



## Review Article

## Recent trends of medical negligence – An autopsy based study at lady hardinge medical college, New Delhi

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## ABSTRACT

**Background:** Due to rise in public awareness, reporting of medical negligence cases increased many folds in India. Medical Negligence is absence of reasonable skill, misconduct by a medical practitioner by not providing enough care (act of omission or commission) resulting in breach of their duties and harming the patients.

**Materials and Methods:** This is a retrospective study of all autopsy cases conducted during the period of 2013-17 in the Department of Forensic Medicine and Toxicology at Lady Hardinge Medical College, New Delhi. The case of Medical negligence was decided based on history enumerated by Investigation Officer.

**Results:** The highest number (1.23%) of alleged medical negligence deaths were reported during year 2016. Maximum numbers (42%) were observed in age group of 0-10 years followed by 21-30 years i.e. 23%. Female were outnumbered to male constituting 55% of total medical negligence deaths. 23% death cases were observed in Medicine and Pediatrics departments followed by Obstetrics and Gynecology. Viscera for chemical analysis and histopathology were preserved in majority of cases i.e. 77% and 74% respectively.

**Conclusion:** Pediatrics, Internal Medicine, Obstetrics and Gynecology and General Surgery are the branches facing most suits of negligence. Careful attention, empathy, clear communication, soft skills and consent is helpful to avoid allegations and medicolegal autopsy should be conducted in all alleged cases of negligence.

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### 1. Introduction

Probably since the beginning of medical practice the society has taken the cognizance of medical negligence as well. In India, since the inception of the Consumer Protection Act, 1986 the question of medical negligence became very prominent. The public, patients, and the press including visual media became aware, with this, came the issues of not only civil negligence but criminal negligence also.

Supreme Court verdict in 1995 brought the medical profession under the purview of the Consumer protection Act, 1986.<sup>1</sup>

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As per jurisprudential law in India, elements of Professional medical negligence are:

1. Duty to treat: there should be a doctor- patient relationship established,
2. Dereliction: a physician must conform to standard of a prudent physician,
3. Direct causation between the damage and the procedure,
4. Damages to the patient.

In absence of any of the above a case of negligence can't be proven in a court of law.

With advancement of technology and increased literacy rate the Indian society has developed an awareness

regarding their rights. At the same time public awareness about medical negligence is growing. The reason is that the degrading standards of professional competence, facilities, and the appropriateness of their therapeutic and diagnostic methods. In earlier times, people were afraid of suing doctors or hospitals, but with the passage of time, the law has played a major role in generating awareness among people regarding their rights.

According to Bolam's test, a doctor, who acts by a practice accepted as proper by a responsible body of medical men, is not negligent mainly because there is a body of opinion that takes a contrary view.<sup>2</sup> But the test came under a rough weather and was faced with a lot of criticism, and therefore, countries like Australia rejected it altogether.

As of the present, after the Bolitho case, recognition of a two-step procedure took place so as to determine the question of alleged medical negligence.<sup>3</sup>

1. Whether the doctor acted by a practice accepted as proper by an ordinarily competent doctor.
2. If yes, whether the practice survived Bolitho judicial scrutiny as being responsible or logical.

The two-step analysis as followed in the Bolitho case was reiterated and confirmed in many cases, like French v. Thames Valley Strategic H.A. Unlike the Bolam Test, this test is uncontroversial.

In the context of Indian law, medical negligence comes under 3 categories; Criminal negligence, civil negligence and negligence under Consumer Protection Act. Different provisions regarding the remedy in the form of punishment and compensation are there in 3 laws.

There is a recent increase in number of medical negligence cases in India. This may be attributed due to rise in awareness. This study focuses on the number of alleged medical negligence cases that resulted in death of the patient and were brought to Lady Hardinge Medical College, New Delhi during the period of 2013-17 for post-mortem examination. This study also focuses on the Department wise alleged medical negligence cases.

