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Original Research Article

Analysis of Alleged Medical Negligence Cases Referred for Opinion- A Retrospective Study

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Abstract

Introduction: Traditionally doctors are considered as healers of the malady and therefore had great respect in the society. Allegations against doctor tarnishes the image of that doctor in the society. At the times it creates fear and apprehension in the minds of treating doctors. The concept of medical negligence is not new in India but the last decade saw increase in the number of litigation against doctors. **Material & Methods:** The present study was conducted to study the nature of complaints related to alleged medical negligence, to study specialty wise distribution of cases and to recommend the possible steps and measures to decrease the incidence of the allegations of negligence. The study was conducted at Department of Forensic Medicine, Government Medical College Miraj. All cases referred by Police to expert committee with alleged medical negligence were analysed. **Results:** Amongst 40 cases of alleged medical negligence, 22 (55%) were male and 18 (45%) were females. Age ranged from full term foetus to 88 years. **Conclusion:** Medical practitioners should always take reasonable care while practicing medicine and should adopt preventive measures to minimize the allegations.

1. Introduction

Traditionally doctors are considered as healers of the malady and therefore had great respect in the society. Trust and confidentiality is the corner stones of doctor-patient relationship. However, with commercialization and modernization, the doctor-patient relationship is weakening. Applicability of the Consumer Protection Act 1986 by the Supreme Court of India had further eroded the doctor-patient relationship.¹ Litigations against doctors are increasing day by day. Moreover, manhandling of doctors is rampant and usually a case is registered

against doctor in a police station. The Supreme Court of India in landmark judgement in Jacob Mathew and Martin F Dsouza cases had provided the guidelines to decide on a contested question of medical negligence.^{2,3}

Accordingly the Maharashtra Government had issued a Government Resolution and directed the Dean of a Government Medical College to form an expert committee under the chairmanship of the Medical Superintendent of that teaching hospital.⁴ Allegations against doctor tarnishes the image of that

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doctor in the society. At the times it creates fear and apprehension in the minds of treating doctors. Considering this, the present study was conducted to study the nature of complaints related to alleged medical negligence, to study speciality wise distribution of cases and to recommend the possible steps and measures to decrease the incidence of the allegations of negligence.

2. Materials and methods:

The study was conducted at Department of Forensic Medicine, Government Medical College Miraj. All cases referred by Police to expert committee with alleged medical negligence were analysed. The data was collected from 1st June 2012 to 31st May 2019. A standard proforma was designed and information recorded. The collected information includes age and sex, residence, name of hospital, date of registration of complaint with Police, relation of complainant with patient, speciality of concerned doctor, type of management, clinical diagnosis, whether postmortem examination was carried out or not, cause of death, deficiencies observed, opinion of the expert committee and time required by the expert committee to complete the inquiry. The information was compiled, tabulated and analysed statistically using percentages method by MS Excel 2013 tools. The study was conducted after approval from the Dean of the institute and ethical committee.

3. Results:

The study comprised of 40 cases of alleged medical negligence that were referred to Government Medical College and Hospital Miraj and Padmabhushan Vasantdada Patil Government Hospital Sangli.

Amongst 40 cases of alleged medical negligence, 22 (55%) were male and 18 (45%) were females. Age ranged from full term foetus to 88 years. Age group wise data is given in [table 1](#). We noticed that 8 (20%) cases of alleged medical negligence were survived and in 32 (80%) cases of alleged medical negligence the patient died. We found that 18 (45%) cases of alleged medical negligence were from urban region and 22 (55%) cases of alleged medical negligence were from rural region of Sangli district. We also noticed that 33 (82.5%) cases of alleged medical negligence were from private hospitals and 7 (17.5%) cases of alleged medical negligence were from Government hospitals. 4 (10%) patients were taking treatment on OPD basis, 1 (2.5%) was taking treatment in a day care centre and 35 (87.5%) patients were

admitted in the hospitals. 37 (92.5%) cases of alleged medical negligence were treated by Modern medical practitioners while 3 (7.5%) cases of alleged medical negligence were treated by AYUSH practitioner.

Table 1: Age wise distribution of alleged medical negligence cases.

Age group in years	Male	Female	Total (%)
0 to 10	6	3	9 (22.5)
11 to 20	1	1	2 (5)
21 to 30	5	10	15 (37.5)
31 to 40	2	3	5 (12.5)
41 to 50	5	0	5 (12.5)
51 to 60	1	1	2 (5)
61 to 70	0	0	0 (0)
71 to 80	1	0	1 (2.5)
81 to 90	1	0	1 (2.5)
Total	22	18	40

Table 2: Complainant wise distribution of alleged medical negligence cases.

Sr. No.	Relation with patient	No. of cases (%)
1	Brother	1 (2.5)
2	Father	11 (27.5)
3	Father-in-law	1 (2.5)
4	Husband	7 (17.5)
5	Mother	2 (5)
6	Mother-in-law	1 (2.5)
7	Nephew	1 (2.5)
8	Police	2 (5)
9	Self	4 (10)
10	Son	5 (12.5)
11	Son-in-law	1 (2.5)
12	Sister-in-law	1 (2.5)
13	Uncle	1 (2.5)
14	Wife	2 (5)

Table 3: Specialty wise distribution of alleged medical negligence cases.

