsibility that exists on the master even in spite of absence of blame worthy conduct on his part, therefore the hospital and senior medical staff are responsible for mistakes committed by junior medical staff and other paramedical staff like nurses, radiographer, pharmacist and technicians.

This responsibility is there because of master servant relationship i.e. the senior can dictate the line of treatment to be followed. However the hospital is not responsible for the conduct of senior medical staff as master servant relationship does not exist. The vicarious responsibility is there only in civil negligence cases and not in criminal cases. e.g. -

1. Hospital responsible for negligence committed by junior doctors and paramedical staff.
2. During operation, swab or instrument left in body, though it is duty of nurse to count them, surgeon is responsible.
3. A patient of suicidal tendency jumps and dies - hospital responsible.
4. Patient falls from trolley or bed - hospital responsible.
5. Prescription on telephone, wrong drugs dispersed - doctor responsible.
6. Patient referred to an incompetent consultant - doctor responsible.

Defences against Professional Negligence

Following defenses can be used by a doctor when charged for professional negligence.

1. That he had no legal duty towards the patient.
2. That the damage is due to negligence of other people who were also involved in the treatment of patient.
3. That the damage is due to the conduct of some third party, whom the patient consulted, without the knowledge of doctor.
4. That it is routine, accepted and natural complication of this procedure.
5. That it was reasonable error of judgment.
6. That the patient insisted on that particular line of treatment, though the doctor had a different view.
7. That the damage is due to taking some unavoidable risk - taken in good faith with consent of patient.
8. Contributory negligence.
9. Therapeutic/diagnostic misadventure

It is known as misadventure or happening that results during treatment or investigations, leading to injury to patient or death of the patient, obviously due to no bad intention or carelessness of the doctors, e.g.-

- a. Bad effects of drugs.
 - b. Hypersensitivity reaction.
 - c. Harm due to drugs given during pregnancy.
 - d. Damage by radiations or radioisotopes.
 - e. Injury due to electrical equipment.
 - f. Death during operation.
 - g. Death during blood transfusion.
10. Medical Maloccurance: A poor response or hypersensitivity response in a particular person, due to biological variations indifferent people.
 11. Res Judicata: If a case has been decided in court it cannot be reopened in any other court.
 12. That the complaint is time barred.

Bad Defences in Professional Negligence

1. That there was no motive to harm the patient.
2. That the services were rendered gratis i.e. free.
3. That there was no contractual obligation towards the patient, as he did not approach directly.
4. Patient or relations not being able to pin point the guilty person.

Precautions against Professional Negligence

1. The doctor should be careful in selecting the patient and during examination, investigation, diagnosis and management of patient.
2. The doctor should keep himself well informed of latest developments in medical science.
3. He should not criticize colleagues.
4. Should employ only qualified assistants.
5. Should obtain valid consent during examination and treatment.
6. Maintain proper and complete medical records.



7. Should employ reasonable care and skill during examination and treatment.
8. Should not involve in unethical practice.
9. Should not involve in professional misconduct.
10. Should have medical indemnity insurance.

Prevention against Complaint of Professional Negligence

Lord Denning: The doctor's professional reputation is as dear to him as his body, perhaps more so, and an action for negligence could wound his reputation as severely as a dagger could injure his body.

A doctor should always keep in mind the following guiding principles during practice of the medical profession, to avoid a complaint of professional negligence -

A - Attendance (Always attend to an emergency and to your patient regularly).

- Alertness (Be alert to manage the case properly).

B - Behavior (Should be courteous).

- Bill (Should not be exorbitant)
- Better personal relations.

C - Communication (Communication with patient should be regular and in the language the patient understands. Always communicate the diagnosis, details of treatment, surgery required, likely complications, prognosis and probable expenditure).

- Consent (Treatment without valid consent is trespass on patient's body).
- Care (Be very careful in selecting and managing the patient).

D - Documentation (Detailed medical records should be maintained. Patient's record is the best defense for the doctor).

- Do not wrongly advertise to be a specialist.
- Do not criticize colleagues.

E - Expertise (Always strive to update your knowledge).

- Efficiency (Be efficient in all you do).
- Encourage second opinion.
- Employ only qualified assistants.

F - Follow the accepted and routine line of management (Never experiment on patient without written informed consent).

- Follow and practice your own pathy.

G - Get all the necessary investigations done.

- Get medical indemnity insurance cover.
- Never guarantee cure.

3. Research Methodology

3.1 Objectives of the Study

1. To study the medico legal cases of medical negligence in state of Maharashtra.
2. To study the impact of Consumer Protection Act,1986 with reference to the cases of medical negligence

3.2. Type of Research

This is an applied research or action research. Applied research aims at finding a solution or certain conclusion for an immediate problem facing a society. The researcher will discover a solution for some pressing practical problem.