## 2. Materials and Methods

This is a retrospective study of all autopsy cases which were brought to the Department of Forensic Medicine and Toxicology, Lady Hardinge Medical College, New Delhi during the period of 2013-17. In the present study, the case of Medical negligence was decided based on the history given by the Investigation Officer.

## 3. Observation and Results

There is a general rise in percentage of cases of medical negligence deaths brought to us autopsy with year 2016 showing maximum as 1.23%.

**Table 1:** Number of alleged medical negligence deaths cases brought for autopsy

Year	Number of Alleged Medical Negligence Deaths cases brought for Autopsy (Total number of Autopsies in that particular year)	Percentage
2013	4 (630)	0.64%
2014	6 (701)	0.86%
2015	5 (737)	0.68%
2016	10 (811)	1.23%
2017	6 (623)	0.96%

Maximum numbers of alleged medical negligence death cases were observed in the age group of 0-10 years i.e. 42%, followed by 21-30 years, 23%.

**Table 2:** Age wise distribution of cases.

Age Group	Number of Cases
0-10	13
11-20	1
21-30	7
31-40	5
41-50	2
51-60	3

There were more female deaths with alleged history of medical negligence accounting for 55% of total medical negligence deaths.

**Table 3:** Sex wise distribution of Cases.

Sex	Number of Cases
Male	14
Female	17

Maximum numbers of alleged medical negligence death cases were observed in Medicine and Pediatrics departments, accounting for 23% each of total deaths due to medical negligence, followed by department of Obstetrics and Gynecology.

**Table 4:** Department wise distribution of Cases.

Department	Number of Cases
Casualty	1
Pediatrics	7
OBGY	6
Medicine	7
Surgery	3
Ophthalmology	1
Anesthesia	1
Private OPD	5

Though viscera were preserved for chemical analysis in majority of cases but in 23% cases no viscera were preserved. Out of the samples preserved reports of only 19% cases were submitted for subsequent opinion.

**Table 5:** Preservation of Viscera for Chemical Analysis vise Distribution of Cases.

Viscera for Chemical Analysis	Number of cases
Not preserved	7
Preserved but result pending	18
Preserved and report received	6

Though viscera were preserved for Histopathology in majority of cases but in 26% cases no viscera were preserved. Out of the samples preserved reports of only 19% cases were submitted for subsequent opinion.

**Table 6:** Preservation of Viscera for Histopathology vise Distribution of Cases.

Preservation of Viscera for Histopathology.	Number of Cases
Not preserved	8
Preserved but result pending	17
Preserved and report received	6

In 52% cases final cause of death was given.

**Table 7:** Cause of Death (Report Given or not) vise Distribution of Cases.

Cause of Death (Report Given or not)	Number of Cases
Yes	16
No	15

Out of the total cases of death allegedly due to medical negligence, 83% cases were primarily treated in Government Hospitals or Institutions.

**Table 8:** Treatment in Hospital (Private or Government) vise Distribution of Cases.

Treatment in Hospital (Private or Government)	Number of Cases
Government	26
Private	05

Out of the total cases, 52% cases died within 24 hours of admission.

**Table 9:** Duration of Treatment vise Distribution of Cases.

Duration of Treatment	Number of cases
Brought Dead	1
0-24 hrs	13
24-72 hrs	8
3- 7 Days	3
>7 Days	6

#### 4. Discussion

India records approximately 5.2 million cases a year, ranging from incorrect prescription, wrong dose, wrong patient, wrong surgery and wrong time to wrong drug.<sup>4</sup> Of these, the biggest sources are mishaps from medications, hospital-acquired infections and blood clots that develop in legs from being immobilized in the hospital.<sup>5</sup> Around 52 lakh medical injuries are recorded every year in India and 98,000 people in the country lose their lives in a year because of medical negligence.<sup>6</sup> Despite improvement in the health care system of India, litigations against doctors have increased in the past decades. This was also demonstrated in our study which showed general rise in percentage of cases of deaths due to medical negligence brought for autopsy, but this increase constitutes less than 1% of total cases. On comparing the nationwide total number of medical negligence cases even in developed nations, it constituted 36.7% in Wuhan, China<sup>7</sup> and it ranged 1.4% to 20% in Germany<sup>8</sup> which was remarkable.

