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Compensatory Remedy for Medical Negligence under Consumer Protection Law in India: A Legal Analysis

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ABSTRACT

In society, the medical profession is held in the highest regard. Physicians who work in hospitals or private practices make every effort to treat their patients with diligence and appropriate care. Even Then, several cases involving medical negligence are brought before consumer courts in addition to criminal and civil courts. Since then, the Consumer Protection Act of 1986 has applied to it and it lacks in providing compensation for medical negligence explicitly and the different courts in India construed it differently. To avoid that confusion the Consumer Protection Act 2019 was implemented in India. This paper traces the compensatory remedy under Consumer Laws in India.

I. INTRODUCTION

The medical profession is regarded as a noble calling and the practitioner are accorded a special position of respect in the social hierarchy doctors are regarded as the incarnation of God on earth, who perform the divinely ordained duty of ridding man of pain and agony. Medical professionals commit errors despite prudence and care in their day-to-day medical practice such as incorrect diagnoses, wrong treatment, and lack of consent. Any such blunder may result in harm to the patient or even death. This inherent fallibility in the medical profession is directly related to legal action.

The diagnosis and treatment of diseases pertaining to human beings is a very risky profession as it is accompanied by a high degree of morbidity and mortality. Previously medical professionals were mainly worried about failing to save the life of a patient or providing satisfactory treatment to a sick person now they also worry about the legal consequences of their failure. Providing economic compensation for the damage caused to the patient as a result of actual or perceived negligent treatment is mandatory. Even though the consumer redressal agencies entertaining claim for medical negligence, Still there is variable approach by redressal forums at different territorial jurisdictions due to the lack of explicit mentioning about nature

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and quantum of compensation for medical negligence in the consumer protection Act.

(A) Meaning and definition of medical negligence

Negligence is the violation of a duty caused by the failure of doing something that a reasonable man would do or doing something that a prudent and rational man would not do. Basically, it means that breach of a duty of care which results in damage. If someone fails to do proper care over something this also known as negligence[2].

Medical negligence is the commission or omission of an act by a medical professional or health care provider, which deviates from the accepted standards of practice of the medical community, leading to an injury to the patient. It may define as a lack of reasonable care and skill on the part of a medical professional or health care provider with respect to the acceptance of a patient, be it his history taking, clinical examination, investigation, diagnosis, and treatment that has resulted in injury, death, or an unfavourable outcome.

II. COMPENSATION FOR MEDICAL NEGLIGENCE UNDER THE CONSUMER PROTECTION ACT 1986

The Introduction of Consumer Protection Act (CPA) in 1986 changed the scenario dramatically. Aggrieved patients started filing medical negligence cases at consumer forums throughout the country. The decision of Supreme Court of India in Indian Medical Association v. V.P. Shantha[3] and others to bring medical negligence cases under the purview of the CPA further complicated the situation. It increased thenumber of legitimate as well as frivolous lawsuits against the membersof the medical profession. Now, patients have acquired the rights of consumers and hence can claim compensation against the physician fortheir negligence at the

The major impact of the Consumer Protection Act on compensation for medical negligence is that The Consumer Protection Act of 1986 introduced significant changes to the way compensation was awarded in medical negligence cases. It provided for a simplified legal process and established consumer courts that were empowered to award compensation. The Act also introduced provisions for punitive damages and compensation for emotional distress, pain and suffering.

The Consumer Protection Act (CPA) of 1986 was enacted in India to protect consumers from unfair trade practices and to provide them with a mechanism to seek redressal for grievances.

[2]. Black's Law Dictionary, 6thEdn.
[3] AIR 1996 SC 550

The CPA applies to all goods and services, including healthcare services. The act defines the term 'consumer' as any person who buys or hires any goods or services for a consideration. Hence, a patient who avails of medical services is also a consumer, and he or she can seek redressal under the CPA in case of medical negligence.

Compensation for medical negligence is one of the remedies available to consumers under the CPA. The act provides for compensation for any loss or injury suffered by a consumer due to the negligence of the healthcare provider. The compensation may include monetary compensation for the actual expenses incurred by the consumer, such as medical bills, as well as compensation for the pain and suffering caused.

