

# CRIMINAL MEDICAL NEGLIGENCE

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## 1. INTRODUCTION

Negligence is a term used in art, but it has different meanings in different legal systems. Damage is an important part of tort, but this element is not required in the master and servant law. If the behaviour could result in injury or death, negligence that the loss or injury is not important is sufficient. Serving a patient without the patient's consent is an example of negligence (legal damage), even if there is no actual visible damage. Negligence "is" negligence. "Negligence, as Baron Alderson defined in, means "not doing what a rational person would do based on the consideration of human affairs, or doing something that a rational person would not do." "Many court decisions have quoted the same definition. "Criminal negligence" is a crime against the state, while "civil negligence" is a crime against personal actions that cause damage, that is, bodily injury, injury, and Section 319, serious injury, India Section 320 of the Criminal Code (IPC).). Negligence (economic loss) is always regarded as civil negligence. A Supreme Court ruling last year sparked a new debate on "criminal negligence of doctors." In this case Next, the Supreme Court relies on various decisions of the House of Lords. More and more patients are suing doctors for "criminal negligence."

More and more patients will sue innocent doctors, or is it because of the real decline in medical standards? The advancement of medical technology in the past few decades has led to an increase in the quality of life, an increase in life expectancy, and a reduction in ethical standards; unfortunately, neither the standards of medical training nor the concept of patients have changed accordingly. Management of most medical institutions. The rapid commercialization and acceptance of corporate cultural values by members of hospitals and medical circles will only increase the pressure on the doctor-patient relationship.

## 2. REASONS FOR INCREASING LITIGATION

This is the custom of immediate divorce between the Muslim Brotherhoods. By simply reciting the word "TALAAK" three times to balance the termination of the marriage, it is beneficial to their male counterparts, the husbands. Taking into account the complexity of human

nature, sudden emotional outbursts under the current high temperature of life sometimes give them a simple way to satisfy their desire for polygamy. Then, through electronic means, as pointed out by the Supreme Court, this chauvinistic and paternalistic approach not only violates the right to equality (Article 14), but also presents gender discrimination. The judgment violates the religious personal law, and it can correctly prove that their continued practice, exercise, and dissemination are justified.

The Supreme Court held that "Thus a medical doctor can't be held criminally answerable for affected person's demise until his negligence or incompetence confirmed such push aside for lifestyles and protection of his affected person as to quantity to against the law towards the State". Court in addition adds, "Thus, while an affected person is of the same opinion to head for clinical remedy or surgical operation, each careless act of the clinical guy can't be termed as 'Criminal'. IT may be termed 'Criminal' simplest while the clinical guy reveals as gross loss of competence or state of being inactive and wanton indifference to his affected person's protection and that's observed to have arisen from gross lack of know-how or gross negligence. "Where an affected person's demise consequences simply from 'Error of judgment" or "an accident", no crook legal responsibility have to be connected to it. Mere inadvertence or a few diploma of need of good enough care and warning may create civil legal responsibility however wouldn't suffice to keep him criminally liable. The following concluding observations of the discovered authors as quoted via way of means of the Supreme Court are apt at the issue and a beneficial manual to the courts in managing the medical doctors responsible of negligence main to demise in their patients: "Criminal punishment incorporates tremendous ethical overtones. The doctrine of strict legal responsibility lets in for crook conviction withinside the absence of ethical blameworthiness simplest in very confined circumstances. Conviction of any tremendous crook offence calls for that the accused individual has to have acted with a morally blameworthy country of mind. Recklessness and planned incorrect doing, ranges 4 and 5 are class of blame, are typically blameworthy however

any behaviour falling brief of that have now no longer be the issue of crook legal responsibility.

Traditionally, the common law system criminalizes negligence only when the degree of negligence is high. This standard is traditionally called gross negligence....

Guilt is a powerful weapon. If used properly and in accordance with morally reasonable standards, it plays an irreplaceable role in human affairs, but its abuse can distort tolerance and constructive relationships between people. Morally responsible. Others are crimes that do not bear any responsibility. However, others are examples of crimes, grounds for correction and sometimes punishment. The distinction between these different categories requires careful, morally sensitive, and scientifically sound analysis."

### **3. ROLE OF MEDICAL EXPERT'S OPINION**

No case of criminal negligence should be registered without a medical opinion from Expert Committee of doctors, and it should be given within a reasonable time. Indian Medical Association (IMA) Punjab claimed "they had secured a directive from Director General of Police (DGP) Punjab that no case of criminal negligence can be registered against a doctor without a report from an Expert Committee. Similar situations exist in the case of State of Delhi where Lieutenant Governor issued directions to the Delhi police regarding how to arrest a doctor in medical negligence case, the Delhi High Court also decided to form guidelines for lower judiciary as well as the police to deal with such cases.

