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WHITE BLACK LEGAL is an open access, peer-reviewed and refereed journal providededicated to express views on topical legal issues, thereby generating a cross current of ideas on emerging matters. This platform shall also ignite the initiative and desire of young law students to contribute in the field of law. The erudite response of legal luminaries shall be solicited to enable readers to explore challenges that lie before law makers, lawyers and the society at large, in the event of the ever changing social, economic and technological scenario.

With this thought, we hereby present to you

LEGAL SCRUTINY IN HEALTHCARE: EXAMINING THE CRIMINAL LIABILITY OF MEDICAL PRACTITIONERS

AUTHORED BY - LEIVON REBECCA KOM

ABSTRACT

Entrusted with the basic duty of safeguarding human life, the healthcare profession plays a crucial role in society. Given the erratic character of medicine, healthcare professionals may occasionally come under legal examination, especially if patient results raise claims of carelessness or wrongdoing. The issue of holding healthcare workers criminally responsible is becoming increasingly relevant as medical negligence cases grow and legal standards change. With particular emphasis on the Bhartiya Nyaya Sanhita (BNS), 2023¹, and current court decisions like the high-profile Patanjali deceptive advertisement case, this study aims to investigate how Indian law applies criminal liability to healthcare professionals. Examining how to balance the professional autonomy of doctors with the need to guarantee patient safety, the paper explores the difficult crossroads between medical ethics and legal responsibilities. Traditionally, the Indian Penal Code, 1860² especially Sections 304A³, 336⁴, 337⁵, and 338⁶ governed criminal liability for medical negligence in India, addressing cases of hasty or careless acts causing damage or death. Significant changes to criminal proceedings are brought by the newly passed Bhartiya Nyaya Sanhita, 2023⁷, which replaces the IPC⁸. Though it keeps the fundamental clauses on criminal negligence, the BNS⁹ hopes to simplify the legal procedure and enhance victim protections. This study looks at how these changes could affect the legal risks for healthcare workers, especially in terms of negligence definition and what defences are available. This paper focuses on the Patanjali case since it highlighted pressing issues regarding the duty of pharmaceutical corporations and medical service providers in supporting false health claims. The debate highlighted the risks of commodifying healthcare and the possible grave effects of disseminating inaccurate medical information. Examining this example helps

¹ Bhartiya Nyaya Sanhita (BNS), 2023.

² The Indian Penal Code, 1860.

³ The Indian Penal Code, 1860, S. 304A.

⁴ The Indian Penal Code, 1860, S. 336.

⁵ The Indian Penal Code, 1860, S. 337.

⁶ The Indian Penal Code, 1860, S. 338.

⁷ *Ibid.*

⁸ *Ibid.*

⁹ *Ibid.*

the study to show how crucial it is to shield honest healthcare professionals as well as consumers from false information and wrongdoing.

KEY WORDS

Healthcare providers, Criminal liability, Medical negligence, Bhartiya Nyaya Sanhita (BNS) 2023, Indian Penal Code (IPC), Legal accountability, Medical ethics, Patient safety, Patanjali , Consumer protection, Medical misconduct, Bolam Test, Bolitho Test

INTRODUCTION

In the event that a healthcare professional fails to deliver care that is up to the standards that are anticipated from a provider who is fairly competent in similar circumstances, this is considered to be medical negligence. Failures of this nature are being treated very seriously in India, and they may result in legal repercussions. These matters are handled in accordance with a number of different legal channels, including the Indian Penal Code (IPC)¹⁰, the Consumer Protection Act, and disciplinary proceedings taken by medical councils. In the Indian Penal Code, for example, Section 304A¹¹ addresses the issue of death that is the product of negligence, whereas Section 338¹² addresses serious injuries that are the result of conduct that are dangerous or reckless. Patients who believe that they have received care that is either inadequate or negligent are given the ability to file a complaint with consumer courts thanks to the Consumer Protection Act¹³.