To claim compensation under the CPA, the consumer must prove that the healthcare provider was negligent and that the negligence caused the injury or loss. The consumer must also show that the injury or loss could have been avoided if the healthcare provider had exercised due care and diligence.In addition to the CPA, there are several other laws and regulations that provide for compensation for medical negligence in India. For example, the Indian Medical Council (Professional Conduct, Etiquette and Ethics) Regulations, 2002, provide for disciplinary action against healthcare providers who are found guilty of medical negligence. The National Consumer Disputes Redressal Commission (NCDRC) has also laid down guidelines for awarding compensation in medical negligence cases.

The landmark judgment in medical negligence cases in India is the case of Kusum Sharma v. Batra Hospital and Medical Research Centre[4], decided by the Supreme Court in 2010. This case laid down guidelines for awarding compensation in medical negligence cases and recognized the need for a comprehensive compensation package that includes compensation for both tangible and intangible losses.In this case, the Supreme Court held that the amount of compensation awarded in medical negligence cases should be commensurate with the injury or loss suffered by the patient. The court also recognized that the compensation should include an amount for future loss of income, disability, and pain and suffering.

Following this judgment, the National Consumer Disputes Redressal Commission (NCDRC) has also laid down guidelines for awarding compensation in medical negligence cases. These guidelines take into account various factors, such as the severity of the injury, the cost of medical treatment, the loss of income suffered by the patient, and the pain and suffering endured by the patient.The concept of compensation in medical negligence cases in India has evolved over the years through various court judgments and legal precedents. The courts have

[4] 2010 (3) SCC 480.

recognized the need for a comprehensive compensation package that includes compensation for both tangible and intangible losses. The guidelines laid down by the Supreme Court and the NCDRC provide a framework for awarding compensation in medical negligence cases, and ensure that consumers are adequately compensated for any loss or injury suffered due to medical negligence.

In addition to the Kusum Sharma case, there have been other important judgments that have contributed to the development of quantum of compensation in medical negligence cases in India.

One such other case is the case of Malay Kumar Ganguly v. Dr. Sukumar Mukherjee[5], decided by the Supreme Court in 2009. In this case, the Supreme Court held that the compensation awarded in medical negligence cases should take into account the income of the patient and the inflation rate, as well as the pain and suffering endured by the patient.Another important case is the most famous case of Jacob Mathew v. State of Punjab, decided by the Supreme Court in 2005. In this case, the Supreme Court held that the amount of compensation awarded in medical negligence cases should be sufficient to provide solace to the patient and his/her family, and should not be merely symbolic.

The development of quantum of compensation in medical negligence cases in India has also been influenced by various factors, including court judgments, legal precedents, international standards and best practices. The guidelines laid down by the Supreme Court and the NCDRC provide a framework for ensuring that consumers are adequately compensated for any loss or injury suffered due to medical negligence, and for promoting a culture of patient safety in the healthcare sector.

III. COMPENSATION FOR MEDICAL NEGLIGENCE UNDER THE CONSUMER PROTECTION ACT 2019

The Consumer Protection Act (CPA) is a law that is intended to protect the interests of consumers in India. It was enacted in 2019 to replace the earlier Consumer Protection Act, 1986. The CPA provides for the establishment of a National Consumer Disputes Redressal Commission (NCDRC), State Consumer Disputes Redressal Commissions (SCDRCs) and District Consumer Disputes Redressal Forums (DCDRFs) to hear and dispose of consumer complaints.The Consumer Protection Act in India was revised with the introduction of the new Consumer Rights Act 2019 on July 20, 2020. The latest act aims to enhance the management

[5] (2009) 13 SCR 1

and resolution of consumer disputes in India, with strict penalties imposed on false advertising and adulteration, including imprisonment.

(A) Consumer Protection Act and Medical Profession

The Consumer Protection Act (CPA) has had a significant impact on the medical profession in India. Healthcare services are an essential part of the economy, and the CPA has helped to ensure that patients receive quality medical treatment and care. The act has empowered patients to take legal action against medical practitioners or hospitals in case of medical negligence or deficiency in service.Medical negligence is a serious issue that has the potential to cause significant harm to patients. The CPA has provided patients with the right to seek compensation or damages for any harm suffered due to medical negligence. This has created a significant impact on the medical profession, as it has increased accountability and transparency in healthcare services. Medical practitioners and hospitals are now more aware of their duties and responsibilities towards patients, and they strive to provide better quality medical treatment and care.

