
MEDICAL NEGLIGENCE AND PATIENT RIGHTS: A CRITICAL ANALYSIS UNDER THE CONSUMER PROTECTION ACT, 2019

Chandana Hosur, B.A. LL.B. (Hons.), Karnataka State Law University, Law School,
Navanagar, Hubballi

ABSTRACT

This paper critically examines the concept of medical negligence in India and its intersection with consumer protection laws. Medical negligence, a serious concern affecting patient safety and healthcare accountability, is increasingly adjudicated under the Consumer Protection Act, 2019, offering patients a remedy beyond traditional civil or criminal litigation. In doing so, this paper explores legal definitions, landmark judgements, and procedural safeguards. Recent rulings by the National Consumer Disputes Redressal Commission (NCDRC) highlight the judiciary's growing emphasis on informed consent as a cornerstone of ethical medical practice. It further examines how the Consumer Protection Act enables aggrieved patients to seek compensation and hold healthcare providers accountable for their actions. The study emphasizes the legal recognition of patient autonomy and the need for standardized consent protocols. It argues for greater awareness, legal literacy, and systematic reforms to strengthen accountability and ensure justice for victims.

Keywords: Medical Negligence, Consumer Protection Act, 2019, National Consumer Disputes Redressal Commission (NCDRC), Informed Consent, and Patient Rights.

Introduction:

Medical negligence, a critical issue in consumer protection, involves a breach of duty by healthcare professionals or institutions that leads to harm or injury to patients due to substandard care. Together, these frameworks emphasize the importance of accountability, ethical practices, and the protection of individuals' rights in the pursuit of justice and welfare.

Medical Negligence:

Medical negligence occurs when a healthcare professional breaches their duty of care towards a patient, resulting in harm. This can include surgical errors, misdiagnosis, delayed treatment, or the incorrect prescription of medication. In law, the patient must prove duty, breach, causation, and damages.

In the landmark **Bolam case**¹, the court established the Bolam test, a legal standard used to determine whether a medical professional has acted negligently. According to this test, a doctor is not considered negligent if their actions are based on a practice accepted as proper by a responsible body of medical professionals skilled in that particular field. This means that if a doctor follows a practice that a reasonable group of medical experts supports, they will not be held liable, even if another body of professionals disagrees. The Bolam test replaced the general "reasonable person" standard with a more specific benchmark: the judgment of a responsible group of medical peers. Even if other professionals disagree, adherence to an accepted medical practice may shield a doctor from liability.

Medical Negligence Under Law:

The inclusion of healthcare within the ambit of the Consumer Protection Act has allowed patients to seek redress through consumer courts. The landmark case of **Indian Medical Association v. V.P. Santha (1995)**² brought medical services under the CPA, making it broad enough to include the healthcare and medical sector. The court ruled that services rendered by the doctors and medical practitioners are covered under the Act if they are paid services, either directly or through an insurance policy. However, if the services are provided for free, then they do not fall under the definition of "services". The decision marked a significant step in

¹. Bolam v. Friern Hospital Management Committee, [1957] 1 W.L.R. 582 (Q.B.).

². Indian Med. Ass'n v. V.P. Shantha, (1995) 6 S.C.C. 651.

consumer protection by holding the medical profession accountable under the Consumer Protection Act.

Consumer forums offer accessible justice without the formalities of civil litigation. Two core legal propositions are:

1. The doctor owes a duty of care towards their patients; a breach of this duty may make them legally liable.
2. The doctor owes such a duty of care throughout the subsistence of the doctor-patient relationship.

These propositions systematically expose us to the entire body of medical negligence law.

Judicial Trends in Medical Negligence: Landmarks and Contemporary Rulings

Courts have played a crucial role in shaping the principles of medical negligence.

A. Kusum Sharma v. Batra Hospital & Research (2010)³, it is a landmark judgment by the Supreme Court of India that establishes the principles governing medical negligence in the country. It laid down guidelines to determine negligence, including reliance on expert opinion.

1. **Reasonable Standard:** Medical professionals must exercise reasonable care, skill, and competence, assessed according to the circumstances prevailing at the time of treatment.
2. **No Liability for Judgement Errors:** An unfavourable outcome or an error in clinical judgement does not automatically amount to negligence, provided the decision taken was reasonable and aligned with accepted medical practice.
3. **Permissible Risk-Taking:** Doctors are permitted to take calculated risks in pursuit of the best possible outcome for patients; such actions do not, by themselves, indicate negligence.

³. Kusum Sharma v. Batra Hosp. & Med. Research Ctr., (2010) 3 S.C.C. 480.