3.3. Hypothesis

Medical negligence is an act of omission or an act of commission by a doctor to be proved either by a patient or his/her relatives in a court of law.

3.4. Sources of Data Collection

- a) It is a **Desk Research or Secondary Research** which involves the summary, collation and/or synthesis of existing research where data is collected from the orders or judgments in professional medical negligence cases by Consumer Courts, Bombay High Court and the Supreme Court of India.

b) Secondary Data

The researcher has collected the secondary data from

1. Information gathered from medico legal cases decided by the competent courts of law in India & medicolegal & forensic books, medical magazines, newspapers, Published data from various research journals, law journals & internet from <http://indiankanoon.org>.



2. Availability of previous statistical data of medico legal cases on professional medical negligence..
3. Data collected, will be analyzed and produced scientifically.

3.5. Limitations of the Study

The study is restricted only to five case studies or case laws decided by the Consumer Courts in State of Maharashtra. It covers only those medicolegal cases related to the professional medical negligence.

(4) Research Data / Materials

4.1 Recent Case Laws or Case Studies on the Medical Negligence in State of Maharashtra

Following five medico legal cases related to the professional medical negligence are studied in detailed for the purpose of research. All the data collected for the research purpose is mainly the secondary data obtained from the judicial decisions / judgments from the various Consumer Courts namely District Forum, State Commission and National Commission.

1. SauMeghaSharadAdoni Vs RekhaNavin Thakurⁱ on 25 March, 2014 State Consumer Disputes Redressal Commission
2. Dr. Ashok Punamchandji Kothari Vs. SubhashGulabraoWadekarⁱⁱ on 22 August, 2013, State Consumer Disputes Redre Commission, Maharashtra, Citcuit Bench, Nagpur.
3. Smt. SaritaSachidanand Nevge and others Vs. Mahatma Gandhi Memorial Hospitalⁱⁱⁱ on 19 March, 2013 before State Consumer Disputes Redressal Commission, Maharashtra, Mumbai.
4. Mrs. Lalita Ramesh Jain vs Talesara Hospital & Anr^{iv}, on 10 April, 2013 before National Consumer Disputes Redressal.
5. Dr.AniJ. Solunke, vs Matin S/O Abdulla Sattar^v, on 18 April, 2012. Before State Consumer Disputes Redressal Commission.

4.1.1. SauMeghaSharadAdoni Vs Rekha Navin Thakur on 25 March, 2014 State Consumer Disputes Redressal Commission

In this case Sau.MeghaSharadAdoni has given the opinion about the condition of the foetus in the report of the sonography. It does not appear that she has negligently given a wrong opinion because the report gives the details of the foetus, its age as well as its conditions. The court did not find any direct relation between the opinion of the sonography test and the premature delivery of the RekhaNavin Jain and the delivery of two dead foetus where Rekhadelivered after 54 days after the sonography.

Thus, the court held that deficiency of service and negligence in treatment cannot be attributed to the appellantSau.MeghaAdoni and she cannot be fastened with the responsibility to pay the compensation.

4.1.2. Dr. Ashok Punamchandji Kothari Vs. SubhashGulabraoWadekar on 22 August, 2013, State Consumer Disputes Redre Commission, Maharashtra, Citcuit Bench, Nagpur.

In this case complainant Mr. SubhashWadekar had sustained fracture to the wrist of his right hand on 08.01.1996 for which he went to Dr. Ashok Kothari on the same date at 9.00 p.m. for treatment. Dr. Kothari took X-ray of his right hand and applied plaster to it. Thereafter the complainant went to Dr. Choudhari of Nagpur on 27.01.1996, who after examination of his right hand opined that the plaster is wrongly applied and as time of 7 days has been already passed, the bones have been united. The complainant's right hand was not bending from wrist for which he approached to Dr. Choudhari at Nagpur on 13.02.1996 who advised him for physiotherapy. Later on Subhash sustained permanent disability as he was unable to write, eat and sign by his right hand. The said disability is occurred due to incorrect treatment given to him by Dr. Ashok Choudhary. The complainant then filed complaint seeking compensation of Rs.15,535/- towards expenses incurred by him for treatment, Rs.15,000/- towards the leave of three months required to be taken by him for treatment and Rs.3.00 Lacs as compensation towards the permanent disability sustained by him. He also claimed Rs.2,000/- towards cost of the proceedings. But Court held that there is no medical opinion to prove that due to negligence on the part of the appellant in applying the plaster to the wrist of right hand of the complainant sustained permanent disability. There is no document showing that Dr.Chao dhary sustained permanent disability. It cannot be said that there is negligence on the part of appellant. Court set aside the order by allowing the appeal.

