

## Review article

### Medico-Legal Cases Need a More Professional Approach

#### **ABSTRACT:**

**Background:** Law is an accurate science, similar to medicine. Most of the time, the outcome of a case cannot be predicted with certainty. It depends on the facts and circumstances of the case, as well as on the judge who adheres to his own beliefs. In the healthcare industry, the aphorism that “learns from your mistakes” is undermined. Preventing medical and legal problems is the best way to deal with them, and this article tries to put together a list of preventive actions that can protect a physician from negligent prosecution.

**Summary:** Many of us have seen official medical examinations and certificates made and signed by any MBBS physician, gynecologist, dermatologist, or other non-medical professional who is not trained in medical and legal practice. According to statistics, non-forensic physicians perform approximately 80% of the work in the medical profession, with second and professional opinions flooding the doors of hospitals teaching Forensic Medicine and Toxicology due to a shortage of specialised doctors with specialised medical and legal expertise. He is qualified to give opinions, report, or give evidence in a court of law where a Forensic Medicine specialist is found to perform the primary function in which he or she works to an informal physician who is unfamiliar with many of the medical fields that authorise his or her work by giving opinions, reporting, or giving evidence in a court of law where a Forensic Medicine specialist is found to perform the primary function in which he or she works. As a result, physiatrists should licence all lawful medical services in the region or district hospitals.

**Conclusion:** One of the best jobs in the world is medical. Medicine can provide an amazing service to humanity if doctors practice it with care, reliability, efficiency, and professional expertise. However, modern patient-doctor interactions have lost your great environment, becoming more professional and constructive. Doctors are no longer respected as infallible and unknown. The integration of health care has turned the business around, and the medical profession is increasingly driven by profit rather than service.

**Key Words :** legal expertise ,Toxicology, Gynecologist, Dermatologist, reliability, evidence.

## INTRODUCTION:

Many of us have seen medico-legal tests and certificates performed and signed by any MBBS doctor / gynecologist / dermatologist / etc. untrained in medical and legal profession. According to statistics, non-forensic physicians manage about 80% of the legal profession, placing the departments 'teaching departments' in Forensic Medicine and Toxicology with second / professional opinions due to a shortage of other doctors. specialized medico-legal expertise. to perform the core profession in which they are trained. Medico-legal services are provided mainly to MBBS doctors who have no experience of such work in India, other than those hospitals affiliated with medical colleges.[1]

As a result, there's a chance that medical evidence won't be presented correctly in court, causing reports to be delayed (and delayed justice being denied). The benefit will be for offenders who will be able to get more time off owing to the country's state-of-the-art medical treatments given by MBBS/non-forensic experts.

Because of harassment by defendants' attorneys due to a lack of legal understanding of the treatment, many medical professionals take unpaid leave whenever they are summoned by a court for any medical treatment, which continues to prevent not only court decisions but also general medical services for patients. [2]

The medical profession has its own code of ethics and ethical standards. Physician negligence, on the other hand, must be decided by courts with no medical training. They make intelligent and cautious selections based on professional guidance. The three types of negligence, lata culpa (overindulgence), levis culpa (general negligence), and levissima culpa (small carelessness), are commonly separated by a thin line. The total context, which includes the location, time, persons involved, and the quantity of complicated items, determines the amount of neglect.

The distinction between medical negligence and medical error is well established, and the basic concepts have been clearly stated by the Supreme Court in a few cases. Because of this, there is a need for the public to recognize this difference so that doctors are not prosecuted for unrealistic reasons.[3]

The corona virus was there and first case of the corona was there in the year 2002. The corona virus is normally the infection of the lungs in which the corona virus spike protein gets attached to the alveoli in the presence of the proteases enzyme that it is found in the human body. We can calculate the rate of the infection of the corona through the CRP protein which is mainly produced by the liver in the stage of the infection to fight against the virus these crp protein is necessary to cope with the infections.[4]

