

# Role of the Indian Medical Council Act, 1956 in Addressing Medical Negligence

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## ABSTRACT

Medical negligence, now days have become one of the serious issues in India. Our experience tells us that medical profession, one of the noblest professions, is not immune to negligence which at times results in death of patient or complete / partial impairment of limbs, or culminates into another misery. There are instances wherein most incompetent or ill/under educated doctors, on their volition, have made prey the innocent patients. The magnitude of negligence or deliberate conduct of the medical professionals has many times led to litigation. The present paper aims to analyze the concept of negligence in medical profession in the light of interpretation of law by the Supreme Court of India.

**Keywords:** medical, negligence, Bolam, care, liability, experts, compensate, Supreme Court

## INTRODUCTION

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. Medical negligence arises when a medical practitioner fails to exercise reasonable care, skill, or knowledge expected of a professional, resulting in injury or harm to a patient. In India, medical negligence is addressed through civil, criminal, and consumer protection laws. Apart from judicial remedies, professional accountability is enforced through regulatory statutes such as the Indian Medical Council Act, 1956 (IMC Act).

This article seeks to outline the basic features of “medical negligence” with minimal usage of legal phraseology. Furthermore, rather than exploring the thorny issues surrounding the subject matter, this piece is intended to be informative.

## RESEARCH OBJECTIVES

The following are the objectives of this research:

- To understand the concept of medical negligence under medical law.
- To understand the liability of medical negligence under the medical council Act, 1956.
- To understand medical negligence under medical law from a contemporary perspective.

## HYPOTHESES

The services provided by the medical professionals and any deficiency in that services are within the purview of the medical council Act, 1956.

## RESEARCH METHODOLOGY

The present research study is doctrinal and analytical. Keeping this in view, the researcher has gone through several different books, journals, e-journals, web references, etc.

## RESEARCH PROBLEM

The medical professionals have taken advantage of their exclusion in the medical council Act and when it was brought into the ambit of the Act, various protests from the medical fraternity were observed. It is necessary for us to study about the inclusion of the medical profession in the medical council Act and understand the basis on which a medical expert can be held liable for negligence.

## NEGLIGENCE

Negligence is the breach of a duty caused by the omission to do something which a reasonable man, guided by those considerations which ordinarily regulate the conduct of human affairs would do, or doing something which a prudent and reasonable man would not do. Actionable negligence consists in the neglect of the use of ordinary care or skill

towards a person to whom the defendant owes the duty of observing ordinary care and skill, by which neglect the plaintiff has suffered injury to his person or property.

### **MEDICAL NEGLIGENCE**

Medical negligence is established when the following elements are present:

- i. Duty of Care – A legal obligation exists between doctor and patient. Medicine is one such profession where an expert is relied upon to have the fundamental data and capacity needed to deal with the patients with most utmost consideration and responsibility. The level of care needed varies upon the specific medical fields. A responsible surgeon or anaesthesiologist will be established by the average practitioner's level in that area. Higher skills are required in the case of specialists.<sup>1</sup>
- ii. Breach of Duty – Failure to meet the accepted standard of medical practice.
- iii. Causation – Direct link between the breach and injury caused.
- iv. Damage – Actual harm suffered by the patient.

Indian courts have consistently held that an error of judgment does not amount to negligence unless it deviates from accepted medical standards. Indian courts apply the Bolam Test, which states that a doctor is not negligent if they act in accordance with a practice accepted by a responsible body of medical professionals

### **MEDICAL NEGLIGENCE – A CIVIL WRONG OR CRIMINAL OFFENCE**

The term negligence is used for the purpose of fastening the defendant with liability under civil law (the law of torts) and, at times, under the criminal law. But often it is alleged by the plaintiffs that negligence is negligence and that no distinction can be drawn between the two so far as it relates to breach of his duty and resultant damage. Explaining the difference between the two, Lord Atkin in his speech in *Andrews v. Director Public Prosecution*, stated: "... Simple lack of care such as will constitute civil liability is not enough for purposes of the criminal law there are degrees of negligence; and a very high degree of negligence is required to be proved before the felony is established."<sup>2</sup> Thus for negligence to be an offence, the element of mensrea (guilty mind) must be shown to exist and the negligence should be gross or of very high degree<sup>3</sup>. In Criminal law, negligence or recklessness must be of such a high degree as to be held gross.

