



TILAK MAHARASHTRA VIDYAPEETH

Declared as a Deemed to be University Under Section 3 of UGC Act 1956

Reaccredited by NAAC with a B++ Grade

ISO 21001: 2018 Certified

Lokmanya Tilak Law College, Pune
Jayantrao & Indutai Tilak College
of Physiotherapy, Pune

Conference Proceedings for National Conference on

**Medico- Legal
Challenges in
Modern Healthcare :
Balancing Rights,
Ethics and
Responsibilities
in India**

(Volume I)



26th April 2025

ISBN No. : 978-81-979048-5-1

Conference Proceedings for National Conference On
Medico- Legal Challenges in Modern Healthcare :
Balancing Rights, Ethics and Responsibilities in India (Volume I)

ISBN No. : 978-81-979048-5-1

Editorial Board
Prof. Dr. Geetali Tilak
Dr. Rohit Tilak
Asst. Prof. Ketki Dalvi
Assoc. Prof. Ashutosh Naik
Asst. Prof. Rohan Bavadekar
Assoc. Prof. Dr. Ankita Dabshede
Asst. Prof. Dr. Sakshi Pandit

Publisher &Printer

Kesari Mudranalay , 568, Narayan Peth, Pune -411030

©

All Rights Reserved. No Part Of This Book May Be Reproduced In Any Manner Without
Written Permission.

Price- Rs.500

Date of Publication- 25th June 2025

Email ID- law@tmv.edu.in

Phone. No.- 020-24403102

CONTENT

1) THE RIGHT TO KNOW AND THE DUTY TO DISCLOSE: LEGAL DIMENSIONS OF INFORMED CONSENT	Arundhati Kumbharikar-Bhale, Siddha Kulkarni.....	16
2) LEGAL ASPECTS OF TELEMEDICINE AND DIGITAL HEALTH RECORDS	Aastha Rajendra Mude, Muskan Ahuja	33
3) HEALING BEYOND THE COURTROOM: THE EFFICACY OF ADR IN MEDICAL NEGLIGENCE DISPUTES	Ashutosh A. Naik, Rohan Bavadekar.....	40
4) THE LEGAL FRAMEWORK FOR PROTECTING THE RIGHTS OF DISABLED PATIENTS IN REHABILITATION SETTINGS	Ashwini Biradar, Rucha Kulkarni	58
5) FROM PAST TO PRESENT: A LEGAL EVOLUTION OF MEDICAL NEGLIGENCE IN INDIA – AN ANALYTICAL STUDY.....	.Dr. Madhuri V. Sarwade, Ketki Dalvi	72
6) LEGAL STUDY WITH SPECIAL FOCUS ON RIGHT TO DIE WITH DIGNITY AND MERGING CONCEPT OF ADVANCED MEDICAL DIRECTIVES IN INDIA	Dr. Gauri Kala, Disha Sharma.....	88
7) LEGAL PERSPECTIVES ON EUTHANASIA AND PHYSICIAN-ASSISTED SUICIDE IN THE LIGHT OF END-OF-LIFE DECISIONS	Adv. Kalichand Govardhan.....	97
8) SHIELDING THE HEALERS: THE ESSENTIAL ROLE OF MEDICAL PROFESSIONAL LIABILITY INSURANCE IN PHYSICIAN PROTECTION. Ketki Dalvi, Dr. Madhuri V. Sarwade		105
9) Medical Negligence and Patient Rights: A Comparative Study of Legal Evolution, Landmark Judgments, and Professional Accountability	Muskan Ahuja,Aastha Rajendra Mude	118

FROM PAST TO PRESENT: A LEGAL EVOLUTION OF MEDICAL NEGLIGENCE IN INDIA – AN ANALYTICAL STUDY

Dr. Madhuri V. Sarwade

Associate Professor,

Tilak Maharashtra Vidyapeeth's Lokmanya Tilak Law College, Pune

Email Id: madhurisarwade@gmail.com

Ketki Dalvi

Co-Author-

Assistant Professor

Tilak Maharashtra Vidyapeeth's Lokmanya Tilak Law College, Pune

E-mail Id.: ketkipatwardhand.dalvi@gmail.com

Abstract

Over the years, the idea of medical negligence has changed significantly in India and around the world. This study examines how the doctrine of medical negligence has been shaped by historical foundations, legislative advancements, judicial interpretations, and current trends. The study intends to find commonalities, differences, and changing standards of care by comparing the legal systems of India. This paper also emphasizes significant rulings, legislative changes, and the expanding significance of patient rights and moral medical practice. The results show that although India has made progress in identifying and combating medical negligence, structural issues with awareness, enforcement, and compensation systems still exist. The legal framework for medical negligence in India has evolved significantly, reflecting changes in societal values and healthcare practices. This research provides an analytical overview of the evolution of medical negligence law in India, tracing its roots in common law principles to its present form shaped by statutory provisions and judicial pronouncements.