Sr. No.	Specialty	No. of cases (%)
1	Obstetrics and Gynaecology	13 (32.5)
2	Surgery	8 (20)
3	Medicine	2 (5)
4	Paediatrics	1 (2.5)
5	Skin	1 (2.5)
6	Super speciality Medicine	2 (5)
7	Super speciality Surgery	2 (5)
8	Radio diagnosis	2 (5)
9	Orthopaedics	2 (5)
10	ENT	1 (2.5)
11	Dental	2 (5)
12	Combined Surgery+ Orthopaedics	1 (2.5)
13	Alternative medicine	3 (7.5)

Table 2 describes the relation of complainant with the patient. In maximum cases (n = 11, 27.5%) complainant was father followed by husband (n = 7, 17.5%) and son (n = 5, 12.5%). **Table 3** shows distribution of cases as per speciality of medical practitioners. Maximum cases were from Obstetrics and Gynaecology speciality (n = 13, 32.5%) followed by Surgery (n = 8, 20%). Post-mortem examination was done in 33 (82.5%) cases. **Table 4** shows distribution of cases as per complaint registered by relative/patient. Amongst 40 cases of alleged medical negligence, 04 (10%) cases were opined by the expert committee to be negligent while in 36 (90%) cases, no negligence of concerned Doctor was opined.

Table 4: Allegation wise distribution of alleged medical negligence cases.

Sr. No.	Allegation	No. of cases (%)
1	Negligence during surgery	9 (22.5)
2	Wrong treatment	5 (12.5)
3	Lack of care	7 (17.5)
4	Delay in treatment / surgery	2 (5)
5	No treatment given	1 (2.5)
6	Not examined	1 (2.5)
7	Treatment without examination and investigations	1 (2.5)
8	Not authorized to treat	1 (2.5)
9	Incomplete treatment	2 (5)
10	No informed consent was taken	1 (2.5)
11	Lack of facilities	1 (2.5)
12	Overdose of medicines	1 (2.5)
13	Inability of proper diagnosis on X-ray / ultrasonography	1 (2.5)
14	Not examined by main Doctor	1 (2.5)
15	Employing professionally unqualified paramedical staff	1 (2.5)
16	More than one allegation	5 (12.5)

4. Discussion:

The concept of medical negligence is not new in India but the last decade saw increase in the number of litigations against doctors. Maximum number of alleged medical negligence cases were in the age group 21-30 years (n =15, 37.5 %). In comparison with other big and metro cities, Sangli is relatively small district but there is increasing number of complaints against the doctors. Maximum number of complaints of medical negligence (n = 33, 82.5%) were received against private hospitals. These findings are consistent

with the study conducted by Janani et al (2010)⁵, Yadav et al (2015)⁶ and Patekar et al (2019)⁷.

Specialty wise analysis reveals that most of the allegations were against Obstetricians followed by Surgeons. Obstetricians are more vulnerable probably because two lives are at stake. Similarly, these patients are usually young and healthy or free from obvious disease hence relatives find it difficult to accept mishaps due to emotional attachment. These findings are similar with study conducted by Janani et al (2010)⁵, Yadav et al (2015)⁶ and Patekar et al (2019)⁷ and Rayamane et al (2016)⁸.

Contrary to other studies, the present study reveals more complaints from rural area (n = 22, 55%) than urban area (n = 18, 45%). Increased use of social media, internet platforms and news channels probably had caused increased awareness that might have resulted in subsequent complaints against doctors. In maximum cases (n =11, 27.5%) complainant was father followed by husband (n = 7, 17.5%) and son (n =5, 12.5%). In our study, 9 complaints were in the age group of 0 to 10 years. Similarly maximum female deaths were noted in the age group of 21 to 30 years. This age group belongs to reproductive age-group and untimely demise causes great concern to near relatives.

Out of 40 cases, medical negligence was opined in 4 cases (10%). This finding shows the tendency for complaints on furious grounds. Therefore, in near future also the complaints and litigations against doctors will increase. The Consumer Protection Act (CPA) 2019 does not contain word "healthcare" in the list of services under the definition of Services [Section 2 (42) of CPA 2019].⁹ Similarly the CPA 1986 did not explicitly mention "healthcare" in the list of services under the definition of Services [Section 2(1) (o) of CPA 1986].¹⁰

However, the Supreme Court of India (in case of Indian Medical Association Verses V.P. Shantha 1995) had concluded that services rendered to a patient by a medical practitioner would fall within the ambit of "services" as defined in CPA 1986 though there is no explicitly mention of service in the said definition.¹ Further, the Supreme Court of India made it clear that patients are consumers as long as the medical practitioners are making some form of payment for the medical services rendered. A careful study of the above-mentioned Supreme Court judgment (in case of Indian Medical Association Verses

V.P. Shantha 1995) reveals that probably in near future healthcare will fall within the purview of CPA 2019.¹

5. Conclusion:

Medical practitioners should take reasonable care while practicing medicine and should always adopt preventive measures such as taking proper consent, employing qualified paramedical staff and have a good communication with patient and their relatives to minimize the increasing number of allegations.

Conflict of interest: None.

Ethical Clearance: Yes.

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