Moreover, the CPA has also introduced new provisions to protect patients from unethical practices and ensure that they receive fair treatment. For example, the act has provisions to protect patients from overcharging, misrepresentation, and misleading advertisements. Patients also have the right to seek redressal against deficient medical services and seek compensation for any harm suffered due to medical malpractice.The CPA has also led to the development of a more patient-centric approach in the medical profession. Medical practitioners and hospitals are now more accountable to their patients and are required to provide clear and concise information about medical procedures, costs, and risks involved. This has led to an improvement in the doctor-patient relationship, as patients are now more aware of their rights and responsibilities and can make informed decisions about their healthcare.

The CPA has played a crucial role in protecting the interests of patients and improving the quality of medical treatment and care in India. The act has created a more patient-centric approach in the medical profession and has increased accountability and transparency in healthcare services. As healthcare services continue to evolve, the CPA will remain an important legal instrument for safeguarding patient rights and ensuring fair and quality medical treatment and care.

(B) Inclusion of medical services under the CPA

The inclusion of medical negligence under consumer protection Act is probably the most significant issue that was clarified by the Supreme Court in the IMA case. It removed all

confusions prevailing initially regarding the inclusion of medical services under the purview of the Act. All types of medical services were brought under the purview of CPA.

The Supreme Court observed that medical practice is a profession rather than an occupation and medical professionals provide a service to the patients and thus they are not immune to the claim from damages on the ground of negligence. From this viewpoint the Court concluded that a patient can be a 'consumer' for the purpose of CPA. Besides this, the Court also observed that consumerism was very well established in both the UK and the USA in the field of medical practice. The Supreme Courtreferred to the well-known book Law and Medical Ethics, by Mason and McCall Smith, and Arizona v. Maricopa County Medical Society,"[6] which is the leading case on price fixing in the health care industry. In that case it was held that the fixing of maximum prices for insured users of medical services constituted per se illegal price fixing under Section 1 of the Sherman Act. Considering all these facts the Supreme Court concluded,

We are, therefore, unable to subscribe to the view that merely because medical practitioners belong to the medical profession they are outside the purview of the provisions of the Act and the services rendered by medical practitioners are not covered by Section 2(1)(a) of the Act. After the judgment of IMA Case, majority of medical negligence cases in India are filed in consumer courts under the Act.The Indian Medical Association had put forward many arguments in its attempt to persuade the Court that doctors should not be brought under the purview of the CPA. All the arguments were taken up by the Court and clear rulings given.

IV. LIABILITY OF MEDICAL PRACTITIONERS

Medical negligence refers to a situation where a healthcare professional, such as a doctor, nurse or hospital, fails to provide an adequate standard of care, resulting in harm or injury to the patient. It can include acts or omissions that fall below the accepted standards of medical practice, such as misdiagnosis, incorrect treatment, failure to obtain informed consent, and inadequate aftercare.Hospitals can be held liable for medical negligence if they employ or contract healthcare professionals who provide inadequate care, or if they fail to provide a safe and appropriate environment for patients. For example, a hospital may be liable if it fails to maintainproper hygiene standards, resulting in the spread of infection among patients.

In India, medical negligence is considered a violation of the right to life and the right to health under the Constitution. Patients who have suffered harm due to medical negligence can seek compensation through the legal system. The law recognizes that healthcare professionals have

[6]457 US332 (1982).

a duty of care towards their patients and that they must exercise reasonable care and skill in providing medical treatment.To establish medical negligence, the patient must prove that the healthcare professional or hospital breached their duty of care, that this breach caused the harm or injury, and that the harm or injury resulted in damages, such as medical expenses, loss of income, and pain and suffering.In recent years, there has been an increase in medical negligence cases in India, and there is a growing awareness of patients' rights in this regard. The government has also taken steps to regulate the healthcare industry and improve the quality of medical services. For example, the Clinical Establishments (Registration and Regulation) Act, 2010, mandates the registration and regulation of all clinical establishments, including hospitals, to ensure that they provide safe and quality healthcare services. Medical negligence is a serious issue that can result in harm or injury to patients. Hospitals and healthcare professionals have a duty of care towards their patients and must exercise reasonable care and skill in providing medical treatment. Patients who have suffered harm due to medical negligence can seek compensation through the legal system, and the government has taken steps to regulate the healthcare industry and improve the quality of medical services.