### **THE INDIAN MEDICAL COUNCIL ACT, 1956 : A Legal Framework**

The Indian Medical Council Act, 1956, does not directly define "medical negligence" but empowers the National Medical Commission (NMC), through its Code of Medical Ethics Regulations, 2002, to govern professional conduct, including matters of negligence. Medical negligence under this framework involves a breach of duty by a doctor, such as failing to possess or exercise reasonable skill, leading to patient harm. Complaints are handled by State Medical Councils, with appeals possible at the Ethics and Medical Registration Board (EMRB) of the NMC. Sanctions can range from warnings to removal from the medical register. The Indian Medical Council Act, 1956 was enacted with the primary objective of maintaining uniform standards of medical education and regulating the professional conduct of medical practitioners across India.

Medical negligence under the Indian Medical Council framework involves a breach of duty by a medical professional that results in harm to a patient. In India, the Indian Medical Council (IMC) Act, 1956 (now repealed and replaced by the National Medical Commission Act, 2019) was earlier the primary statute governing the conduct of medical professionals.

Doctors have a duty to possess and exercise reasonable skill and care in treating patients, acting in the patient's best interest. Negligence occurs when a doctor fails to meet this standard of care, either lacking the required skill or failing to use it competently. There must be a direct link (causation) between the doctor's breach of duty and the harm suffered by the patient.

### **Objectives of the Act**

- To examine the concept of medical negligence under Indian law.
- To analyze the regulatory and disciplinary framework under the IMC Act, 1956.
- To study the role of Medical Councils in cases of professional misconduct.
- To evaluate judicial interpretations related to medical negligence.
- To critically assess the effectiveness and limitations of the IMC Act.
- To highlight the need for reforms and integrated legal mechanisms.

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<sup>1</sup>Akarsh Shah, Medical Negligence, THE ACADEMIKE, (Oct. 8, 2017)

[https://www.lawctopus.com/academike/medical-negligence/#\\_edn8](https://www.lawctopus.com/academike/medical-negligence/#_edn8) (Last visited on Mar. 31, 2021).

<sup>2</sup>(1937) 2 All ER 552 (HL)

<sup>3</sup> See, Charlesworth & Percy on Negligence, 10th Edn, 2001, para 1.13;

The Act served as the statutory framework for professional self-regulation in the medical field.

### **Key Provisions Relevant to Medical Negligence:**

Here are the key provisions relevant to medical negligence under the Indian Medical Council Act, 1956 (now repealed and replaced by the National Medical Commission Act, 2019) and other relevant legal frameworks:

**SECTION 20 A:** Section 20A was a crucial addition to the Indian Medical Council Act, 1956. It empowered the Medical Council of India (MCI) to frame ethical guidelines and standards of professional conduct for doctors registered under the Act. These guidelines were meant to govern how doctors should behave professionally and ethically in their medical practice. While Section 20A did not define "medical negligence", it provided the enabling power for the MCI to take action against negligent doctors. A possible actions included warnings, suspension or removal of the practitioner's name from the Indian Medical Register. Medical negligence was treated as a breach of professional ethics under the Code of Ethics, thereby attracting disciplinary consequences.

**Section 24** of the Act, empowers the Council to remove the name of any person enrolled on a state medical register on the grounds of professional misconduct. The council, in addition prescribes standards of professional conduct, etiquette and code of ethics for medical practitioners. The medical councils are supposed to self regulate the medical profession by monitoring their skills, conduct and to provide for continuous education.

**Section 33(m):** Allows the MCI to make regulations for professional misconduct.

Under Clause (m) of Section 33 "The Council may, with the previous approval of the Central Government, make regulations generally to carry out the purposes of this Act, and in particular such regulations may provide for the standards of professional conduct and etiquette and a code of ethics for medical practitioners.

### **Role of the Indian Medical Council Act, 1956 in Medical Negligence**

#### **i. Professional Conduct and Ethics**

Under the IMC Act, the Code of Medical Ethics Regulations, 2002 were framed, laying down standards for Patient care and confidentiality, Informed consent, Professional competence and Prohibition of unethical practices. Violation of these ethical norms could result in disciplinary action, including suspension or removal of the practitioner's name from the medical register. The Code of Medical Ethics Regulations, 2002, framed under the Act, prescribed duties of physicians towards patients, colleagues, and society.