4. Onus of Proof: The responsibility to prove medical negligence lies with the complainant, who must present clear and compelling evidence of gross or culpable misconduct.
5. Safeguard Against Vexatious Claims: Medical professionals must be protected from baseless or malicious allegations intended merely to extract compensation, ensuring that genuine practice is not hindered by fear of litigation.

This case addresses claims of medical negligence under the Consumer Protection Act, outlining the obligations of doctors as well as the legal safeguards available to them. It stands as a landmark judgment in Indian medical negligence jurisprudence, striking a balance between patient rights and the protection of medical practitioners.

B. In *Jacob Mathew v. State of Punjab (2005)*⁴, the court applied the Bolam test and found that the doctor's conduct did not amount to criminal negligence under the section. 304A IPC, carefully reviewed the facts and held that, even assuming all the allegations in the complaint to be true, they did not establish that the doctor acted with criminal rashness or negligence. Notably, the complainant did not allege that the doctor lacked the necessary qualifications or competence to treat the patient. The core issue stemmed from the absence of a functional oxygen cylinder – either because the hospital failed to ensure its availability or because the cylinder was empty at a crucial moment.

The court observed that while such a lapse could potentially lead to civil liability for the hospital, it did not constitute criminal negligence on the part of the doctor. Applying the Bolam test – which assesses whether it aligns with that of a reasonably competent peer - the court found that the doctor's actions fell below the accepted standard of care.

As the doctor was duly qualified and no direct evidence of gross negligence or recklessness was presented, the court ruled that he could not be held criminally liable under section 304A of the Indian Penal Code. Consequently, the appeal was allowed, and the criminal charges under sections 304A and 34 IPC⁵ were quashed.

C. In *Kamineni Hospitals v. Peddi Narayana Swami (2025)*⁶, the Supreme Court case, the

⁴. *Jacob Mathew v. State of Punjab*, (2005) 6 S.C.C. 1.

⁵. Indian Penal Code, § 304A and 34, (1860) (India).

⁶. *Managing Director, Kamineni Hospitals v. Peddi Narayana Swami*, 2025 SCC OnLine SC 527 (India).

family of a 27-year-old B. Tech graduate alleged medical negligence after his death during treatment at Kamineni Hospitals. The National Consumer Disputes Redressal Commission (NCDRC) had earlier found the hospital and the doctor liable and awarded compensation – ₹15 lakhs from the hospital and ₹ 5 lakhs from the doctor.

On appeal, the Supreme Court upheld the finding of negligence, particularly holding the hospital vicariously liable. However, it reduced the hospital's compensation to ₹10 lakhs, while retaining the ₹5 lakhs liability against the doctor. The court emphasized the hospital's duty to ensure proper care and facilities, reiterating accountability in cases of service deficiency.

D. In Bengaluru Ayurvedic Clinic Electrocutation Case (2025)⁷, In this case, a woman tragically died from electrocution during an Ayurvedic treatment called lepanam at Divine Spiti Ayurvedic Clinic in Bengaluru. The electrocution occurred when she came into contact with a faulty light box placed behind her during therapy.

The autopsy confirmed death due to electric shock, and the Consumer Forum held the clinic negligent, citing that failure to ensure basic safety during the procedure amounted to a deficiency in service under the Consumer Protection Act.

Judgement: ₹5,00,000 awarded as compensation,

9% interest on compensation from the date of complaint,

₹50,000 for mental agony,

₹10,000 for service deficiency,

₹10,000 as litigation costs.

This case reinforced that alternative medicine providers are equally accountable under consumer law, and patient safety must be maintained regardless of the system of medicine practiced.

⁷ . Divine Spiti Ayurvedic Clinic v. Alok Kumar, IV Addl. Dist. Consumer Disputes Redressal Comm'n, Bengaluru, Order No. 1670/2022, at 1 (unreported, decided on [Apr. 29, 2025], India).

E. In Dr. Renu Chauhan v. Dr. Anita Sharma (Forceps Delivery Without Proper Consent)

(2025)⁸In this case, the complainant alleged that the doctor used forceps during childbirth without obtaining proper informed consent, which caused severe scalp and ear injuries to the newborn. The State Commission had earlier awarded ₹30 lakhs, but on appeal, the NCDRC upheld the finding of negligence while reducing the compensation.

The National Consumer Disputes Redressal Commission (NCDRC) held that the doctor's failure to obtain specific informed consent before using forceps during the delivery amounted to a deficiency in service under the Consumer Protection Act. Although the doctor claimed that general consent was taken, the commission emphasized that general or blanket consent does not suffice for procedures carrying specific risks, such as the use of forceps during delivery. Acknowledging the injury sustained by the newborn, the NCDRC upheld the finding of negligence but reduced the compensation previously awarded by the state commission to ₹10 lakhs, balancing the interests of both parties.