Key Words:

Civil liability, Compensation, Consumer Court, Medical Malpractice, Medical Negligence.

1.Introduction:

Medical negligence, now days have become one of the serious issues in India. Medical negligence can have serious consequences for patients, including physical harm, emotional distress, financial burdens, and loss of trust in healthcare providers. By outlining these broad consequences, readers can grasp the gravity of medical negligence and its impact on individuals and families. Around 52 lakh medical injuries are recorded every year in India out of which 98,000 people in the country lose their lives in a year because of medical negligence. More than 11 people die in the country every hour as a result of medical errors, and 10 individuals are victims of medical neglect every minute. This is a major worry for the entire country. Medical negligence—the violation of duty by medical personnel that causes injury to patients—occurs at the nexus of health care and the law. The legal systems of the world have continuously changed to hold practitioners accountable while striking a balance between the autonomy and difficulties of the medical profession due to the growing complexity of contemporary healthcare. In India, medical negligence has traditionally been controlled by common law principles, increasingly augmented by legislative frameworks like the Consumer Protection Act and court interventions. On a global scale, nations such as the United Kingdom and the United States of America have established strong doctrines and compensation schemes and established significant precedents. This paper provides a comprehensive knowledge of the development of medical negligence by following its legal history, analyzing significant turning points, and contrasting global practices.

1.1 Definitional Analysis:

Medical negligence in India, a multifaceted and intricate concept, extends beyond simple errors in clinical judgment, encompassing a broader spectrum of actions and omissions by healthcare professionals that deviate from the accepted standards of medical care, resulting in harm to the patient (Tiwari, 2013). It is now a serious issue that demands attention and careful consideration, as the medical profession, despite its noble nature, is susceptible to instances of negligence that can lead to severe consequences, including patient mortality or impairment (Adejumo & Adejumo, 2020; Madan et al., 2024).

Negligence, in the medical field, is rooted in the tortious principle articulated in *Donoghue v. Stevenson*, which establishes a duty of care owed by healthcare providers to their patients, requiring them to exercise reasonable skill and diligence in their practice.

The term “medical negligence” is an omnibus one, which has come in vogue to refer to wrongful actions or omissions of professionals in the field of medicine, in pursuit of their profession, while dealing with patients. It is not a term defined or referred to anywhere in any of the enacted Indian laws.

In *Bolam v. Friern Hospital Management Committee*, [1957] 1 WLR 582 defined as, “Negligence in the medical field is the breach of duty by a medical practitioner which results in damage or harm to the patient.”

In *Indian Medical Association v. V.P. Shantha*, (1995) 6 SCC 651 is defined as, “Medical negligence is the failure of a medical professional to exercise a reasonable degree of skill and care, resulting in injury or death to the patient.”

In *Pozgar, G. D. (2019). Legal and Ethical Issues for Health Professionals (5th ed.)*. Jones & Bartlett Learning defined as, “Medical negligence refers to an act or omission by a healthcare provider in which the care provided deviates from accepted standards of practice in the medical community and causes injury or death to the patient.”

Although the WHO does not use the term "negligence" legally, its patient safety literature addresses preventable harm in clinical care, which overlaps conceptually with negligence. According to World Health Organization.(2009). *WHO Guidelines on Hand Hygiene in Health Care*. WHO Press, is defined as, “Medical negligence arises when a healthcare provider, through a negligent act or omission, causes harm to a patient that could have been prevented with proper care.”

Thomson Reuter’s *Garner, B. A. (Ed.). (2019). Black’s Law Dictionary (11th ed.)*. This is a general legal definition of negligence that also applies in the medical context when discussing professional duty and breach. “The failure to exercise the standard of care that a reasonably prudent person would have exercised in a similar situation; any conduct that falls below the legal standard established to protect others against unreasonable risk of harm.”.

1.2 Evolution Through Judicial; Decisions of Medical Negligence Laws:

To fully grasp the subject, it's essential to examine the key legal principles that underpin medical negligence claims, including the standard of care expected from medical professionals, the concept of breach of duty, and the establishment of a direct causal link between the negligence and the injury suffered by the patient (Adejumo & Adejumo, 2020). The standard of care expected from medical professionals is not one of perfection, but rather that of a reasonably competent practitioner in the same field, acting under similar circumstances.