Under Section 24 of the Act, the MCI or respective State Medical Councils can remove a doctor's name from the register for professional misconduct. The IMC Act focuses on professional discipline rather than compensation; it does not itself provide for monetary damages to patients harmed by negligence.

#### **ii. Disciplinary Mechanism**

The IMC Act empowered State Medical Councils to inquire into complaints of professional misconduct and Medical Council of India to hear appeals and impose penalties. While compensation to victims was outside the scope of the Act, disciplinary proceedings acted as a deterrent against negligent conduct. Under the IMC Act State Medical Councils were empowered to inquire into complaints of professional misconduct. The Medical Council of India functioned as an appellate authority. Penalties included Warning or reprimand, Suspension of license and Removal of name from the medical register. These measures acted as deterrents against negligent medical practices, though they did not compensate victims.

#### **iii. Relationship Between Negligence and Professional Misconduct**

Not every act of negligence amounts to professional misconduct. However, gross negligence, repeated negligence, or unethical behavior could be classified as misconduct under the IMC framework. Courts have often relied on findings of medical councils while adjudicating negligence cases, especially to determine breach of professional standards. The IMC Act distinguished between Simple negligence, and Professional misconduct

Not every negligent act amounted to professional misconduct. However, acts of gross negligence, repeated negligence, or unethical conduct could be treated as professional misconduct, inviting disciplinary action. Examples include: Performing procedures without requisite qualification, Reckless disregard for patient safety and Abandonment of patient care.

### **Judicial Interpretation and Case Law**

Indian courts have acknowledged the importance of professional regulatory bodies under the IMC Act.

- **Jacob Mathew v. State of Punjab**<sup>4</sup> The Supreme Court emphasized the need for expert medical opinion before proceeding against doctors in criminal negligence cases, reinforcing the role of professional bodies.

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<sup>4</sup>AIR 2005 SUPREME COURT 3180,

- **Indian Medical Association v. V.P. Shantha**<sup>5</sup> While bringing medical services under consumer law, the Court clarified that professional standards remain essential in determining negligence. These cases highlight how regulatory standards under the IMC Act influenced judicial reasoning.

#### **Transition to the National Medical Commission Act, 2019**

Due to structural and administrative failures, the IMC Act, 1956 was repealed and replaced by the National Medical Commission Act, 2019. However, the IMC Act remains crucial for understanding the historical development of medical regulation and negligence jurisprudence in India.

#### **Recommendations**

- Integration of disciplinary findings with civil compensation mechanisms
- Time-bound inquiry processes by medical councils
- Greater patient participation and transparency
- Standardized national guidelines on medical negligence

#### **CONCLUSION**

The Indian Medical Council Act, 1956 was foundational to regulating the medical profession and addressing professional misconduct. However, in practice claims of medical negligence are largely litigated outside the IMC Act under consumer protection, tort law, and IPC. The IMC Act's role remains regulatory and disciplinary rather than compensatory. Supreme Court jurisprudence and constitutional principles have bridged gaps by recognizing patient rights and enforcing standards of care.

#### **REFERENCES**

- [1]. The Constitution of India
- [2]. The Consumer Protection Act, 2019
- [3]. The Medical Council Act, 1956
- [4]. Indian Penal Code, 1860
- [5]. WHV Rogers, Winfield and Jolowicz on Tort, Sweet & Maxwell, International Student Edition, 1998 .
- [6]. Laxminath and M Sridhar, Ramaswamy Iyer's The Law of Torts, LexisNexis Butterworths, Ninth Edn, 2003
- [7]. Ram Shelkar, Medical Negligence and Compensation, Lawmann's, 2nd edn.2022
- [8]. Y.V .Rao, Law Relating to Medical Negligence, Asia Law House, 3rd Edn. 2019
- [9]. M.K. Balachandran, Consumer Protection Act and Medical Profession, Department of Consumer Affairs, Govt. of India in association with I.I.P.A., New Delhi, 2006.
- [10]. Patel, A. (2021). Emerging Trends in Medical Negligence Cases: Lessons from Indian Judicial Precedents.
- [11]. Bhatia, N. (2021). Medical Negligence and Medical Malpractice: A Study of Indian Perspective. International Journal of Advanced Research and Publications, 5(4), 109-116.
- [12]. Indian Medical Association. (2021). Medical Negligence: A Conceptual Study. Retrieved from <https://www.imaIndia.org/ima/left-side-bar.php?scid=147>

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<sup>5</sup> 1996 AIR 550,