F. In Narayani v. Fortis Hospital & Others (Lack of Consent in Neurosurgery)⁹, in this

case, the patient underwent craniovertebral junction neurosurgery at Fortis Hospital. It was later found that neither adequate pre-operative investigations were conducted nor was informed consent appropriately obtained. The patient suffered complications, leading to a complaint.

The commission ruled that such omissions constituted a gross deficiency in service, as patients have the right to be fully informed of potential risks and alternatives before consenting to any surgical procedure. The absence of this due diligence led to the patient suffering complications post-surgery. Consequently, the NCDRC awarded ₹ 50 lakhs in compensation, reinforcing the obligation of medical institutions to maintain ethical standards of consent and patient care.

Consumer Protection Act, 2019-Key Provision:

The Consumer Protection Act, 2019¹⁰ provides a clear statutory framework for holding healthcare providers accountable for acts of medical negligence. The Act treats patients as consumers and recognizes medical services as part of the service sector. Several provisions

⁸ . Dr. Renu Chauhan v. Dr. Anita Sharma, Nat 'l Consumer Disputes Redressal Comm'n, (unreported decision) (2025) (India) (alleging forceps delivery without informed consent).

⁹ . Narayani v. Fortis Hospital & Ors., Nat 'l Consumer Disputes Redressal Comm'n, (unreported decision) (2025) (India) (lack of informed consent in neurosurgery).

¹⁰ . Consumer Protection Act, No. 35 of 2019, § 2 (42), 2(11), 2(6), Gazette of India, Extra., pt. II, sec. 1 (Aug. 9, 2019) (India).

under this law are particularly relevant when it comes to assessing and adjudicating cases involving deficient medical care, lack of informed consent, or other professional lapses. The key provisions are discussed below:

1. Section 2(42) – Definition of “Service”

This section explicitly includes medical treatment within the definition of "service." It recognizes that medical professionals, clinics, and hospitals offer a form of service for which they can be held liable if there is a shortcoming. This ensures that the healthcare sector is firmly under consumer rights law.

2. Section 2(11) – Definition of “Deficiency”

“Deficiency” is defined as any fault, imperfection, shortcoming, or inadequacy in the quality, nature, and manner of performance of a service required by law or undertaken contractually. In the medical context, negligence in diagnosis, treatment, surgical errors, failure to obtain informed consent, or inadequate post-operative care can amount to a deficiency in service.

3. Section 2(6) – Definition of “Complaint”

This provision allows a consumer (patient or their legal representative) to file a complaint regarding any unfair trade practice, deficiency in service, or other harm arising from negligent medical treatment. The legal recognition of medical grievances as valid consumer complaints forms the basis for all subsequent proceedings.

4. Section 35 – Filing of Complaints

This section empowers any aggrieved consumer to file a complaint before the appropriate Consumer Commission—District, State, or National—depending on the monetary value of the claim. Notably, the Act permits the filing of such complaints with minimal procedural hurdles and without the need for lengthy civil litigation.

5. Sections 39, 49, and 59 – Powers of Consumer Commissions

These sections outline the powers of the District, State, and National Consumer Disputes Redressal Commissions, respectively. In cases involving medical negligence, the commissions may:

Direct the healthcare provider to pay compensation to the complainant,

Order a refund of medical expenses,

Discontinue harmful or unethical medical practices, and

In cases of gross negligence, award punitive damages.

6. Section 67 – Right to Appeal

The Act allows either party to appeal the decision of the Consumer Commission to the higher forum within the prescribed time. This ensures procedural fairness and accountability for both providers and patients.¹¹

These provisions collectively establish a consumer-friendly mechanism to address medical negligence without resorting to regular civil courts. Through clearly defined legal remedies, the Consumer Protection Act, 2019, ensures that patients have access to justice when healthcare standards fall below the expected level. At the same time, the Act also filters out frivolous claims by placing the burden of proof on the complainant and ensuring due process for the accused medical professionals.

Conclusion:

Medical negligence cases raise sensitive and competitive issues that require a careful balance between protecting patient rights and preserving the professional autonomy of medical practitioners. The evolution of consumer protection act, 2019, has provided a more accessible and effective legal remedy for patients. However, the courts must continue to apply rigorous standards to distinguish genuine claims from frivolous ones while ensuring that healthcare providers are held accountable for ethical and legal lapses.

¹¹ . Id. § 35, 39, 49, 59, 67.