

Study of the Cases of Medical Negligence

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Abstract: Medical negligence is said to be an act committed by a health professional or care provider in which the provided treatment was supposedly below the standard expected. The overwhelming incidences of medical negligence mostly go without any legal action leading to a frustrating situation where public trust is completely lost on the medical service providers. There is an urgent need to put a check on increasing trend in the number of medical negligence cases and deteriorating quality of healthcare in India. In this study, properly investigated cases by formally constituted committee on medical negligence were discussed; which can provide insights into the factors mainly responsible for medical negligence, prevailing circumstances and impact on doctor-patient relationship etc. 40 cases were referred for expert opinion regarding medical negligence to the committee for scrutiny, out of which 31 cases were finally considered for analysis after due exclusions. Out of these, medical negligence was proven in 4 cases, disproven in 17 cases and in 10 cases opinion was not possible due to varying reasons. Most of the cases (48.3%) belonged to surgical & allied disciplines. General lack of communication (29%) and misunderstanding amongst patients' relatives about medical services being provided by medical professionals (29%) were found to be major reasons behind filling of complaints. It was concluded that lack of soft skills & communication on the part of medical service providers, rather than lacunae in clinical care, were majorly responsible.

Keywords: Medical negligence, Medico-legal cases, Disability, Medical professionals

1. Introduction

It is very difficult to define negligence; however, the concept has been accepted in jurisprudence. As per Salmond; "negligence is an omission to do something which a reasonable man, guided upon those considerations which ordinarily regulate the conduct of human affairs, would do, or doing something which a prudent and reasonable man would not do."^[1] Negligence is the breach of a legal duty of care. A breach of this duty gives the patient right to initiate action against the negligence.^[2] All medical professionals, doctors, nurses, and other health care providers are responsible for the health and safety of their patients and are expected to provide high quality care. Unfortunately, medical professionals and health care providers can fail in this responsibility towards their patients by not giving them proper care and attention, acting maliciously, or by providing substandard care, thus causing far-reaching complications like personal injuries, and even death.^[3] Insufficient skill, care or attention can lead to negligence. Professionals providing psychological care to patients are equally responsible for providing due care to their patients. Patients are authorized to receive good medical facilities during their course of treatment. Hence, any negligence in that can also be charged.^[4] Medical Negligence is an issue of serious human rights concern that directly affects right to life and right to health care. ^[5]

The Medical profession deals with knowledge and skill; at the same time, touch of humanity is also needed. Since inclusion of medical profession under the ambit of Consumer Protection Act 1986, there has been a spurt in

number of cases against the doctors. Cases against doctors can be filed in a civil or criminal court, and accordingly negligence may be either civil or criminal. In deciding criminal negligence against doctors, criminal intent needs to be proved beyond reasonable doubt. Thus these cases are referred to tertiary care government institutes like government medical colleges for expert opinion. The Medical Law and Ethical Code for medical professionals in India is prescribed by Indian Medical Council, under the section 20-A of Indian Medical Council Act of 1956 and Amendment Act No. 24 of 1964.

The main objective of this study is to focus on the magnitude and outcome of medical negligence in the cases referred to our tertiary care centre (Government Medical College and Hospital, Nagpur) and also study the various factors responsible for medical negligence. Outcome of this study will be beneficial for all healthcare providers, help in improving the quality of healthcare services and doctor-patient relationship and will lead to restoration of trust in the medical profession.

2. Methodology

This study was conducted at Government Medical College and Hospital (GMCH), Nagpur during the period of 2.5 years from Jan 2015 to July 2017; in which all the medico legal cases of medical negligence referred to Govt. Medical College and Hospital, Nagpur for expert opinion by police or different government authorities were included. It's a descriptive, record-based study. All the cases found not directly related with medical negligence were duly excluded. In all the cases included in the study,

the complaints were filed either by patients or their relatives at Nagpur city police/rural police/district consumer forum or other higher authority according to the place of incidence and/or convenience. Out of the complaints with partial/complete medico legal component, the ones in which police or court felt that the case needs expert opinion; then they were referred to GMCH Nagpur for expert opinion. After the case was referred to Dean or Medical Superintendent (M.S.), GMCH, Nagpur; enquiry committee was constituted under the chairmanship of M.S. with one nominated member each from Medicine department and Forensic Medicine department as permanent members of committee. Rests of the members were appointed depend on the medical expertise required for the case and other factors related to negligence. The expert committees so constituted conducted enquiries/meetings related to the cases referred to them and formed opinions regarding negligence in treatment of the patients by treating doctor on the basis of documents available in front of the committee.