Having a robust legislative framework is absolutely necessary in order to keep both the safety of patients and the quality standards in medical care under control. In addition to providing healthcare professionals with information regarding their responsibilities, this framework also ensures that patients have access to various avenues through which they can seek justice in the event that something goes wrong. The law assists medical practitioners in maintaining high levels of professionalism by establishing explicit standards and ethical expectations. This serves to reduce the likelihood of errors and improve the overall quality of healthcare delivery.

In addition, a legal system that operates effectively establishes trust between patients and medical professionals. It is more probable that individuals will experience feelings of safety

¹⁰ *Supra* note 2 at 1.

¹¹ *Supra* note 3 at 1.

¹² *Supra* note 6 at 1.

¹³ Consumer Protection Act 2019.

and support throughout medical treatment if they are aware that they are protected by the law. In addition to assisting medical professionals in providing appropriate treatment without the fear of ambiguity, this trust is crucial since it motivates patients to seek medical attention when they are in need of it. Consequently, the legal regulation of medical negligence serves a dual function: it serves as a disincentive against substandard practice, and it also protects the rights of patients, so bolstering the integrity and dependability of the healthcare system. In other words, it serves a dual purpose.

Criminal Liability Under the Indian Penal Code (IPC), 1860

Under Sections 304A¹⁴ and 338¹⁵ of the Indian Penal Code (IPC), 1860, India's legal system makes medical practitioners criminally responsible for carelessness. If a patient's death or significant damage results from a healthcare provider's negligence, these sections are essential in specifying when and how they may be punished.

Death caused by Negligence: Section 304A¹⁶

This section is particularly about cases where a doctor's negligent or reckless behavior causes a patient to die but does not constitute culpable homicide. The legislation states that such neglect could lead to a fine, up to two years in prison, or both.

In healthcare, Section 304A¹⁷ is relevant when a practitioner falls short of expected standards of care—such as executing an operation without the required expertise or attention—thereby causing a patient's death. Not every medical error, though, qualifies as criminal negligence. To be convicted, the court must be satisfied that the act indicated a gross departure from reasonable medical standards—so extreme that it surpasses normal human mistake. As noted by the Supreme Court of India, this high bar guarantees that doctors are not unjustly penalized for little or unavoidable errors.

¹⁴ *Supra* note 3 at 1.

¹⁵ *Supra* note 6 at 1.

¹⁶ *Ibid.*

¹⁷ *Ibid.*

Causing Grievous Hurt by Act Endangering Life or Personal Safety: Section 338

Section 338¹⁸ deals with situations where careless or irresponsible behavior causes significant harm to a person without causing death. Doctors can be penalized with up to two years in prison and/or a fine of rupees ten thousand if their conduct jeopardizes a patient's life or safety and causes major harm—such as lifelong disfigurement, loss of a limb, or any injury threatening life.

Procedures done without appropriate care or normal medical protocols ignored, resulting in significant damage, often bring this section into action. The law seeks to make doctors responsible for any neglect of duty of care that results in patient preventable harm.

Grasping Rashness and Negligence in Medical Practice

Both parts draw a line between negligence and rashness. Legally speaking, rashness is rapid or impetuous behavior lacking sufficient care. Negligence means not acting with the reasonable care anticipated of a professional in comparable situation. Doctors are supposed to decide according to accepted medical procedures. The law allows investigation and punishment when there is a notable departure from these criteria—either by negligence or recklessness. That so, legal examination is done carefully to guarantee that only grave and avoidable mistakes result in criminal prosecution. This equilibrium provides doctors the freedom to perform responsibly without continuous worry of legal action for every negative result while simultaneously helping to safeguard patients' rights.

Civil Liability Under the Consumer Protection Act, 2019

A major piece of legislation in India meant to protect consumer rights and handle problems resulting from defective products or subpar services, the Consumer Protection Act (CPA), 2019. Notably, this law addresses medical services as well and holds healthcare professionals civilly responsible should they be proven guilty of medical negligence during treatment.