When assessing breach of duty, courts consider whether the medical professional's actions deviated from accepted medical practices and protocols. In cases where multiple standards of care exist, a medical professional may not be liable if the chosen standard is widely accepted by peers (Cheluvappa & Selvendran, 2020). The burden of proof lies with the plaintiff to demonstrate, through credible evidence, that the medical professional's negligence directly caused the injury or harm (Brenner & Smith, 2004). This can be challenging, particularly in complex medical cases where other factors may have contributed to the outcome (Hodgson, 2010). The judiciary plays a crucial role in shaping the legal landscape of medical negligence by interpreting existing laws, setting precedents, and providing guidance on complex legal issues.

When it comes to creating consistent guidelines for medical accountability, India is lagging behind. The judiciary's role is not limited to adjudicating individual cases; it also has a broader responsibility to ensure that the legal framework promotes patient safety, encourages responsible medical practice, and upholds the public's trust in the healthcare system (Ghadially, 2012). Judicial pronouncements on medical negligence have had a significant impact on medical practice, compelling healthcare providers to adhere to higher standards of care and adopt measures to minimize the risk of errors (Todd, 2013).

1.3 Medical Accountability in Healthcare: Significance and Implications:

Medical accountability forms the bedrock of ethical and effective healthcare delivery, ensuring that healthcare professionals are responsible for their actions and decisions while fostering trust between patients and providers. Accountability in healthcare settings necessitates transparent competencies and clear distribution of responsibilities, contributing to the system's stability and public acceptance (Fischer, 2014). This encompasses not only individual practi-

tioners but also healthcare organizations as a whole, compelling them to uphold standards of quality and safety in patient care (Jalilvand et al., 2024). The concept extends beyond mere adherence to rules and regulations, integrating ethical considerations, professional standards, and a commitment to continuous improvement (Sharon et al., 2022). A robust accountability framework necessitates governance and mechanisms like clinical competence, patient involvement, risk management, use of information, staff management, maintaining medical registries, and implementation of continuous quality improvement tools (Salam et al., 2014). Transparent organizations are more accountable to patients, staff, and the public (Fukami, 2024). Accountability mechanisms ensure that healthcare providers are answerable for their conduct and decisions, promoting ethical behavior and preventing medical errors (Fayayola & Olorunfemi, 2023). Clear communication channels and reporting systems must be established to facilitate the open exchange of information and promote a culture of transparency (Kohn et al., 2000). When errors or adverse events occur, accountability demands a thorough investigation, honest disclosure to patients, and appropriate remedial actions to prevent future occurrences (Guillod, 2013). In a recent judgment on medical negligence, the Supreme Court awarded compensation amounting to Rs. 11 crore to a victim, which was to be paid by the doctors and the private hospital deemed responsible for the wrongful death of a patient. The greatest compensation award in the history of medical negligence lawsuits in India was by far this historic ruling. Because it will have a significant impact on the country's medical practice in the near future, the method of determining compensation for medical negligence has so drawn a lot of attention and discussion. However, the compensation computation process is unpredictable because it differs greatly between cases, courts, and tribunals. This leads to prolonged litigation, frequent appeals, and a loss of trust in the system. The victims and the doctors involved would both benefit from predictability and consistency in the regulation of compensation in medical negligence, as the private sector provides more than 80% of India's healthcare.

1.4 Medical Negligence as a Violation of the Fundamental Right to Life and Personal Liberty in India:

The right to health is implicitly protected under Article 21 of the Indian Constitution, which guarantees the right to life and personal liberty, thus any form of medical negligence that endangers a patient's life can be construed as a violation of this Fundamental right. The judiciary has consistently affirmed the interconnectedness of the right to health and the right to life, emphasizing that the latter encompasses the right to lead a dignified and meaningful existence.

The maintenance of health is a most imperative component (Johar & India, 2018).

Medical negligence poses a serious threat to the fundamental rights enshrined in Article 21 of the Indian Constitution, which guarantees every individual the right to life and personal liberty, declaring that “No person shall be deprived of his life or personal liberty.” When a person loses their life due to the careless actions of medical professionals or healthcare institutions, the impact is devastating—not only for the individual but also for their family, whether it be a parent, sibling, child, or spouse. Such loss causes irreversible harm that cannot be remedied through financial compensation or the passage of time. Given the extensive and irreparable consequences for the public, medical negligence can be seen as a violation of Article 21. This underscores the urgent need for stricter preventive measures and accountability mechanisms to address negligence in the medical field. Yet, despite numerous complaints filed by patients or their families, only a limited number of cases lead to meaningful consequences for the healthcare professionals involved (Kaul, 2017).