A medical practitioner can be held liable for medical negligence if their act or omission causes harm or injury to a patient. The patient or their legal heirs can file a complaint against the medical practitioner in the consumer court. The consumer court can direct the medical practitioner to pay compensation to the patient for the harm caused due to medical negligence. Medical practitioners, including doctors, surgeons, and other healthcare professionals, have a duty of care towards their patients. If they fail to meet this duty and cause injury or harm to the patient, they can be held liable for medical negligence under the Consumer Protection Act.The liabilities of medical negligence by the medical practitioner under the Consumer Protection Act can include compensatory damages, punitive damages, and criminal liability. Compensatory damages are meant to compensate the victim for the harm or injury suffered due to medical negligence. Punitive damages are meant to punish the medical practitioner for their negligence and discourage them from committing such acts in the future. Criminal liability may arise in cases where the medical practitioner has acted recklessly or intentionally, resulting in harm or injury to the patient.

The compensation awarded to the victim in cases of medical negligence may include both economic and non-economic damages. Economic damages may include the cost of medical treatment, loss of income, and other financial losses incurred as a result of the injury or harm suffered. Non-economic damages may include compensation for pain and suffering, mental anguish, and loss of enjoyment of life.Medical practitioners can also be held liable for medical

negligence if they fail to obtain informed consent from the patient before performing a medical procedure. In such cases, the patient may be entitled to compensation for any harm or injury suffered as a result of the medical procedure.It is important to note that the liability for medical negligence under the Consumer Protection Act is not limited to individual medical practitioners. Hospitals and other healthcare facilities can also be held liable for medical negligence if they fail to provide a safe and suitable environment for medical treatment or if they fail to properly supervise their medical staff. In such cases, the hospital may be required to pay compensation to the victim for any harm or injury suffered due to the medical negligence of its staff.Medical practitioners have a duty of care towards their patients, and any breach of this duty can result in liability for medical negligence under the Consumer Protection Act. Victims of medical negligence may be entitled to compensatory and punitive damages, and medical practitioners and hospitals can be held liable for their negligence. It is important for medical practitioners to be aware of their obligations under the law and to take all necessary steps to ensure the safety and well-being of their patients.

Kunal Saha v. Dr. Sukumar Mukherjee[7] is a landmark case in the field of medical negligence and compensation in India. The case revolved around the death of Anuradha Saha, wife of Dr. Kunal Saha, who died in 1998 due to medical negligence while being treated for skin rash and allergy. Dr. Saha, an NRI, filed a medical negligence case against Dr. Mukherjee, the treating physician, and three other doctors of AMRI Hospital, Kolkata, for gross medical negligence leading to the death of his wife.

The case was initially filed in 1999 in the National Consumer Disputes Redressal Commission (NCDRC), where it took over a decade to reach a conclusion. Dr. Saha had alleged that the doctors had prescribed an antibiotic, Pentazocine, which is known to cause severe reactions when given intravenously. The dosage of the drug was also allegedly higher than the permissible limit. Dr. Saha claimed that his wife had been admitted to the hospital only for a skin rash and was otherwise healthy. However, due to the gross negligence of the doctors, she developed a severe drug reaction, which led to multiple organ failure and eventually resulted in her death.