4.1.3. Smt. SaritaSachidanand Nevge and others Vs. Mahatma Gandhi Memorial Hospital on 19 March, 2013 before State Consumer Disputes Redressal Commission, Maharashtra, Mumbai.

This consumer complaint is filed by the Complainant, Smt. SaritaSachidan and Nevge alleging medical negligence against the Mahatma Gandhi Memorial Hospital at Parel, Mumbai. In this case complainants husband Mr. Sachidanand Keshav Nevge who was working with the Mazgaon Dock Ltd., on a monthly salary of `4,000/- per month, who was a member of



E.S.I.S. He was admitted to the Mahatma Gandhi Memorial Hospital at Parel, Mumbai on 16/5/1997. He was found to be suffering with acute disc prolapse with 'Caudaequina syndrome'. The treating doctors decided to operate the patient on 4/6/1997. Accordingly, patient was operated upon on 4/6/1997 for spine ailment and he was kept admitted in the Hospital from 4/6/1997 till 11/6/1997. Patient died in the Hospital on 12/6/1997 at 06:15 hours in the morning.

The Court directed the Mahatma Gandhi Memorial Hospital to pay to the Complainants, an amount of `5,00,000/- by way of compensation for the death of Mr. Sachidanand Keshav Nevege which resulted on account of deficiency in service on the part of the Hospital in not providing post-operative care and management of the patient. The hospital shall also pay interest on the said amount @ 9% p.a. as from the date of death of the patient i.e. 12th June, 1997. Mahatma Gandhi Memorial Hospital bear his own costs and shall pay costs of `25,000/- to the Complainants.

4.1.4. Mrs. Lalita Ramesh Jain vsTalesara Hospital &Anr, on 10 April, 2013 before National Consumer Disputes Redressal

This is the First Appeal filed under Section 19 of the Consumer Protection Act, 1986 by the appellant / complainant against the order dated 13.04.2012 passed by the Maharashtra State Consumer Disputes Redressal Commission, Mumbai (State Commission) in complaint case No. CC/08/118, vide which the complaint alleging medical negligence on the part of the respondents/opposite parties was ordered to be dismissed.

The facts of the case are that the appellant, Mrs.Lalita Jain aged 38 years was hit by a two-wheeler at the Dapoli, Pune, fracturing her right hand. She had severe pain and swelling and she was admitted for treatment at the Talesarahospitalwhere she was treated by hospital doctor. On 26.07.2006 surgery was performed on the right hand of Mrs.Lalita with the help of some other doctors with the intent to re-join the fractured bones in the right hand. She was told that the surgery was successful and her right hand shall become normal after some time. It has been alleged by the complainant, Mrs. Lalita that even after surgical intervention, the pain and swelling on the right hand not stopped. she was discharged from the hospital on 03.08.2006. Later on she found that she could not use her right hand for any purpose. It was therefore, a case of medical negligence on the part of Mrs.Lalita because had they taken proper X-ray etc., to see if the bones had been set properly, they could have discovered the real picture about alignment of bones. The complainant then filed the complaint, claiming compensation of Rs. 28.20 lacs, but the same was dismissed by the State Commission vide impugned order.

National Commission held that there is no conclusive evidence to prove medical negligence on the part of the opposite parties. The order passed by the State Commission reflects a correct appreciation of the facts and circumstances on record and hence does not suffer from any infirmity or illegality. The First Appeal is therefore, ordered to be dismissed and the impugned order is upheld, with no order as to costs.

4.1.5. Dr.AnilJ.SolunkeVsMatin S/O Abdulla Sattar^{vi}, on 18 April, 2012 before State Consumer Disputes Redressal Commission.

That, original complainant`s deceased mother namely Ayeshabi w/o Abdul Sattar had throat pain.She was taken to the Tirupati hospitalby her son Mr. Matin Abdulla Sattaron 2.9.1999. That, this hospital is owned and being run by Dr.YashwantKhose who is M.D.(Medicine) and Dr.Anil Salunke who is an 'ENT Specialist' and Dr. S.P.Chavan is an 'Anesthetist'. It was contended by complainant that after having done medical check up by Dr. Anil salunkhe, she was advised throat surgery and having obtained consent from relatives, she was administered anaesthesia through Dr.S.P. Chavanand surgery of throat was performed in between 4.30 to 5.20 p.m. on same day i.e. 2.9.99 by Dr. Anil Salunkhe. That, after her surgery she was died at about 5.50 p.m.

It was contended by the complainant that respondent Dr. Solunke did not take proper care during the surgery which resulted into the unfortunate death of his mother. It was also alleged that there were no medical facilities available in the hospital which were necessary for surgery. Operation Theater was not well equipped. There was no other surgeon available and only Dr. AnilSalunkhe & Dr. S.P. Chavanper formed the surgery negligently without taking proper precautions. Thus, complainant alleged that the death of his mother was caused due to negligence of doctors. Complainant has further alleged that no post mortem of the dead body was performed.