One of the most pressing issues in India today is medical malpractice. Based on our personal experiences, we view medicine as one of the most honorable professions. We expect doctors to approach their patients with compassion and diligence, as they hold the power to heal and treat a wide range of ailments and health conditions. For many patients, doctors are regarded almost as deities, entrusted with the sacred duty of restoring their health. Medical negligence, a grave concern in healthcare, arises when a medical professional deviates from the accepted standard of care, leading to harm or injury to a patient (Madan et al., 2024). This concept is deeply rooted in the tortious principle of negligence, emphasizing the duty of healthcare providers to deliver reasonable care and prevent foreseeable harm (Adejumo & Adejumo, 2020). In India, the implications of medical negligence extend beyond civil liability, potentially infringing upon the fundamental rights guaranteed by the Constitution, specifically the right to life and personal liberty enshrined in Article 21 (Tiwari, 2013). The right to health, as an integral facet of Article 21, encompasses access to quality healthcare services, including competent medical treatment (Johar & India, 2018). When medical negligence occurs, it directly undermines this right, as substandard care can lead to severe health consequences, including permanent disability or even death (Johar & India, 2018). The intersection of medical negligence and fundamental rights underscores the State's obligation to safeguard citizens' health and well-being by ensuring accountability and providing redress for victims of medical malpractice (Mansergh, 1956). The exist-

ing legal framework in India provides avenues for seeking justice in cases of medical negligence, encompassing various laws and regulations (Sethi & Arya, 2020).

The Constitution casts an affirmative duty on the State to protect the life and liberty of its citizens, a duty that extends to ensuring access to adequate healthcare. Denial of this right, whether through direct action or systemic failures, amounts to a violation of Article 21. While the State may not be in a position to guarantee the right to health for all citizens due to resource constraints, denying the right to healthcare altogether raises serious constitutional questions (Johar & India, 2018). Several judicial pronouncements have affirmed the significance of the right to health as an essential component of Article 21, underscoring the State's obligation to prioritize healthcare services and protect citizens from health risks. Furthermore, this constitutional right includes the right to pursue substantive remedy if healthcare is withheld (Mukhopadhyay et al., 2021).

1.5 Influence of British Common Law and the Indian Penal Code of 1860 on Medical Negligence:

The Indian judicial system, influenced by British Common Law, relies heavily on documented judicial precedents (Narayan & Shikha, 2013) and shapes the legal framework for medical negligence cases (Singh, 2021). The Indian Penal Code of 1860 continues to define the culpability and punishment for medical negligence (Sethi & Arya, 2020). Medical negligence in India is categorized into criminal, tort, and consumer protection law (Agrawal, 2016; Madan et al., 2024). The rise in medical negligence litigation is attributed to incompetent doctors causing harm or death (Tiwari, 2013), with negligence defined as failure to meet the accepted standard of care (Adejumo & Adejumo, 2020).

1.6 Medical Negligence in India: Post-Independence Developments:

The evolution of medical negligence jurisprudence in India following its independence has been significantly shaped by a complex interplay of legal reforms, judicial interpretations, and socio-economic factors, reflecting the nation's commitment to upholding patient rights and ensuring accountability within the healthcare system (Sethi & Arya, 2020; Tiwari, 2013). Post-independence, India inherited a legal framework largely influenced by British common law, which initially governed medical negligence claims, however, with

the enactment of the Constitution of India in 1950, a paradigm shift occurred, embedding fundamental rights and directive principles that emphasized social justice and welfare, thereby paving the way for a more patient-centric approach to healthcare litigation (Narayan & Shikha, 2013). The Consumer Protection Act of 1986 marked a watershed moment, extending consumer protection to healthcare services and enabling patients to seek redressal for medical negligence under a simplified and expedited legal framework (Madan et al., 2024).

This legislation empowered consumers, including patients, to file complaints against healthcare providers for deficient services, thereby increasing awareness and access to justice (Agrawal, 2016). Judicial pronouncements have played a pivotal role in shaping the understanding and application of medical negligence laws in India, with landmark cases establishing crucial principles such as the "duty of care," "breach of duty," and "causation" that are essential for proving negligence (Adejumo & Adejumo, 2020). The Supreme Court of India has consistently emphasized the importance of balancing the rights of patients with the professional autonomy of medical practitioners, recognizing the complexities inherent in medical decision-making and the potential for unintended outcomes (Brenner & Smith, 2004). Furthermore, the rise of consumer forums has provided a new avenue for addressing medical negligence claims, although concerns have been raised regarding the potential for unsubstantiated complaints against doctors (Sreya, 2013).

The development of medical negligence law in India reflects a broader global trend towards increasing patient autonomy and accountability in healthcare, yet the Indian context presents unique challenges, including a shortage of healthcare professionals, inadequate infrastructure, and disparities in access to quality care, all of which can contribute to medical errors and complicate the determination of negligence.