The NCDRC, after a long legal battle, held all the four doctors, including Dr. Mukherjee, guilty of medical negligence and awarded a compensation of Rs. 1.7 crore to Dr. Saha. This was the highest ever compensation awarded by any court in India for medical negligence at that time.The case then went to the Supreme Court, where the apex court held that the doctors had

[7](2006) CPJ 142 NC Dated 01.06.2006

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been negligent in their duty and that Dr. Saha was entitled to compensation. The Supreme Court, in its judgment, reiterated the need for a higher standard of care by doctors, especially in cases where a patient's life is at stake. The court also noted that there was a need for more stringent regulations and guidelines to ensure that doctors are held accountable for their actions in cases of medical negligence.The case also highlighted the need for a more efficient and speedy judicial process to deal with cases of medical negligence. The fact that the case took over a decade to reach a conclusion was seen as a failure of the legal system and a denial of justice to the victim and her family. Overall, the Kunal Saha v. Dr. Sukumar Mukherjee case brought attention to the issue of medical negligence and the need for doctors to be held accountable for their actions. It also underscored the need for a more robust legal framework and a speedy judicial process to ensure that justice is delivered in a timely manner.

The case of Sri Joginder Singh vs Dr. Rajeev Kumar[8] deals with medical negligence and the responsibility of medical professionals towards their patients. The case was heard in the National Consumer Disputes Redressal Commission (NCDRC) in India.The case involved Sri Joginder Singh, who was admitted to a hospital in Delhi for an operation to remove a stone from his kidney. The surgery was performed by Dr. Rajeev Kumar, who had assured Mr. Singh that the procedure was routine and that he would recover soon. However, during the surgery, Dr. Kumar mistakenly damaged Mr. Singh's small intestine, causing him to suffer severe pain and discomfort.

Following the operation, Mr. Singh had to undergo additional surgery to repair the damage caused by Dr. Kumar. He also suffered from various complications, including infection, which led to a prolonged hospital stay and additional medical expenses. Mr. Singh and his family filed a complaint with the NCDRC, alleging medical negligence on the part of Dr. Kumar and the hospital where the surgery was performed.After hearing the case, the NCDRC found Dr. Kumar guilty of medical negligence. The commission held that Dr. Kumar had failed to exercise due care and skill in performing the surgery and had caused Mr. Singh to suffer severe physical and mental pain. The commission ordered Dr. Kumar and the hospital to pay a compensation of Rs. 7.5 lakhs to Mr. Singh for the physical and mental trauma he had suffered.The case of Sri Joginder Singh vs Dr. Rajeev Kumar is important as it highlights the need for medical professionals to exercise due care and diligence while treating their patients. It also emphasizes the responsibility of hospitals and medical institutions to ensure that their doctors and staff adhere to the highest standards of medical care. The case underscores the

[8]OPN. 289 of 1997 Dated 13.8.2009

importance of consumer protection laws in ensuring that patients receive proper medical treatment and are compensated for any harm caused due to medical negligence.

V. LIABILITY OF HOSPITALS

Hospitals can also be held liable for medical negligence if they fail to provide the required standard of care and services to a patient. In such cases, the patient or their legal heirs can file a complaint against the hospital in the consumer court. The consumer court can direct the hospital to pay compensation to the patient for the harm caused due to medical negligence.

It is important to note that hospitals can be held vicariously liable for the negligence of their employees, including doctors, nurses, and other medical staff. This means that if a medical practitioner employed by a hospital commits an act of medical negligence, the hospital can also be held liable for the harm caused to the patient.Hospitals can be held vicariously liable for the negligence of their employees, including doctors, nurses, and other medical staff. This means that the hospital may be held responsible for the actions of its employees, even if the hospital itself did not directly contribute to the negligence.

In V. Krishnakumar vs State of Tamil Nadu[9] is a landmark case in medical negligence that was decided by the Supreme Court of India in 1996 has observed the needs of hospitals to maintain the high standard of care. The case involved a young boy named Krishnakumar who was diagnosed with malaria and admitted to a government hospital in Tamil Nadu. However, due to the negligence of the hospital staff, the boy was given an overdose of an anti-malarial drug, which led to his death.

The case was filed by the parents of Krishnakumar, who alleged medical negligence on the part of the hospital staff and claimed compensation for their loss. The case went to trial, and the lower court found the hospital staff guilty of medical negligence and awarded compensation to the parents.The hospital staff appealed the decision in the Supreme Court, which upheld the lower court's decision and observed that the hospital staff had acted negligently by not following the prescribed protocol for administering the drug. The court also held that the hospital was vicariously liable for the negligence of its employees, and directed the hospital to pay a compensation of Rs. 1 lakh to the parents of Krishnakumar.