The proportion of medical negligence claims was maximum in pediatrics department (23%) and Internal Medicine department (23%) followed by Obstetrics and Gynecology (19%) and General surgery (10%). These findings were contrary to the findings of retrospective study performed at USA which proposed General surgery as the branch on which maximum claims for medical negligence were made.<sup>9</sup> A similar study was performed in the entire South India in which out of total 1317 judgements on medical negligence, 347 were done on Department of Obstetrics and Gynecology.<sup>10</sup> These variations in results across the nation and also outside the nation depends on the awareness of people in that area, economic development and sample size of the study. Since our outcomes was based on data from single institute, a multicentric study could correlates with the findings of above mention studies. It is also interesting to note that 16% cases were allegedly OPD patient death.

Maximum numbers of alleged medical negligence death cases were observed in the age group of 0-10 years i.e. 42%, followed by 21-30 years, 23%. However, these results were not consistent with the results of study done in Wuhan, China which found increase in approved cases of medical negligence towards older age group. Our findings were attributed to the fact that majority of the deaths with alleged history of medical negligence were observed in Pediatrics department and also another possible reason could be over cautiousness and affection of parents towards their children, that is why more claims were made in this age group malpractice may not be present.

Even after alleged medical negligence, many a times there are some lapses at the time of performing the post-mortem examination. In our study, though viscera were preserved for chemical analysis in majority of cases but in 23% cases no viscera were preserved. Almost similar trend

was observed in samples kept for histopathology.

Out of the samples preserved reports of only 19% cases were submitted for subsequent opinion, indicating either the charge-sheet was not filed or case got delayed or withdrawn. This may be due to the fact that many a times, decision to file a case against the attending doctor is taken in heat of the moment. Out of the total cases of death allegedly due to medical negligence, 83% cases were primarily treated in Government Hospitals or Institutions. Private hospitals contributed only 3% of total deaths. Government hospitals in India are designated as the tertiary care center's due to advanced technologies in healthcare so patients with life-threatening complexities are being sent to tertiary centers for treatment which are most likely to die. This is the reason why doctors at tertiary care center has higher chance of facing litigations. Another reason could be due to the fact that lower strata of the society are too becoming aware of possible contribution, if any, of doctor's negligence in death of the patient.

Most of the times the patient is brought in serious conditions, sometimes the condition being irrecoverable. To save a patient from such a condition becomes a daunting task for the treating doctor, leading to the perception to the patient's relatives that there was negligence on the part of the doctor. This fact can be inferred from this study as out of the total cases, 52% cases died within 24 hours of admission, whereas 32% patients survived for a period of 24-72 hours. Only 16% deaths were observed in patients surviving initial 72 hours.

## 5. Conclusion

Tertiary care center's especially government owned are facing the maximum malpractice claims and are also at the risk of unprofessional conduct. Pediatrics, Internal Medicine, Obstetrics and Gynecology and General Surgery are the branches facing most suits of negligence. Careful attention must be given to patients younger age group especially females. Autopsy should be made mandatory for all deaths with unnatural cause, it may prevent false negligence charges. Patient and patient relatives must be approached in a proper way regarding the nature & course of disease, adverse outcomes, total expense, duration of hospital stay and consent, because all above factors if not addressed cautiously ends in lawsuit. Even after great advancement in the medical field, this fact cannot be denied that medical technologies still have a plenty of room for

improvement and we as doctor should contribute our part as well.

## 6. Source of Funding

None.

## 7. Conflict of Interest

None.

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