¹⁸ *Supra* note 6 at 1.

Consumer Right Medical Services

Section 2(42)¹⁹ of the CPA defines the word "service" somewhat broadly to cover many different industries like banking, insurance, housing, transportation, entertainment, and especially, medical services. Though not specifically stated, medical services fit the term "but not limited to," therefore qualifying them for the Act's coverage.

The Supreme Court firmly upheld this in the historic *Indian Medical Association v. V.P. Shantha* (1995)²⁰. Empowering patients to lodge complaints of negligence in consumer forums, the Court held that medical professionals and institutions providing services for a charge are responsible under the Consumer Protection Act.

What Is a 'Deficiency' in Medical Services?

A "deficiency" under Section 2(11)²¹ of the Act is any lack or flaw in the quality, character, or way a service is performed, particularly when it falls short of legal or contractual criteria. In the field of medicine, a deficiency results from a doctor or hospital not meeting agreed upon medical criteria, hence endangering or harming a patient. The patient has to demonstrate that:

1. The healthcare professional's conduct strayed from accepted medical procedures.
2. The care given was below the competence anticipated of a sensible expert.
3. The damage experienced follows directly from the provider's carelessness.

How can Patients Complain?

Including those connected to healthcare, the CPA, 2019, presents a simplified, tech-enabled approach for submitting and handling consumer complaints. Patients can file grievances online; hearings might be held via video conference or other digital media.

The degree of the forum at which a matter is considered is set by the monetary worth of the service or compensation being claimed.

- District Commission: Claims up to ₹1 crore.
- State Commission: From ₹1 crore to ₹10 crores.
- National Commission: Over ₹10 crores.

¹⁹ Consumer Protection Act, 2019, S. 2(42)

²⁰(1995) 6 SCC 651.

²¹ Consumer Protection Act, 2019, S. 2(11)

This tiered system guarantees that complaints are handled effectively depending on their size.

Remedies & Relief

A forum can order a variety of remedies once it determines a healthcare professional has been negligent, including:

- Monetary recompense for the damage done.
- Instructions to fix the lack of service.
- Penalties set to discourage next infractions.
- Enhancing Patient Rights

Including medical services in the CPA system guarantees patients legal recourse if they get inadequate treatment. The Act enables consumers—especially patients—to hold healthcare providers responsible by explicitly defining what constitutes medical negligence and providing a systematic approach for redressal. This not only promotes justice but also contributes to the general quality and responsibility of Indian healthcare.

Impact of the Bhartiya Nyaya Sanhita, 2023

Replacing the colonial-era Indian Penal Code (IPC) of 1860, the Bhartiya Nyaya Sanhita (BNS), 2023 signals a significant change in India's criminal justice system. Among the many improvements this recently enacted legislation provides is a significant update on medical negligence—something healthcare practitioners now have to grasp in depth.

Medical Negligence-Related Changes

Under the former IPC, Section 304A²² covered situations when negligence led to a person's death but without the intent to kill (i.e., not culpable homicide). The maximum penalty was two years in prison and/or a fine.

Section 106²³ of the BNS supersedes this clause. The revised legislation calls for harsher penalties: any fatality caused by careless or reckless behavior might now result in required incarceration of up to five years and a fine.

²² *Supra* note 3 at 1.

²³ Bhartiya Nyaya Sanhita (BNS), 2023, S.106.

Registered medical professionals, though, have a different provision. The maximum term is two years, plus a fine, if a patient dies as a result of a doctor's negligence during a medical operation. This exception recognizes the natural hazards of medical practice and the reality that doctors frequently decide under great pressure and complicated circumstances.