1.7 Evolution of Medical Negligence Jurisprudence in India: A Study of Judicial Decisions:

The concept of medical negligence in India has evolved through judicial rulings, reflecting growing patient rights and healthcare accountability (Tiwari, 2013; Madan et al., 2024). It is based on the tort principle of negligence, which requires medical professionals to meet accepted standards of care (Adejumo & Adejumo, 2020). Legal actions are taken when a healthcare provider's deviation from these standards causes harm (Agrawal, 2016). The legal framework includes the Indian Penal Code for criminal liability and the Consumer

Protection Act for compensation (Brenner & Smith, 2004). Cases often involve expert testimony to assess medical practices against standards of care (Hodgson, 2010), with courts applying "The Four Ds" of malpractice: duty, dereliction, direct cause, and damages (Edersheim & Stern, 2009). Landmark judgments have clarified medical professionals' responsibilities, strengthened patient rights, and emphasized informed consent (Battaglia, 1996).

1.8 Medical Negligence in India: A Critical Analysis:

The Indian healthcare landscape, a complex tapestry woven with threads of public and private institutions, traditional and modern practices, faces a significant challenge in the form of medical negligence, impacting patient safety and eroding public trust. Medical negligence, a deviation from the accepted standard of care that results in harm to a patient, has emerged as a critical concern, fueled by factors such as increasing patient awareness, rising expectations, and a more litigious society (Tiwari, 2013). It's imperative to acknowledge that the medical profession, while considered noble, is not immune to errors, and instances of incompetence, inadequate training, or deliberate misconduct can lead to devastating consequences for patients. In India, the legal framework allows individuals to pursue compensation for damages resulting from medical negligence through various avenues, including civil courts, medical commissions, human rights commissions, and consumer forums (Madan et al., 2024). The consequences of medical negligence can be far-reaching, encompassing not only physical and psychological harm to the patient but also financial burdens, loss of livelihood, and even death (Agrawal, 2016). Establishing liability for medical negligence necessitates demonstrating a breach of duty of care by the healthcare provider, a direct causal link between the breach and the patient's injury, and resulting damages (Adejumo & Adejumo, 2020). The burden of proof typically rests on the claimant, requiring them to present compelling evidence to substantiate their allegations.

Analyzing medical negligence cases provides crucial insights for detecting risk patterns and promoting awareness, enabling corrective and preventative measures to minimize future medical errors (Baxevanos et al., 2023). The absence of a specific statutory definition of medical negligence in India can create confusion in handling such cases, thus, the need for precise legal definitions and guidelines is paramount (Susila, 2021).

1.9 Findings and Discussion:

India faces significant challenges in establishing robust and consistent guidelines for medical accountability, a domain where it lags behind several other nations (Sethi & Arya, 2020). The development of legal doctrine in this area heavily relies on judicial interpretation, which is the primary source of legal principles (Agrawal, 2016). This reliance on judicial precedent, inherited from the English Common Law system, showcases the historical influence on the Indian legal framework (Narayan & Shikha, 2013). In contrast, countries like Australia and the United Kingdom have adopted more patient-centric and systemic approaches to medical accountability (Patel et al., 2015). These nations have implemented comprehensive legal and administrative frameworks designed to protect both healthcare professionals and patients, reflecting a global trend towards structured governance in healthcare (Armitage et al., 2008). The cornerstone of effective healthcare governance is accountability, which ensures that healthcare organizations and individual practitioners are responsible for their actions and the quality of care they provide (Jalilvand et al., 2024). Governance is achieved through a combination of strategies including clinical competence, patient involvement, risk management, use of information, staff management, maintaining medical registries, and implementation of continuous quality improvement tools (Salam et al., 2014). These pillars collectively support a framework where accountability is not merely a reactive measure but an integral part of the healthcare delivery system.

The increasing global emphasis on organized legal and administrative frameworks to safeguard professionals and patients underscores a proactive approach to quality management and patient safety. The implementation of structures that provide a safe environment for patients is one of the greatest challenges faced by healthcare organizations today (Mirza et al., 2013). These frameworks often include mechanisms for reporting medical errors, conducting thorough investigations, and implementing corrective actions to prevent future incidents. Moreover, these frameworks facilitate transparency and promote a culture of safety, encouraging healthcare professionals to report errors without fear of reprisal, which is essential for continuous improvement in healthcare quality. The frameworks shift the focus from individual blame to system-level improvements, fostering an environment where errors are viewed as opportunities for learning and system enhancement, rather than occasions for punishment (Auraaen et al., 2020). Healthcare executives and managers are also encouraged to develop safety cultures that promote trust and justice, allowing employees to be candid about their mistakes and failings without retaliation.