We are also telling that as the age increases the crp protein value also increases, normally the men has raised crp value. We have calculated the graphs of the crp protein in the mortality patient and in the survival patient. The whitneys methods is also used and we find that the patient who were died due to the corona infection has raised crp protein value in their blood .and we also find that we conducted the cbc test in those patient we find that they had increased neutrophils count in their blood and there also we find that they had increased wbc count and their rbc count were less and their platlets counts were only in the thousands. We also introduced about corona that it takes about 14 days to start its symptoms but normally patients starts shows the symptoms 2-3 days.[5] The virus after inhalation there is consideration that it stays in the throat for 3-4 days and there it produces the copies and then it enters the lungs via respiratory track. so it is always adviced that whenever we feel the symptoms we should drink lots of the hot water so that the virus gets killed or it may get into digested track through the flow of the water. Normally it is adviced that old

people needs to drink the lot of the virus and the second things is that one needs to boost the immunity even in the oldage through various fruits eating and various multivitamin tablets or the various antioxidants such as vitamin c as it dicussed in below article.[6]The main introduction of the corona virus is only in the vaccine which is in india there is bharatbiotect and the adaarpoonawalas company which is producing the vaccine .normally the corona has killed attenuated vaccine.Vaccine such as covaccine sputnik vaccine and covishieldetc are very useful in bringing the immunity in our body.We are also indroduces that how the corona spreads via person to person and its mechanism in the body of the person and mainly in the lungs.Introduction is incomplete when we does not mention about the covid warriors who is working 24 hours in ppe kit and many of them died due to these virus.Thehrct rate of the lungs depends if the hrct rate is more and its oxygen cintent is less rhen person needs to beon the ventilator in the severe infection.The HRCT rate is calculated ot of the 25 through the CT SCAN.it is normally the number of the lobes of the lungs infected with these virus and in how many lobes there is fibrosis happens due to the corona virus.[7]

We also calculated the HRCT rate in the 298 patient and we find that whose having the HRCT rate more than 20 were prone to death but the HRCT rate below 5 is considered as normal and patient can survived.

The main world is facing pandemic because of the corona virus and this virus came from famous country china.and the data for covid 19 patients was designated in wuhan hospital of the china .Corona Virus was invented by the chinese people and this come threat to all countries, as the corona infection is increasing day by day.The famous chinese scientist, who were killed by their president they collected the data and analysed from 30 january 2020 to the feb 28 2020 .And they find that Crp increases in the patient who has been suffering from the severe Covid 19.All the mens and womens who was suffering from the covid 19.ALL these men amd women has performed the CBC test of the blood and found that they had increases in their CRP protein as they are suffering from the lung infection and in many of the infection it is found that there is increases in crp protein value.[8] All the men and women who was suffering from the corona virus or covid 19 and chinese scientist observed that moderate diagnosis using quantitive RT-PCR ,and the famous hospital of the wuhan,china from 1 january to 20 march 2020.The main outcomes was patients who died due to covid 19 has found increase Crpprotein.The major aim for the lower the CRP protein is to lower the inflammation of the liver or the lungs so the antiinflamatory tablets are to be used to reduce the infection of the patient.and we can get or we can increase the imunity of the patient so to lower the crp protein value in the covid 19. We can have multivitamins tablets or the vitamin c tablets or the current research found that zinc tablets are proven to lower the infection of the corona patient .some people consumes glutathione which is very powerful antioxidant and the immunity booster is used to treat the corona patient .glutathione tablets not only improves the health but it may improves the liver and main function it detoxify it and it may improves the function of the liver.[9] The liver metabolism is increase by taking the glutathione tablets ,as it provides powerful antioxidant and immunity booster and the main glutathione is capable of preventing damage to important cellular components caused by reactive oxygen species such as free radicals, lipid peroxides ,and heavy metals which can lower the immunity.now the methods of calculating CRP protein with severe and moderate illness can be easily topograped with various mathematical techniques such as graphs,pie charts and with this various statistical data we can easily compare the things and we can conclude the things on the bigger picture.The increase of the CRP protein was found an average 20 to 50 mg\L in patient who has been suffering from the corona ,and the main 10,11,12,21,22 elevated levels of

the crp has been observed upto the 86percent in the severe corona patient. 10,11,12,13 patient with more severe disease. The patient died we feel really sorry for them but these due to chinese people , they all have the the tendency to attack on the beautiful world .[10]