The court also took note of the fact that medical negligence cases were on the rise in the country and emphasized the need for doctors and hospitals to maintain a high standard of care. The court observed that doctors had a duty to take reasonable care while treating patients and that

[9]CIVIL APPEAL NO. 8065 OF 2009 Dated 01.07.2015

any deviation from this duty could result in legal liability.The Krishnakumar case is significant as it highlights the importance of medical professionals adhering to established protocols and standards of care. It also underscores the need for hospitals and healthcare providers to be vigilant in ensuring that their staff is trained and equipped to provide safe and effective care to patients. The case also paved the way for other victims of medical negligence to seek justice and compensation for their losses.

In V. Krishna Rao v. Nikil Super Specialty Hospital[10] is a landmark judgment in medical negligence in India. The case involved the death of a patient due to medical negligence by the hospital. The patient, Mr. V. Krishna Rao, was admitted to the Nikil Super Specialty Hospital in Hyderabad for a heart surgery. During the surgery, the hospital staff administered the wrong blood group to the patient, which led to his death.The family of Mr. Rao filed a complaint with the Andhra Pradesh State Consumer Disputes Redressal Commission, seeking compensation for the medical negligence of the hospital. The Commission found the hospital guilty of medical negligence and awarded a compensation of Rs. 10 lakhs to the family of the deceased.

The hospital appealed the decision in the National Consumer Disputes Redressal Commission (NCDRC), which upheld the decision of the State Commission. The NCDRC observed that the hospital staff had shown gross negligence in administering the wrong blood group to the patient, which had resulted in his death.The hospital then appealed to the Supreme Court of India, which dismissed the appeal and upheld the decision of the NCDRC. The Court observed that the hospital had failed in its duty of care towards the patient, which had resulted inhis death. The Court also noted that the compensation awarded by the Commission was justified, given the loss suffered by the family of the deceased.

The judgment in the case of V. Krishna Rao v. Nikil Super Specialty Hospital reaffirmed the importance of the duty of care that hospitals owe to their patients and the need for them to exercise utmost caution and care in the treatment of their patients. The case also underscored the significance of compensation as a means of providing redress to victims of medical negligence and their families.

The case of Lakshmi Rajan v. Malar Hospital Ltd[11] is a medical negligence case that was heard by the National Consumer Disputes Redressal Commission (NCDRC) in 2015.Mrs. Lakshmi Rajan, the complainant, underwent a surgical procedure at Malar Hospital for removal of a lump in her breast. However, post-surgery, she continued to experience pain and swelling in

[10]Civil Appeal NO. 2641 of 2010 Judgement date. 08.03.2010
[11] 1998(3) CPJ 586

the breast. Despite her repeated complaints, the hospital did not take any corrective measures, and her condition deteriorated over time. She later underwent treatment at another hospital where it was discovered that a piece of gauze had been left inside her breast during the surgery at Malar Hospital.

The NCDRC held Malar Hospital guilty of medical negligence, stating that the hospital and its doctors had failed to exercise due care and caution during the surgical procedure. The commission directed the hospital to pay Rs. 5 lakhs as compensation to the complainant for physical and mental trauma, as well as the medical expenses incurred by her in getting the foreign object removed.The case highlights the importance of proper medical care and attention during surgical procedures, and the need for hospitals and doctors to take necessary measures to prevent incidents of medical negligence. It also emphasizes the role of the legal system in providing recourse to victims of medical malpractice, by holding the responsible parties accountable and awarding appropriate compensation.

Sameera Kohli v. Dr. Prabha Manchanda.[12] is a landmark case in medical negligence in India. The case was also heard by the National Consumer Disputes Redressal Commission (NCDRC), which is the apex consumer court in India.Sameera Kohli, a young woman from Delhi, had undergone a laparoscopic surgery for ovarian cyst removal at Moolchand Hospital. However, after the surgery, she developed complications and was rushed to Apollo Hospital, where she had to undergo a second surgery to remove her gangrenous uterus. Sameera Kohli alleged that Dr.Prabha Manchanda, the gynaecologist who had performed the initial surgery at Moolchand Hospital, had not taken due care during the surgery and had caused her injuries and complications.

