



Medical Negligence in India: Legal Framework, Judicial Trends and Remedies

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ABSTRACT

Medical negligence has become an increasingly significant concern within the Indian healthcare system due to the expansion of medical services, technological advancements, growing patient awareness, and the commercialization of healthcare. While the law recognises that every unsuccessful medical treatment does not amount to negligence, healthcare professionals are under a legal and ethical obligation to exercise reasonable skill, competence, and care in the treatment of patients. Failure to comply with the accepted standard of medical practice may give rise to civil, criminal, consumer, constitutional, and professional liability.

This article critically examines the legal framework governing medical negligence in India by analysing the principles developed through judicial decisions, statutory provisions, and professional regulations. It discusses the essential ingredients of medical negligence, the remedies available to aggrieved patients, and the contribution of landmark judicial pronouncements in shaping Indian medical jurisprudence. The article further evaluates contemporary challenges arising from institutional healthcare, telemedicine, and artificial intelligence through a comparative analysis of selected foreign jurisdictions.

The study argues that although India possesses a well-developed judicial framework for addressing medical negligence, the existing legal regime remains fragmented due to the absence of a comprehensive legislation specifically governing medical malpractice. It concludes that future reforms should emphasise institutional accountability, patient safety, ethical medical practice, and technology-responsive regulation while maintaining a balanced approach that safeguards both patient rights and the professional independence of healthcare providers. Such reforms would strengthen public confidence in the healthcare system and contribute to a more effective and equitable framework for resolving medical negligence disputes.

Keywords: Medical Negligence, Healthcare Law, Patient Rights, Consumer Protection, Professional Liability, Duty of Care, Medical Ethics, National Medical Commission.

INTRODUCTION:

Healthcare forms one of the most essential pillars of a welfare state because it directly concerns the protection of human life, dignity, and well-being. The relationship between a medical practitioner and a patient is founded upon trust, confidence, and the expectation that medical decisions will be taken with competence, honesty, and due care. While no legal system can expect doctors to guarantee successful treatment in every case, society is justified in expecting that every patient receives treatment consistent with accepted professional standards. The law, therefore, intervenes not because medicine is imperfect, but because avoidable harm resulting from unreasonable professional conduct cannot be ignored.

In recent years, the Indian healthcare sector has undergone remarkable transformation. Advanced medical technology, corporate hospitals, specialised healthcare services, telemedicine, and artificial intelligence have significantly improved access to medical treatment. Simultaneously, patients have become more conscious of their legal rights and increasingly willing to seek legal



remedies where medical care falls below acceptable standards. As a result, medical negligence has emerged not merely as a question of professional misconduct but as an important issue of healthcare governance, patient safety, and public accountability.

Determining medical negligence, however, remains one of the most challenging tasks before the legal system. Medical science is inherently uncertain, and clinical decisions frequently involve balancing competing risks within limited time. A treatment may fail despite the exercise of reasonable skill and care, whereas a successful outcome does not necessarily establish that proper standards were followed. Consequently, the law distinguishes between an unfortunate medical outcome and legally actionable negligence by examining whether the healthcare provider acted in accordance with the standard of care expected from a reasonably competent medical professional.¹ The legal regulation of medical negligence in India has developed largely through judicial interpretation rather than comprehensive legislation. Over several decades, the Supreme Court has clarified the scope of professional duty, recognised the importance of informed consent, expanded patient remedies under consumer protection law, and carefully distinguished civil² liability from criminal negligence. These judicial developments have strengthened patient protection while simultaneously recognising the practical realities under which medical professionals discharge their duties.³

The rapid integration of digital technologies into healthcare has further complicated the legal landscape. Telemedicine, artificial intelligence, robotic surgery, and electronic health records have transformed medical practice by improving efficiency and accessibility. At the same time, these innovations have generated new legal questions relating to professional responsibility, institutional liability, data privacy, and regulatory oversight. Existing legal principles, many of which were developed in relation to conventional medical practice, must therefore evolve to accommodate the realities of technology-driven healthcare.