The BNS's updated clauses have notable effects on the medical profession:

Mandatory Imprisonment for Negligence: Courts can no longer choose a fine by itself if a patient dies as a result of a doctor's negligence; under the IPC they may have done so. Reinforcing the gravity of medical responsibility, the BNS calls for both a penalty and jail time. **Doctor's Reduced Sentencing:** Although doctors must serve required jail time, the law limits their sentence to two years since it understands the particular difficulties of their profession. This aims to find a middle ground between guaranteeing responsibility and preventing too severe punishment for honest errors committed during medical operations. **No Required Medical Review Prior to Prosecution:** Unlike previous Supreme Court *Jacob Mathew v. State of Punjab*²⁴ rules, the BNS does not mandate a medical board to perform a preliminary evaluation prior to a doctor's prosecution. This causes worries that without expert assessment doctors could undergo criminal trials, which could be abused or harassed. Stricter penalties could make doctors more cautious or reluctant, particularly when considering high-risk or experimental therapies. Increased vigilance may lower mistakes, but it could also limit the availability of innovative and life-saving treatments because of concern of legal repercussions.

The Bhartiya Nyaya Sanhita, 2023, offers a more rigorous legal framework for handling medical malpractice causing death. Although it rightfully wants to safeguard patient rights and guarantee responsibility, it also attempts to recognize the particular difficulties doctors experience by restricting maximum penalties.

But, compulsory sentencing and the elimination of protections like expert review could leave healthcare professionals exposed. Interpreting and using the BNS to safeguard patients as well as medical personnel will help to create a safe and equitable healthcare system going forward.

²⁴ (2005) 6 SCC 1

Judicial Interpretation and Precedents

Judicial Interpretation of Medical Negligence in India

The way medical negligence is treated under the law has been significantly influenced by Indian courts. By means of historic decisions, the court system has assisted in clarifying the duties of healthcare professionals and the criteria applied to evaluate negligence. These decisions have not only defined the legal limits for medical professionals but also shaped patient rights and healthcare policies in India.

Important Judicial Rulings That Formed the Law Medical Association v. V.P. Shantha & Ors. (1995)²⁵

Ruling in a historic case, the Supreme Court decided that medical services are under the Consumer Protection Act, 1986. This allowed patients to report medical malpractice in consumer courts—a significant development in enabling legal recourse for victims of subpar treatment.

Jacob Mathew v. Punjab State (2005)²⁶

By saying that doctors should not be prosecuted for negligence unless their behavior markedly departed from that of a reasonably competent medical practitioner, this case established a significant precedent. The Court established a protection to stop doctors from being prosecuted for honest mistakes or routine errors, so guaranteeing only very negligent would draw criminal responsibility.

Nizam Institute of Medical Sciences v. Prashant S. Dhananka (2009)²⁷

Though less than what the victim had sought, the Court decided in favour of the patient and awarded damages. Especially concerning transparency in damage awards was the lack of thorough explanation by the judges for rejecting certain alleged costs.

²⁵ Indian Medical Association v. V.P. Shantha & Ors., (1995) 6 SCC 651 : AIR 1996 SC 550.

²⁶ *Supra* note 24 at 7.

²⁷ (2009) 6 SCC 1.

Balram Prasad against Kunal Saha (2014)²⁸

Before arriving at the Supreme Court, this high-profile case traveled a long legal path across several courts. It revealed the challenges and delays experienced by victims of medical negligence pursuing justice. Often mentioned, the case illustrates how drawn-out legal procedures may annoy justice.

Aruna Shanbaug's Case²⁹

This highly charged case concerned a nurse who was in a vegetative condition for 37 years following a sexual assault. Although the Supreme Court rejected active euthanasia, it did provide certain rules for passive euthanasia, therefore clarifying legally and morally end-of-life care in India.

Swasthya Adhikar Manch v. Government of India (2013)³⁰

The Court looked at how clinical trials were run and underlined the need to safeguard trial subjects' rights and safety. This ruling resulted in tighter rules for the pharmaceutical and medical sectors.

Recent Changes in Medical Negligence Law

In a more recent Supreme Court decision, the Court made clear that unanticipated medical problems by themselves do not constitute medical negligence. Only if there is significant proof of subpar treatment or departure from accepted medical practices can doctors be held responsible. Though still giving patient safety top priority, this choice is part of a larger movement to shield medical practitioners against groundless or trivial litigation.