Hon'ble Supreme Court endorsed the same view, as "criminal prosecution of doctors without adequate medical opinion would be great disservice to the community – as it would shake the very fabric of doctor-patient relationship with respect to mutual confidence and faith the doctors would be more worried about their own safety instead of giving best treatment to their patients".

### **4. APPLICABILITY OF SECTION 304 – 304 A, IPC**

"The legal situation is almost firmly anchored. If a patient dies due to medical negligence, the doctor can be liable for damages in accordance with the civil law. "If the patient's life is intentionally injured so severely, he will still be held criminally responsible." IPC No. A crime under Section 304A." reports an incident against a U/s 304 IPC doctor because he is a killer doctor, and he was not even released on bail.

### **5. WHY ARE DOCTORS CONFUSED OVER THE TIOPIC MEDICAL NEGLIGENCE?**

Doctors become victims of technical terms used in "media litigation or media related disclosure" or media false information and "criminal negligence" matters. The recent Supreme Court's decision "Doctors will not be punished if the patient dies", "Save the doctor", "SC's decision meets the conditions for medical malpractice", SC has insured Docs for the death of the patient", SC decided to expel from the Brotherhood", " SC came to help doctors "wait" This means that doctors cannot get help with the prescription until the largest bank has issued an opinion. "In these media reports, experts in the field may become victims of this misinformation in the eyes of the media., Without having to check facts or discuss with legal entities and can convey the same feelings and knowledge to other colleagues and interns. And stay. "I am always confused about criminal negligence, although the decision of the Board of Supervisors did not mention any new content, but only to review the above facts, that is, "misjudgement is not negligence."

### **6. MEDIA ROLE PLAY**

Articles 19 and 21 of Indian Constitution No. indirectly provide for freedom of information. After the Supreme Court recently dismissed a case of ignoring two newspaper editors, it said: "This is the duty of an honest and responsible person. Journalists must conduct a fair assessment of the facts and information they receive as news releases. Present news and their opinions in a correct and fair manner. "Since the 1970s, the Indian media has played an extremely important role in education. Persons in governance, development, science and technology, international relations, etc. are disbanded. KR Narayanan, Chairman and President of the Press Council of India. Recently, as the media pays close attention to details, personality adoration, and one-sided in-depth investigations, 51 senior reporters believe that the media can get rid of the worries of important figures losing social content and becoming managers, publishers, media and other consumer products. "Including media in Judgment in the process".

### **7. DIVIDED JUDICIARY**

The submission of the SC's decision to the main court confirmed the division of the judicial system and the complexity of the legal terminology used in negligence cases. Arijit Pasayat and S.K. Thakkar pointed out that terms such as "serious negligence" or "reckless behavior" do not fall within the definition of Article 304A of the

International Criminal Code, which defines death caused by negligence or accidental death that is not homicide. Between the civil and criminal liability of the doctor who caused the death of the patient, the court is faced with a difficult balance between the negligence and negligence of the doctor. For the conviction of a doctor suspected of committing a crime, the standard must be evidence of reckless and deliberate misconduct, and a higher level of moral condemnation.

## 8. CONCLUSION

Therefore, if the patient's death was caused solely by a misjudgement or accident, he should not be held criminally responsible. Mere carelessness or lack of caution and foresight may lead to civil liability, but this is not enough to make doctors criminally liable. "Therefore, in order to convict the doctor, the prosecutor must prove that the doctor was highly negligent. For this reason, the court has always insisted that in the case where the doctor died during the treatment due to the suspected criminal offence, the charges against the doctor must show Negligence or recklessness, as long as it shows that the state of mind can be described as complete indifference to the patient. Only such gross negligence should be punished." The court added, "Criminal responsibility has great moral significance. There are no accidents of death. Some of the accidents for which people are morally responsible are unfair to assign responsibility, while others are criminal cases. The difference between behaviour and the reasons for compensating compensation needs to be analysed. Careful, morally sensitive and scientific reports. The court is determining This action taken by doctors in the criminal liability of treating patients is necessary so that the danger of the civil liability of doctors and medical staff will not be unreasonably extended to criminal liability and imprisonment due to suspected crimes. We are committed to strict Compliance with our medical industry regulations, because these regulatory agencies supervise the safety of doctors who make mistakes or effectively comply with the 2002 ethical principles are the reason for the decline in health standards in India. Strengthen the responsibility of preventing fake news and its publication. "If the newspaper publishes improperly or maliciously Inaccurate or illegal materials and abuse of their freedom should be punished by the court. "Although free and healthy press is essential to the operation of true democracy, the court held that press freedom is reasonably restricted. It is hoped that the new solution will not only provide a clear definition of "criminal

negligence", but also allow India's main defenders and lawyers to define the exact meaning of legal terms in criminal negligence cases. "