The study of medical negligence in the enquiry cases referred from police (criminal & civil cases) or district consumer forum (civil cases) or other higher body is done on the basis of the documents such as complaint letter, treatment papers, investigation reports, post mortem (P.M.) report and statements given by treating doctors and staff and patients/relatives, submitted to the committee. To make relevant documents available to the committee was responsibility of the police authorities or referring body. Sometimes documents were incomplete. In such cases, it was difficult for the committee to form firm opinion. In those cases, treating staff and/or patients/relatives were called to appear before the enquiry committee and were questioned regarding the case. They were also asked to submit written statements and other necessary documents to the committee, to be considered as evidences. Such cases were studied by the committee, observations recorded and discussed and final opinions were formed with respect to occurrence of negligence.

Out of total 33 cases referred during two and half years from the year 2015 to mid year 2017, 31 were studied for negligence and data analyzed. Out of the 2 excluded cases, one was related to discrepancy of investigation reports and the other was related to queries in P.M. report.

These cases were studied under the following heads like,

- 1) How many cases enquired yearly?
- 2) Specialty of the case referred,
- 3) Age group incidence, if any particular area commonly affected,
- 4) Duration of the patient in hospital whether the patient was on OPD treatment or indoor treatment,
- 5) What is the reason for lodging complaint?
- 6) What is the percentage of negligence and what is the outcome in proved cases of medical negligence?
- 7) How the enquiry committee was constituted, over how many meetings the cases were discussed,

- 8) Who is responsible for negligence, whether the treating doctor or his staff or unavailability of any facility such as ICU facility, etc. at the hospital.

3. Observations

The numbers of cases referred to tertiary care centre, Nagpur gradually increased in 2016. We have enquired 31 cases of medical negligence referred to government medical college and hospital, Nagpur during this period, were from Nagpur City proper and nearby area.

After studying these cases, the observations were as follows:

Out of total cases studied, it was observed that 11 cases were male patients and 20 were female patients and out of them 20 were working heads of the family and 11 were housewives (non working).

Table 1: Year wise data of the cases referred to GMCH Nagpur for expert opinion

Sr. No.	Year	Number of Cases Referred	Percentage of cases
1	2015	11	35.4%
2	2016	16	51.6%
3	Till July 2017	4	12.9%
	Total no. of Cases	31	100%

It is observed in the study that the 31cases were referred to tertiary care centre, Nagpur. Out of these, in the year 2015, 11cases (35.4%) were referred and medical negligence is proved in 2 cases amongst them, 16 cases (51.6%) were referred in the year 2016 and medical negligence was proved in 2 cases amongst them and 4 cases were referred (12.9%) in the mid of year 2017.

Table 2: Percentage of medical negligence

Total number of cases	Medical Negligence Proved	No Medical Negligence	Opinion Not possible
31	4	17	10
Percentage (100%)	12.9%	54.8%	32.2%

It is observed that out of these 31 cases studied; medical negligence has been proved in 12.9% and in about 54.8% of total cases, medical negligence has not been proved. In 32.2% of cases firm opinion was not possible for the committee due to lack of supportive documents/evidences and out of court settlement by both the parties.

Table 3: Age wise distribution of cases

Age Group of Patient	Number of cases referred
Neonates up to 1 month	2
1month- 10 yrs	nil
10 yrs - 20 yrs	4
20 yrs - 30 yrs	9
30 yrs—40 yrs	7
40 yrs—50 yrs	2
Above 50 yrs	7

Table 3 shows that out of 31 cases 2 were neonates, 4 cases belonged to below 20 yrs age category and 9 cases belonged to the age group of 20-30 yrs. It was observed that young age group commonly involved was 20-40 yrs (16 cases) followed by patients above 50 yrs of age (7 cases).

Table 4: Specialty-wise distribution of cases and negligence proved among them

Sr. No.	Specialty wise data	Number of cases studied in given specialty	Negligence proved
1	Neurosurgery	1	-
2	General Surgery	2	-
3	Orthopaedics	5	-
4	Medicine	3	-
5	Paediatrics	3	1
6	Obstretics /Gynecology	3	1
7	Oncology/Radiology	2	1
8	Ophthalmology	3	-
9	E.N.T	1	-
10	Cardiology	2	-
11	Plastic Surgery + paed	1	-
12	Psychiatry	1	-
13	Neuro + Ortho	2	1
14	Obs/gyn + Medicine	2	-
15	Dentistry	nil	-
16	Physiotherapy	nil	-

Above table shows that 21 cases belong to the surgical and allied subjects (Obs /Gyn, Orthopedics, Plastic surgery, ENT, Ophthalmology, Neuropathy, etc)

Table 5: Reasons for lodging complaint with the authorities

Sr. No.	Reason for lodging complaint	No of cases	percentage
1	Lack of communication	09	29%
2	Misunderstanding among doctors, staff and relatives	09	29%
3	Lack of skill in treatment and care of the patient	6	19.3%
4	Lack of facilities available at the hospital	4	12.9%
5	Financial Compensation, disproportionate/ Very high expenditure	3	9.6%

Table 6: Details of cases referred for expert opinion, their outcome after treatment and negligence proved among them.