The 'Bolam Test' and Legal Standards' Function

First developed in the UK in *Bolam v. Friern Hospital Management Committee* (1957)³¹, the Bolam Test is among the most crucial instruments for judging medical negligence. Indian courts, including the Supreme Court in *Kusum Sharma v. Batra Hospital* (2010)³², have regularly maintained this criterion. The test says that even if other specialists might have

²⁸ (2014) 1 SCC 384.

²⁹ [2011] 4 S.C.R. 1057

³⁰ (2013) 11 SCC 1.

³¹ [1957] 1 WLR 582 (QBD).

³² (2010) 3 SCC 480.

behaved differently, a doctor cannot be judged negligent if his or her approach is backed by a responsible body of medical opinion.

Separating Civil from Criminal Negligence

The Supreme Court made a clear distinction between civil and criminal negligence in *Jacob Mathew v. State of Punjab*³³. A doctor's criminal liability depends on a high degree of negligence. This difference guarantees that only the most severe violations result in criminal charges, so protecting healthcare professionals from over-criminalization.

Latest Case Law:

Neeraj Sud v. Jaswinder Singh (2024)³⁴

The Supreme Court underlined in its 2024 decision that a deterioration of a patient's condition following surgery does not by itself suggest carelessness. Reversing a lower tribunal's ruling, the Court said that until there is clear proof of professional failure, complications—even when serious or unanticipated—are not enough to establish malpractice.

Over time, Indian courts have developed a nuanced, fair method of evaluating medical malpractice. On the one hand, they support patients' rights to get good treatment and to pursue compensation for suffering. Conversely, they understand the pressure medical practitioners are under and the complicated character of medicine. India keeps evolving its legal knowledge of medical negligence by means of careful judicial interpretation, therefore seeking to safeguard doctors as well as patients inside a fair and just society.

CONCLUSION

An elaborate legislative and judicial framework has been built in India with the purpose of protecting the rights of patients and ensuring that healthcare personnel are held accountable for behaviors that are considered negligent or misbehavior. At the core of this system is the Consumer Protection Act (CPA), 2019, which gives patients the ability to pursue legal action and financial compensation in the event that the quality of medical care they get falls short of what is considered to be reasonable. Patients no longer have to shoulder the burden of high legal bills or negotiate complex civil litigation procedures as a result of this statute, which is

³³ *Supra* note 24 at 7.

³⁴ 2024 INSC 825

particularly noteworthy because it democratizes access to justice. They might, as an alternative, contact consumer forums, which are intended to be more user-friendly and accessible to patients.

Sections 304A³⁵, 337³⁶, and 338³⁷ of the Indian Penal Code (IPC), 1860 offer channels through which healthcare personnel can be held criminally accountable in situations involving gross negligence. These provisions are seen from the standpoint of criminal law. The provisions of Section 304A³⁸ are applicable in situations in which a patient passes away as a result of negligent activities, whereas Sections 337³⁹ and 338⁴⁰ are applicable in circumstances in which a serious or grievous harm is the result of reckless actions that put the patient's life or personal safety in jeopardy. By guaranteeing that there are legal repercussions for reckless behavior, these measures not only emphasize the significance of safety in the practice of medicine but also serve as a deterrent to behavior that is without responsibility.

Furthermore, the idea of tortious liability, which is a component of civil law, grants patients the right to file a lawsuit for compensation in the event that they have been denied medical care. In rare instances, this may involve compensation for the loss of a person's life or livelihood, as well as damages for bodily pain, mental anguish, and financial loss. The purpose of these several legal routes, which include consumer protection, civil protection, and criminal protection, is to provide patients with a comprehensive safety net.