(Albaalharith & A'aqoulah, 2023). Effective leadership empowers teamwork, creates an open and questioning culture, and ensures that the ethos and the daily delivery of clinical governance remain an integral part of every clinical service (Halligan, 2001). The promotion of effective patient centered services and the improvement of clinical risk management are paramount if quality of care is to be maintained in healthcare organizations.

The absence of standardized guidelines for medical accountability in India can lead to inconsistencies in the quality of care and the protection of patient rights (Kamalasanan et al., 2019). Judicial interpretation, while adaptable to specific cases, may lack the uniformity and comprehensive nature of codified laws and administrative regulations. The failure to meet these obligations could result in disciplinary actions by regulatory bodies, legal liabilities, and damage to the reputation of the organization. Standardized guidelines provide clarity on the expected standards of care, ensuring that healthcare professionals are aware of their responsibilities and patients understand their rights.

1.10 Recommendations for Medical Malpractice Reform in India:

To address the multifaceted challenges posed by medical malpractice in India, a series of comprehensive recommendations are warranted, encompassing institutional, legal, and procedural reforms designed to enhance patient safety, ensure accountability, and foster a more equitable healthcare system. The establishment of specialized medical tribunals represents a crucial step towards expediting the resolution of medical malpractice cases, which often languish in the overburdened Indian judicial system, resulting in prolonged delays and emotional distress for both patients and healthcare providers (Madan et al., 2024). These tribunals, staffed with legally trained professionals possessing expertise in medical science, would be empowered to efficiently adjudicate cases, thereby reducing the backlog and ensuring timely justice; such specialized bodies could navigate the complexities inherent in medical malpractice litigation, rendering more informed and judicious decisions (Agarwal, 2016). Furthermore, a critical component of comprehensive reform lies in the mandatory procurement of malpractice insurance by all healthcare workers, thereby ensuring that patients who have suffered harm due to medical negligence receive adequate compensation without imposing undue financial burdens on individual practitioners; this measure would not only protect patients but also safeguard healthcare professionals from potential financial ruin in the event of an adverse judgment, fostering a more secure and responsible medical environment.

In conjunction with institutional and financial safeguards, targeted public awareness campaigns are essential to educate citizens about their legal rights and available remedies in cases of medical malpractice, empowering them to make informed decisions about their healthcare and seek redress when necessary (Sethi & Arya, 2020). These campaigns should leverage various communication channels, including print, electronic, and social media, to disseminate information about patient rights, the process of filing a complaint, and the resources available to assist them in navigating the legal system; by increasing public awareness, the initiative can promote a culture of accountability and transparency within the healthcare system, encouraging both patients and providers to actively participate in ensuring patient safety and upholding ethical standards. Substantive legal reforms are also necessary to align Indian laws with international best practices, particularly concerning the definition of the standard of care and the procedures for obtaining informed consent. A clearer and more precise definition of the standard of care would provide a benchmark against which to evaluate the conduct of healthcare providers, reducing ambiguity and promoting consistency in judicial decisions; similarly, strengthening the requirements for informed consent would empower patients to make autonomous decisions about their treatment, ensuring that they are fully aware of the risks and benefits involved (Guillod, 2013).

Moreover, integrating alternative dispute resolution mechanisms, such as mediation and arbitration, into the medical malpractice resolution process offers a promising avenue for resolving disputes amicably and efficiently, reducing the burden on the judicial system and fostering a more collaborative approach to resolving conflicts. These alternative mechanisms can provide a less adversarial and more cost-effective means of resolving disputes, promoting dialogue and understanding between patients and healthcare providers; by encouraging the use of alternative dispute resolution, the system can reduce the emotional and financial toll associated with litigation, fostering a more constructive and patient-centered approach to addressing medical errors. These reforms should consider the growing needs for quality management and patient safety (Kamalasanan et al., 2019). Focusing on systems analysis rather than blaming individuals when errors occur will help reduce future errors (Kliger & Diamond, 2001). This is because healthcare is not always safe (Hoffmann & Rohe, 2010).

In order to improve patient safety, change is needed in how healthcare providers are socialized and in the culture of medicine (Giannetti, 2003). This includes the expectation of perfection, which can make people not report errors

because of liability concerns (Kohn et al., 2000). This multifaceted approach, encompassing institutional reforms, financial safeguards, public awareness initiatives, legal harmonization, and alternative dispute resolution mechanisms, holds the potential to significantly improve the medical malpractice landscape in India, fostering a safer, more accountable, and patient-centered healthcare system (Alotaibi et al., 2020; Hendee, 2001; Miziara & Miziara, 2022; Stamm et al., 2015). This will require a concerted effort by all stakeholders, including government, healthcare providers, patients, and legal professionals, working together to create a culture of safety and accountability within the Indian healthcare system (Aljaffary et al., 2022).