State Consumer Disputes Redressal Commission held that there is no merit in this appeal and therefore court upheld the judgment and order passed by the District. Forum. Quantum and compensation awarded by District Forum is found reasonable considering the extent of negligency and nature of consequences which the family members of the deceased Ayeshabi had to bear. Thus, an appeal made by Dr. AnilSalunkheis dismissed.



5. Data Analysis

This is a qualitative research where the research scholar has studied about five case studies or case laws of medicolegal nature related to professional medical negligence in state of Maharashtra. All the secondary data and necessary information for the research is provided by indiankanoon.org. The judgments or orders given by different consumer courts namely District Forum, State Commission in state of Maharashtra and National Commission in those five case laws or case studies have been analyzed keeping in the mind, the main objectives of the study.

Thus, this desk research is based on secondary data available till date from the various Consumer Courts, Bombay High Court.

Data is analyzed by studying the various judgments given by the Hon'ble Judges of the different courts of law in five case laws/case studies related to professional medical negligence existing till date in state of Maharashtra. For analyzing the case studies, the Research Scholar has used "Within Case Analysis and Between Case Analysis or Across Case Analysis."

6. Findings and Discussion

Research Scholar has viewed and studied in details, five case studies already decided by various courts of law in Maharashtra namely various Consumer Courts. It has been found in all the cases that

1. Professional negligence on the part of doctor has to be specifically proved by the patient or his relatives. They have to prove that doctor has not done the duty of reasonable standard care towards the patient and was careless due to which patient/s has suffered some damage/s.
2. Autopsy or Postmortem report is considered to be the strong evidence before the court of law especially in the professional medical negligence.
3. Society depends on the judiciary to get the justice in the medicolegal cases of medical negligence by the doctor.

7. Conclusion

Research Scholar has viewed studied and analyzed five case studies/case laws on professional medical negligence and arrived on the following conclusions:

1. In case of medical negligence attending doctor had not attended to an emergency and not had a regular follow up with his/her patient.
2. There was an absence of alertness in managing the care of the patient.
3. Behavior of attending doctor was not courteous towards his patient.
4. Doctor's Communication with the patient was not regular and in the language, the patient understands. He/She never communicate the diagnosis, details of treatment, surgery required, likely complications, prognosis and probable expenditure to their Patient/s.
5. Doctor does not obtain valid consent during examination and treatment of the Patient. Thus, treatment without valid consent is trespass on patient's body by the doctor.
6. The doctor is not very careful in selecting the patient and during examination, investigation, diagnosis and management of patient. They don't employ reasonable care and skill during examination and treatment.
7. The doctor is not keeping himself well informed of latest developments in medical science.
8. Documentation: detailed medical records are not maintained by the doctor or hospital. Thus, they do not maintain proper and complete medical records.
9. Expertise: Doctors never strive to update their knowledge of subject matter. The doctor never keep himself/herself well informed of latest developments in medical science.
10. Doctor don't follow the accepted and routine line of management and does the experiment on patient without written informed consent of the patient.
11. Some of the doctors don't follow and practice their own pathy. They criticize their colleagues. Thus, they involve in professional misconduct.
12. Doctor don't get all the necessary investigations done and does all unnecessary investigations. Certain doctors are involved in unethical practice.
13. He/she gives guarantee of cure in the beginning of the treatment which is rather difficult to predict in certain diseases like Cancer/HIV.
14. Certain doctors don't have medical indemnity insurance and later on unable to pay the compensation ordered by the court of law or consumer court.
15. Certain doctors are involved in unethical practice like cut practices.
16. Some of the doctors do not employ the qualified assistants as the non-qualified staff is available in low cost to them.
17. There is a clear cut medical negligence in certain case/s as it is a case of Res Ipsa Loquitur i.e. Thing speaks for itself.



Aggrieved party or patient can claim the compensation for the damages of either physical or mental nature, caused to them by medical negligence of the doctor.

Aggrieved party or patient can get redressal of complaint/s at District Consumer Forum for a claim of compensation up to Rs.20 Lakhs, at State Commission for a claim above Rs.20 Lakhs and up to Rs.1 Crore and at National Commission for a claim of compensation above Rs.1 Crore.

The deceased person will not get his life back again but his soul may rest in peace once the accused person is punished or convicted by the competent court of law.

Thus, a hypothesis “Professional medical negligence is an act of omission or an act of commission by a doctor to be proved either by a patient or his/her relatives in a court of law.” is thereby proved.

Scope for Future Work

There is a lot of scope for future work on study of medicolegal aspects of medical negligence in other states of India. The study could be initiated with the help of primary data to reflect the latest situation.

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