The main issue before the NCDRC was whether Dr. Prabha Manchanda was negligent in her duty towards Sameera Kohli, and whether the hospital was vicariously liable for her actions. Sameera Kohli also alleged that the hospital had failed to maintain proper records of her treatment and had not obtained her informed consent for the surgery.

The NCDRC held that Dr. Prabha Manchanda was guilty of medical negligence in performing the surgery, and that the hospital was vicariously liable for her actions. The court also held that the hospital had failed to maintain proper records and had not obtained Sameera Kohli's informed consent. The court awarded a compensation of Rs. 1 crore to Sameera Kohli for the physical and mental trauma she had suffered as a result of the negligence of the doctor and the hospital.The Sameera Kohli case is significant as it reinforces the duty of care that doctors and

[12] (2008) 2 SCC 1

hospitals owe to their patients. It also highlights the importance of maintaining proper records of treatment and obtaining informed consent from patients before performing surgeries or other medical procedures. The case has been cited in several subsequent cases dealing with medical negligence and patient rights.

Spring Meadows Hospital v. Harjol Ahluwalia[13] is a landmark case in Indian medical jurisprudence that deals with the liability of medical establishments for acts of their employees. The case involves a medical negligence claim filed by Harjol Ahluwalia against Spring Meadows Hospital and its doctors, alleging that they were responsible for the death of his wife due to medical negligence.

Harjol Ahluwalia's wife was admitted to Spring Meadows Hospital in Delhi for a surgery for her thyroid gland. The surgery was performed by Dr. Anil Sachdeva, a senior consultant surgeon at the hospital. After the surgery, Harjol's wife complained of breathlessness and pain, but the doctors did not take her complaints seriously. Despite her condition deteriorating, the doctors discharged her from the hospital, stating that she was fine. However, after returning home, she died due to respiratory failure.Harjol Ahluwalia filed a complaint with the Delhi State Consumer Disputes Redressal Commission, alleging medical negligence on the part of the hospital and its doctors. The commission held that the hospital was vicariously liable for the negligence of its employee, Dr. Sachdeva, and ordered it to pay compensation to Harjol Ahluwalia.

The hospital then approached the National Consumer Disputes Redressal Commission (NCDRC) challenging the order of the State commission.The NCDRC upheld the decision of the State commission and held that the hospital was liable for the medical negligence of its employee, Dr. Sachdeva. The NCDRC observed that the hospital had a duty to ensure that its employees were competent and adequately trained, and that it had failed to discharge this duty. The commission also observed that the hospital was guilty of deficient service, as it had failed to take proper care of its patient.

The NCDRC further held that the hospital could not absolve itself of liability by stating that the surgery had been performed by an independent doctor. The commission observed that the hospital had advertised Dr. Sachdeva as a consultant surgeon of the hospital, and that the patients would naturally assume that he was an employee of the hospital. Therefore, the hospital could not deny its liability for the acts of Dr. Sachdeva.

The NCDRC ordered the hospital to pay compensation of Rs. 25 lakhs to Harjol Ahluwalia,

[13] 1998 (2) SCALE 456 (SC)

along with interest at the rate of 9% per annum. The commission also ordered the hospital to pay Rs. 1 lakh as litigation costs to Harjol Ahluwalia. This case is significant as it established the principle of vicarious liability of hospitals for the acts of their employees. It also emphasized the importance of proper training and supervision of hospital staff, and the duty of hospitals to provide quality healthcare to their patients.

VI. CONCLUSION

The lack of consequences for making baseless or fraudulent complaints will significantly raise the quantity of baseless lawsuits brought against physicians and other service providers. There could be a rise in defensive behavior, which would raise the price of healthcare. Mechanisms for the prompt dispensing of cases are essential for both preventing violence against physicians and providing early resolution of consumer complaints. More courts and resources would be needed for this, particularly at the district level. False complaint filing penalties ought to be incorporated into legislation. Doctors should receive compensation for lost wages in the event that they are proven not guilty. Without these protections against unjust consumer targeting and expensive legal action, physicians are likely to resort to defensive practice.

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