On the other hand, despite the fact that the legal structure can appear to be sturdy on paper, its actual execution encounters a great deal of difficulty. It is one of the most significant problems that the delivery of justice is delayed. Due to procedural bottlenecks, case backlogs, and a lack of medical expertise among judicial officers, the resolution of legal matters under the CPA can frequently take years, despite the fact that the CPA was designed to speed up the procedures involved. When it comes to medical matters, many judges depend completely on the testimony of medical professionals, who may themselves be biased or protective of their colleagues. As a consequence, this might lead to inconsistent judgments, in which circumstances that are substantially similar result in quite different conclusions.

³⁵ *Supra* note 3 at 1.

³⁶ *Supra* note 5 at 1.

³⁷ *Supra* note 6 at 1.

³⁸ *Ibid.*

³⁹ *Ibid.*

⁴⁰ *Ibid.*

In addition, there is no centralized register for cases of malpractice in India, which makes it difficult to monitor trends or follow down repeat offenders. It is not possible to establish a set of consistent criteria for the awarding of damages, as compensation systems differ from state to state and case to case. In addition to contributing to legal confusion, these differences undermine patient trust in the system and can discourage victims from coming forward with their experiences.

Furthermore, the fear of legal action has led to a rise in defensiveness in the medical practice. As a result, doctors may choose not to take high-risk cases or may resort to superfluous tests and treatments in order to shield themselves from the possibility of being sued. Not only does this defensive attitude drive up the expense of healthcare, but it also has the potential to impact both the quality and the timeliness of service.

It is imperative that structural and policy reforms be implemented immediately in order to solve these important issues:

Establishment of Medical Tribunals: There is a growing consensus that India requires specialized tribunals to address cases of medical negligence when it comes to medical malpractice. For the purpose of ensuring that decisions are both fair and well-informed, these tribunals ought to be staffed by both legal and medical professionals. These committees, in contrast to normal courts, would be qualified to examine sophisticated medical data and differentiate between consequences that could not have been avoided and those that were the result of true carelessness.

Fostering a More Accountable Hospital Environment: The implementation of robust internal mechanisms for the reporting and auditing of medical errors is a compulsory requirement for healthcare institutions. Through the implementation of mandatory reporting of adverse events and consistent training in patient safety standards, it is possible to dramatically reduce the number of instances of negligence. It is possible for there to be genuine improvements in the quality of care if there is a culture of transparency rather than blaming.

Investigating Different Models of No-Fault Compensation: There is a possibility that India will adopt a no-fault liability system for medical injuries, following in the footsteps of countries such as New Zealand and Sweden among others. The victims are able to get compensation under this approach without having to provide evidence of negligence. In addition to preserving the quality of healthcare, such a framework lowers the expenses of legal representation,

expedites the process of reimbursement, and lessens the emotional load placed on patients and their families.

Legal Protections for Nurses and Other Medical Professionals: At the same time, it is imperative that the rights and mental health of personnel working in the medical field be not neglected. The excessive criminalization of medical errors can be a deterrent to experimental and risk-taking approaches to therapy. Prior to the initiation of criminal proceedings, legal laws must to incorporate filters such as preliminary medical board reviews, which was a safety that was present in earlier Supreme Court cases such as *Jacob Mathew v. State of Punjab*⁴¹. Patients need to be made aware of their rights and the many mechanisms that are available for redress. Patients also need to be empowered for their own rights. Patients may be able to navigate the complaints procedure more efficiently with the assistance of public legal education campaigns, helplines that are available in many languages, and internet portals.

In conclusion, the healthcare system in India is currently at a crucial juncture, leaving both patients and doctors feeling vulnerable. Patients are feeling vulnerable as a result of the absence of consistent redressal, and doctors are feeling vulnerable as a result of fears of fair punishment. It is necessary to have a legal system that is fair, compassionate, and open to public scrutiny. This system should acknowledge the intricacies of medical practice while also protecting the sanctity of human life. For the purpose of developing confidence and integrity in India's health systems, it is vital to implement reforms that speed the settlement of disputes, promote institutional accountability, and humanize both patient care and medical practice.

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⁴¹ *Supra* note 24 at 7.

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