The logistic regression model was adopted to analyze the association between the disease aggravation and the related factors. the receiver operating curve was utilized to analyze the prognostic value of the cpr protein after the onset of the acute phase response, the serum CRP concentration rises rapidly [ within 6-12 hours and peaks at 24-48 hours] and extensively .concentrations above 100 mg\dl are associated with the severe stimuli such as major trauma and severe infections [sepsis] C-reactive protein responses may be less pronounced in patients suffering from the liver disease.[11]

elevated crp values are nonspecific and should not be interpreted without the complete clinical history

The doctor owes his patients the responsibility of care in deciding whether to take the matter or not, the duty of care in deciding what kind of treatment should be given, and the duty of care in providing that treatment. The patient has the right to sue negligently, if any of these obligations are violated. The doctor must be aware that the complainant (patient) must show that the damage would not have been possible if the negligence of the respondent (doctor) had not occurred; or that the negligence of the defendant contributes to or increases the risk of injury; or that if the claim is for non-disclosure of negligence, he would not have accepted treatment if he had been informed sufficiently.

Any of the following steps can be taken by the victim from a careless healthcare provider.[12]

Compensation: Receiving financial compensation through civil courts, a high court, or a court to resolve consumer disputes in accordance with constitutional law, litigation law / contract law, and Consumer Protection Act. Filing a criminal complaint against a doctor under the Indian Trade Code as a form of retaliation (IPC). Disciplinary action: requesting disciplinary action from the doctor referred to in professional organizations such as the Indian Medical Council and the World Health Council. Recommendations: File a complaint with the National / National Human Rights Commission for assistance.[13]

## **DISCUSSION:**

Initial investigations into cases involving the human body are usually conducted by the police. As a Medical Jurist, a Doctor may be called in to testify.

As a result, he should learn to assess his situation from a medical and legal point of view when it comes to the subject of an investigative court.[14]

Initial investigations into cases involving the human body are usually conducted by the police. As a Medical Attorney, a Doctor may be called to testify.

As a result, he should learn to assess his situation from a medical and legal point of view when it comes to the subject of a court investigation.

He should be aware of all possible medical consequences, as well as the fact that medical evidence is usually evidence of hypothetical value, rather than factual evidence. The Court's ability to make sound decisions is aided by honesty, , careful, and objective of Forensic Medicine specialist research.[15]

"This Court is very serious and concerned about proving that the forensic science branch is an effective scientific method," the Madras Supreme Court said.[16]

In the administration of Criminal Justice, which plays a key role in supporting the Judicial Service in delivering justice to the community.

More teeth are needed from the law and the appropriate authorities to make this article more effective and stylish.[17]

The service provided by medical professionals in this regard is unique and worthy of praise, but the fact is that non-forensic specialists control medical conditions in this country, and no one can be blamed for that.

The report of the Medical and Legal Research Committee in India, published in 1964, and the various suggestions made by the Central Legal Advisory Committee Since its inception in 1956, should all be applied. The Committee considered the idea of the Indian Ministry of Home Affairs to form a special team of legal staff during their first meeting in 1956. Many of the recommendations made by the Central Medico-legal Advisory Committee since its inception in 1956, should be applied. The Committee considered the proposal of the Ministry of Home Affairs, Government of India, to form a special legal team during their first session in 1956.[18]

Many of the recommendations made by the Central Legal Advisory Committee since its inception in 1956, as well as the Report of the Committee on Medical Research Procedures in India, released in 1964, should be welcomed. During its first meeting in 1956, the Committee considered a proposal from the Indian Ministry of Home Affairs to establish a team of medical and legal officials.[19]

According to the PIL, such records create a hindrance to the administration of the Criminal Justice System, leading to ridicule for justice and serious human rights violations that occur without punishment.[20]

The second opinion of the medical examiners under scrutiny was considered by the Supreme Court of Allahabad to be the most competent, legally competent, and well-constructed than the first.[21]

A major cause of adverse medical consequences is a lack of communication between physicians and lawyers.