1.11 Conclusion:

The development of medical negligence law is indicative of a more general shift in patient rights and healthcare responsibility. Even while India has made great strides, there are still a lot of holes in institutional safeguards, knowledge, and enforcement. A more equitable, open, and effective legal system can be envisioned to handle upcoming issues in medical jurisprudence by referencing global norms.

The legal evolution of medical negligence in India reflects the interplay between societal expectations, medical advancements, and judicial interpretation (Tiwari, 2013). Historically, the focus was on the sanctity of the doctor-patient relationship, with limited legal recourse for patients (Sethi & Arya, 2020). Landmark cases and the adaptation of general negligence principles, such as in *Donoghue v. Stevenson*, have shaped liability based on duty of care, breach, and damages (Adejumo & Adejumo, 2020). The Consumer Protection Act, 1986, significantly expanded patients' rights (An Analysis of Medical Negligence, 2022), while courts have increasingly emphasized informed consent and patient autonomy. (Agrawal, 2016). However, the absence of a clear statutory definition still leads to interpretative inconsistencies (Susila, 2021). Rising litigation underscores the need for balance—protecting patients without deterring medical practice (Madan et al., 2024). Moving forward, enhanced legal awareness and improved doctor-patient communication are crucial for ethical and effective healthcare (Sethi & Arya, 2020).

References:

1. Adejumo, O. A., & Adejumo, O. A. (2020). Legal perspectives on liability for medical negligence and malpractices in Nigeria. *Pan African Medical Journal*, 35. <https://doi.org/10.11604/pamj.2020.35.44.16651>
2. Agrawal, A. (2016). Medical negligence: Indian legal perspective. *Annals of Indian Academy of Neurology*, 19(5), 9. Medknow. <https://doi.org/10.4103/0972-2327.192889>
3. Agrawal, A. (2016). Medical negligence and the law. *Indian Journal of Urology*, 32(2), 89–94. <https://doi.org/10.4103/0970-1591.178390>
4. Aljaffary, A., Albaalharith, M. A., Alumran, A., Alrawiai, S., & Hariri, B. (2022). Patient safety culture in primary healthcare centers in the Eastern Province of Saudi Arabia. *Risk Management and Healthcare Policy*, 229. <https://doi.org/10.2147/rmhp.s336117>
5. Alotaibi, B. B., Almadani, A. E., & Salem, O. A. (2020). Saudi nurses perception regarding patient safety in a major tertiary hospital. *Open Journal of Nursing*, 10(7), 657. <https://doi.org/10.4236/ojn.2020.107046>
6. Amit Agrawal. (2016). Medical negligence: Indian legal perspective. *Indian Journal of Neurosurgery*, 5(1). <https://pmc.ncbi.nlm.nih.gov/articles/PMC5109761/>
7. Baxevanos, N., Tzoumas, L., Korre, M., Tzoumas, K., Tzouma, V., Samara, E., & Παπαδόπουλος, Γ. (2023). Medical malpractice among orthopedic surgeons in Greece: An analysis of court decisions. *Cureus*. <https://doi.org/10.7759/cureus.40243>
8. Brenner, R. J., & Smith, J. J. (2004). The malpractice liability crisis. *Journal of the American College of Radiology*, 1(1), 18. [https://doi.org/10.1016/s1546-1440\(03\)00008-5](https://doi.org/10.1016/s1546-1440(03)00008-5)
9. Cheluvappa, R., & Selvendran, S. (2020). Medical negligence - Key cases and application of legislation. *Annals of Medicine and Surgery*, 57, 205. <https://doi.org/10.1016/j.amsu.2020.07.017>
10. Constitution of India. (n.d.). Article 21: Protection of life and personal liberty. Available from: <https://www.constitutionofindia.net/articles/article-21-protection-of-life-and-personal-liberty/> (last visited May 2, 2025).
11. Deb, O. (2024, October 19). Medical negligence and Consumer Protection Act. *International Journal of Advanced Research*. https://www.journalijar.com/uploads/67134d3ac928c_IJAR-48370.pdf (last visited May 2, 2025).