Sr. No.	Outcome after treatment in cases referred	Number of cases	Percentage of negligence proved
1	Morbidity	11	2 (18.1%)
2	Disability	2	-
3	Death	17	2 (11.7%)
4	Discharge	1	-
5	DAMA	-	-
6	Total No. of Cases	31	4 (12.9%)

Above Table shows that though the negligence was proved in 4 cases (12.9%) but the outcome in proved negligence as a mortality was found in 2 cases (50%) and morbidity was found in 2 (50%) cases.

Table 7: Details of cases referred from different forums/authorities

Sr. No.	Medico legal cases referred from	Number of cases	Negligence Proved	Percentage
1	City police- 21	23	2	8.6 %
2	Rural Police- 2			
3	District consumer Forum	4	1	25 %
4	Other higher body	4	1	25 %
5	Total No of cases	31	4	12.9 %

4. Discussion

It seems that complications were not explained to patients and relatives before starting the treatment. If it had been explained to them then it would have avoided misunderstanding among them and ultimately lodging a complaint. It is observed that the patients were not informed about the facilities available at centre /hospital. So to avoid the future problems, the available facilities must be displayed clearly at the front on the board in hospital or this information should be provided to the patients and relatives at the time of hospitalization at reception counter, either by doctor/ nurses or paramedical staff. Patient may be asked to attend higher centre if the desired facilities are not available. If still patient is not willing to go at higher centre because of some reasons like financial problems, then the written document is needed saying that patient is willing to get treated in same hospital with the available facilities. This will avoid the problem of lodging complaint.

It was observed that, in recent days there has been increasing pressure on availability of hospital facilities like critical care services and falling standard of professional's competence are responsible for medical negligence. At the same time there has been growing awareness in the public mind, to bring the negligence of such professional doctors to light very often in a claim for compensation. [6]

Out of 31 cases studied, 21 cases belonged to surgery and allied subjects. Mukesh Yadav et.al also observed in their study that it is easier to prove allegations of medical negligence against surgery and allied cases as compared to medicine and allied specialty. [6]

5. Conclusion

There were various reasons or factors responsible for lodging complaint against treating doctors in cases of medical negligence. After thorough study of all the cases of medical negligence, it was observed that in 29% of cases lack of communication with the relatives and patients and lack of skill of counseling the relatives of

patients is the major factor. Second most important factor responsible is misunderstanding among the patient's relatives regarding the treatment given by treating doctors and staff and though known complications occurred in patients contributes to 29%. Third common reason responsible for creating issues in the hospital regarding medical negligence was lack of skill in the treatment as well as in care of the patients, seen in 19.3%. Rest of the factors like lack of desired intensive care facilities in the hospital was observed in 12.9% cases where ICU facilities were needed for treating complications and it was an important factor contributing to medical negligence. To claim the financial compensation from the treating doctors was also seen as a cause responsible in civil cases rather than criminal cases and those were referred mostly from District Consumer Redressal Forum.

6. Recommendations

1. The inclusion of adequate training of medical & paramedical personnel in soft skills & communication during medical care as part of curriculum itself is recommended.
2. To avoid the lack of skill in care and treatment of patient as a factor for negligence, it would be advisable for the treating doctor to take the help of another colleague (surgeons or specialists) who is competent enough in that field with properly informing the patients or relatives. Regular upgrading of the knowledge and skills are needed by attending the CMEs or operative workshops and conferences to protect themselves from such problems.
3. To increase the professional competence apart from attending the CMEs or workshops and conferences, it can be suggested that after getting the masters degree, the candidate should serve the government medical college / general hospitals/government institutions, where they get a good exposure of variety of cases as well as a supervised training, which will increase their competency. This can be easily done by imposing the service bond after the completion of the degree. This will help the government as well as the clinicians and patients also.
4. Doctors should give adequate time to the patients and their relatives, for discussion about the disease and treatment options available as well as regarding complications. Adequate counseling is desirable and necessary.

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