The absence of forensics is a waste of work. Regional-level health professionals are well known. / Doctors on the grounds that (MD Forensic Medicine) will lead to improved performance, which was distributed to the Secretary-General.[22] Health in all regions of the country.

## **CONCLUSION:**

Due to the lack of dedicated medical and legal departments in regional hospitals, medical officials who do not have adequate legal training or non-forensic specialists are forced to perform autopsy and other medical services in addition to their normal duties.

With the number of cases they need to go to court soon, most employees are unwilling to do medical or legal work.[23]

This is also one of the reasons why obstetricians, pediatricians, anesthesiologists, and other medical professionals are leaving government jobs after some time due to legal issues and fears of appearing in court, which has a direct impact on state health.[24]

Calling for forensic medical professionals to work in regional hospitals will provide a reference medical facility for PHCs, CHCs, and local hospitals, relieving doctors of some of their responsibilities.

District Forensic Medicine specialists will be provided to satisfy the demand and will aid police and judges in making judgments.[25]

Benefits like giving medical information or assisting police officers in gathering evidence and comprehending the circumstances of death by visiting the site would undoubtedly reduce police officers' travel burden by making their location more accessible. will prevent sample deterioration due to protracted and poor storage, such as viscera from suspicious death, hyoid bone and thyroid cartilage from suffocation, and will remove the need to transfer records and proof to higher education hospitals or secondary ed. [26]

As a result, all medical legal services, such as testing and certification, in local or regional hospitals should be performed by a specialist doctor of MD Forensic Medicine & Toxicology, which can be met with the mandatory creation of two medical professionals. posts (one will be busy with autopsies or giving evidence in a court of law), which improves the quality of medical and legal services.[27]

Physicians who practice medicine with proper care, reliability, efficiency, and expertise can provide great benefits to the community. Good communication between physician and patient has changed dramatically as a result of the integration of the medical profession, which has resulted in higher professional sales, as opposed to the Hippocratic Oath text and spirit.[28]

Rapid advances in medical and technological research have proved to be useful tools for doctors in diagnosing and treating patients better, but they have also become the tools of commercial exploitation.[29] Medical law is changing dramatically. [30]

## **References:**

1. Jagadeesh N. The status of forensic medicine in India. *Indian J Med Ethics*. 2008 Oct-Dec; 5(4):154-6.
2. RK Gorea. Effect of Vision 2015 on Forensic Medicine. *J Punjab Acad Forensic Med Toxicol*. 2011; 11(1):5-8.
3. S. S. Verma. Letters to Editors. *J Punjab Acad. Forensic Med Toxicol*. 2008; 8(2):41-45.
4. Muniammal vs. The Superintendent of Police, Kancheepuram District. Original Criminal Petition No.12582 of 2007, Order Dated: 16 Feb 2008. The High Court of Judicature at Madras.
5. Recommendation of central medico-legal advisory committee. Chapter V. Survey Committee Report on Medico-legal Practices in India, 1964. [Online] Available at: <http://reconstructiveandinvestigativem.20m.com/survey%20committee%20report%20details.htm#CHAPTER> V. [Assessed: 8 Mar 2015].
6. Doctors' opinion crucial in investigation of medico-legal cases. 26 Nov 2012. The Hindu [Online] Available at <http://www.thehindu.com/todayspaper/tpinschool/doctorsopinioncrucialininvestigationofmedicolegalcasessayspachau/> article4135137.ece [Assessed: 20 Jan 2015].
7. High Court issues notices on a plea seeking upgradation of forensic postmortem services 9 Oct 2014. Medico-legal News. *Indian Medical Times*. [Online] Available at: <http://www.indiamedicaltimes.com/2014/10/09/high-court-issuesnotices-on-a-plea-seeking-upgradation-of-forensic-postmortemservices/> [Assessed: 20 Jan 2012]
8. U.S. Sinha et al. Role of Forensic Medicine in Administration of Justice - A Critical Review. *J Indian Acad Forensic Med*. 2011 April/June; 33(2): 152-160.
9. Minimum requirement in the mortuary to be available in all district hospitals in India. Meeting at Directorate General of Health Services, Government of India, New Delhi. Dated: 25-09-2012
10. Replies of Police officials of Telangana obtained under Right to Information Act 2005.
11. Gupta SK, Padhi PK, Chouhan N. Medical negligence: Indian scenario. *Indian J Neurotrauma*. 2014;11:126–33. [[Google Scholar](#)]
12. Hickson GB, Federspiel CF, Pichert JW, Miller CS, Gauld-Jaeger J, Bost P. Patient complaints and malpractice risk. *JAMA*. 2002;287:2951–7. [[PubMed](#)] [[Google Scholar](#)]
13. Ely JW, Levinson W, Elder NC, Mainous AG, 3rd, Vinson DC. Perceived causes of family physicians' errors. *J Fam Pract*. 1995;40:337–44. [[PubMed](#)] [[Google Scholar](#)]