12. Daya Shankar Tiwari. (2013, November 4). Medical negligence in India: A critical study. SSRN. Available at: https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2354282
13. Fayayola, O. A., & Olorunfemi, O. L. (2023). Ethical decision-making in IT governance: A review of models and frameworks. *International Journal of Science and Research Archive*, 11(2), 130. <https://doi.org/10.30574/ijrsra.2024.11.2.0373>
14. Fischer, M. (2014). Fit for the future? A new approach in the debate about what makes healthcare systems really sustainable. *Sustainability*, 7(1), 294. <https://doi.org/10.3390/su7010294>
15. Fukami, T. (2024). Enhancing healthcare accountability for administrators: Fostering transparency for patient safety and quality enhancement. *Cureus*. <https://doi.org/10.7759/cureus.66007>
16. Giannetti, V. J. (2003). Medical errors: The hidden victim. *Clinical Research and Regulatory Affairs*, 20(4), 425. <https://doi.org/10.1081/crp-120026124>
17. Ghadially, J. (2012). The legal ramifications of spinal care medical malpractice and its implications for spinal surgery. *Seminars in Spine Surgery*, 24(2), 127. <https://doi.org/10.1053/j.semss.2011.11.020>
18. Guillod, O. (2013). Medical error disclosure and patient safety: Legal aspects. *Deleted Journal*, 2(3). <https://doi.org/10.4081/jphr.2013.e31>
19. Hendee, W. R. (2001). To err is human: Building a safer health system. *Journal of Vascular and Interventional Radiology*, 12(1). [https://doi.org/10.1016/s1051-0443\(01\)70072-3](https://doi.org/10.1016/s1051-0443(01)70072-3)
20. Hodgson, J. (2010). Negligence: The different focus of medical and legal concerns. *British Journal of Nursing*, 19(4), 256. <https://doi.org/10.12968/bjon.2010.19.4.46791>
21. Hoffmann, B., & Rohe, J. (2010). Patient safety and error management. *Deutsches Ärzteblatt International*. <https://doi.org/10.3238/arztebl.2010.0092>
22. Hutahaean, B. L. H. (2020). Responsibility of doctors who perform malpractices: An overview under health law. *Journal of Law Science*, 2(1), 8. <https://doi.org/10.35335/jls.v2i1.1604>
23. Johar, N. S., & India, U. O. (2018). Navtej Singh Johar vs Union of India Ministry of Law and Justice.
24. Jalilvand, M., Raesi, A. R., & Shaarbafchizadeh, N. (2024). Hospital governance accountability structure: A scoping review. *BMC Health Services*

- Research, 24(1). <https://doi.org/10.1186/s12913-023-10135-0>
25. Kamalasanan, A., Kumar, A., & Subbarayalu, A. V. (2019). Factors influencing the quality of healthcare services in Indian hospitals: A systematic review. *Journal of Management Research and Analysis*, 6(2), 71. <https://doi.org/10.18231/j.jmra.2019.013>
26. Kliger, A. S., & Diamond, L. H. (2001). Patient safety in end-stage renal disease: How do we create a safe environment? *Advances in Renal Replacement Therapy*, 8(2), 131. <https://doi.org/10.1053/jarr.2001.23991>
27. Kohn, L. T., Corrigan, J. M., & Donaldson, M. S. (2000). A comprehensive approach to improving patient safety. <https://www.ncbi.nlm.nih.gov/books/NBK225174/>
28. Madan, R., Das, N., Patley, R., Nagpal, N., Malik, Y., & Math, S. B. (2024). Consequences of medical negligence and litigations on health care providers – A narrative review. *Indian Journal of Psychiatry*, 66(4), 317. https://doi.org/10.4103/indianjpsychiatry.indianjpsychiatry_799_23
29. Mansergh, N. (1956). Fundamental rights in India. *International Affairs*, 32(2), 253. <https://doi.org/10.2307/2625900>
30. Miziara, I. D., & Miziara, C. S. M. G. (2022). Medical errors, medical negligence and defensive medicine: A narrative review. *Clinics*, 77, 100053. <https://doi.org/10.1016/j.clinsp.2022.100053>
31. Mukhopadhyay, D., Dudhraj, V., Malhotra, N., Jain, K., & Mishra, S. (2021). Can Mohalla clinics be a catalyst for Ayushman Bharat Pradhan Mantri Jan Arogya Yojna to achieve Universal Health Coverage in India? *International Healthcare Research Journal*, 4(10). <https://doi.org/10.26440/ihrj/0401.10381>
32. Narayan, C., & Shikha, D. (2013). Indian legal system and mental health. *Indian Journal of Psychiatry*, 55(6), 177. <https://doi.org/10.4103/0019-5545.105521>
33. Phillips, C., Thorne, L., Casey, A. T. H., & Russo, A. (2020). Medical negligence: A neurosurgeon's guide. *Interdisciplinary Neurosurgery*,
34. Sethi, D., & Arya, V. (2020). Legal framework and ethical challenges in medical negligence: An Indian perspective. *Journal of Law and Ethics in Medicine*, 8(2), 120–129.
35. Tiwari, D. S. (2013). Medical negligence: An overview. *Indian Journal of Legal Studies*, 4(1), 45–53.