14. *Kanhaiya Kumar Singh vs. Park Medicare and Research Centre III*, CPJ 9 (NC) 1999 [[Google Scholar](#)]
15. *Calcutta Medical Research Institute vs. Bimalesh Chatterjee I*. CPJ 13 (NC) 1999 [[Google Scholar](#)]
16. Borrell-Carrió F, Epstein RM. Preventing errors in clinical practice: A call for self-awareness. *Ann Fam Med*. 2004;2:310–6. [[PMC free article](#)] [[PubMed](#)] [[Google Scholar](#)]
17. Yadav M. Role of expert opinion in medical negligence cases. *J Indian Acad Forensic Med*. 2014;36:336–9. [[Google Scholar](#)]
18. Hurwitz B. How does evidence based guidance influence determinations of medical negligence? *BMJ*. 2004;329:1024–8. [[PMC free article](#)] [[PubMed](#)] [[Google Scholar](#)]
19. Davies J. Clinical guidelines as a tool for legal liability. An international perspective. *Med Law*. 2009;28:603–13. [[PubMed](#)] [[Google Scholar](#)]
20. Flynn M. *Encyclopedia of Forensic and Legal Medicine*. 2nd ed. Sydney: Elsevier; 2016. Medical Malpractice – Medicolegal Perspectives: Negligence, Standard of Care; pp. 365–9. [[Google Scholar](#)]
21. Nora LM. Law, ethics, and the clinical neurologist. *Handb Clin Neurol*. 2013;118:63–78. [[PubMed](#)] [[Google Scholar](#)]
22. Singh B, Ghatala MH. Risk management in hospitals. *Int J Innov Manag Technol*. 2012;3:417–21. [[Google Scholar](#)]
23. Joga Rao SV. Medical negligence liability under the consumer protection act: A review of judicial perspective. *Indian J Urol*. 2009;25:361–71. [[PMC free article](#)] [[PubMed](#)] [[Google Scholar](#)]
24. Rubin EB, Bernat JL. Consent issues in neurology. *Neurol Clin*. 2010;28:459–73. [[PubMed](#)] [[Google Scholar](#)]
25. Chulani HL. *Professional Negligence under the Indian Penal Code*. 1996. Cr. L.J. 133 [[Google Scholar](#)]
26. *Indian Penal Code, 1860: Bare Act*. Mumbai: Current Publications; 2015. [[Google Scholar](#)]
27. Mathiharan K. Medicine and society, criminal medical negligence: The need for are-look. *Natl Med J India*. 2002;15:351–4. [[PubMed](#)] [[Google Scholar](#)]
28. *National Commission Judgment and Order Dated December 15, 1989 in First Appeal No. 2 of 1989*.

29. Subrahmanyam BV. Jacob Mathew v. State of Punjab, the judgment stipulates the guidelines to be followed before launching a prosecution against a doctor for negligence. *J Neurosci Rural Pract.* 2013;4:99–100. [[PMC free article](#)] [[PubMed](#)] [[Google Scholar](#)]

30. Lahoti R. *Supreme Court of India. Jacob Mathew vs State of Punjab & Anr on 5 August, 2005.* [Last cited on 2016 Sep 14]. Available from: <https://indiankanoon.org/doc/871062/>

UNDER PEER REVIEW