This article critically examines the legal framework governing medical negligence in India by analysing statutory provisions, judicial decisions, and professional regulations. It also evaluates the remedies available to patients, examines comparative developments, and explores the legal challenges created by emerging healthcare technologies. The central argument advanced in this study is that although Indian courts have established a strong jurisprudential foundation, the future of medical negligence law requires a comprehensive and technology-responsive legislative framework that strengthens institutional accountability while preserving professional autonomy. Such an approach would contribute to a more transparent, patient-centred, and ethically responsible healthcare system.

CONCEPT AND NATURE OF MEDICAL NEGLIGENCE

Medical negligence represents one of the most complex branches of healthcare law because it requires the legal system to balance two equally significant public interests. On the one hand, every patient has a legitimate expectation of receiving competent and safe medical treatment. On the other hand, doctors must be allowed sufficient professional freedom to exercise clinical judgment without the constant fear of legal consequences whenever treatment fails. The objective of

¹ 1. *Jacob Mathew v. State of Punjab*, (2005) 6 SCC 1; *Laxman Balkrishna Joshi v. Dr. Trimbak Bapu Godbole*, AIR 1969 SC 128.

² *Indian Medical Association v. V.P. Shantha*, (1995) 6 SCC 651; *Samira Kohli v. Dr. Prabha Manchanda*, (2008) 2 SCC 1.



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negligence law is therefore not to punish every medical error but to determine whether the healthcare provider acted with the degree of care that society reasonably expects from a qualified medical professional.

Unlike ordinary negligence, medical negligence arises within a highly specialised profession where decisions are frequently taken under conditions of uncertainty, urgency, and incomplete clinical information. Medical practitioners often encounter situations in which several recognised methods of treatment are available, each carrying different risks and possible outcomes. Consequently, the law does not judge a doctor's conduct merely by the success or failure of the treatment. Instead, liability depends upon whether the decision-making process reflected reasonable competence, accepted medical practice, and due professional care.⁴

The doctor-patient relationship is not simply a contractual arrangement but a fiduciary relationship founded upon trust and confidence. Patients disclose confidential information and entrust their lives to medical professionals with the expectation that their interests will receive the highest priority. This relationship creates corresponding legal and ethical obligations requiring doctors to maintain professional competence, communicate honestly, preserve confidentiality, obtain informed consent, and provide treatment consistent with recognised medical standards. These duties continue throughout the course of treatment and extend beyond diagnosis to follow-up care and appropriate record maintenance.

The understanding of medical negligence has also undergone significant transformation with the changing structure of healthcare delivery. Earlier legal approaches primarily examined the conduct of individual doctors. Modern healthcare, however, is delivered through multidisciplinary institutions where patient care depends upon coordinated efforts of specialists, nurses, technicians, pharmacists, and hospital administrators. As a result, medical negligence today often reflects organisational shortcomings such as inadequate staffing, poor communication, defective equipment, or administrative failures rather than individual incompetence alone. This broader perspective has encouraged courts to recognise institutional accountability as an essential component of patient safety.

Indian courts have generally adopted internationally accepted principles while adapting them to the constitutional values and healthcare realities of the country. Judicial decisions increasingly recognise that professional autonomy and patient rights are not competing concepts but complementary principles that must coexist within a fair healthcare system. Greater emphasis is now placed upon transparency, informed consent, accountability, and ethical medical practice, reflecting a gradual movement away from the traditional paternalistic model of healthcare towards a more patient-centred approach.⁵

Medical negligence should therefore be understood as a failure to discharge professional responsibilities in accordance with the standard of care reasonably expected under the circumstances. It is neither synonymous with every unsuccessful treatment nor confined to isolated professional mistakes. Rather, it represents a breach of the legal and ethical obligations that accompany the privilege of practising medicine. A balanced application of these principles not

⁴ *Jacob Mathew v. State of Punjab*, (2005) 6 SCC 1; *Bolam v. Friern Hospital Management Committee*, [1957] 1 WLR 582.

⁵ *Samira Kohli v. Dr. Prabha Manchanda*, (2008) 2 SCC 1; *Kusum Sharma v. Batra Hospital & Medical Research Centre*, (2010) 3 SCC 480.



only protects patients from avoidable harm but also strengthens public confidence in the healthcare system by encouraging responsible medical practice and institutional accountability.

ESSENTIAL INGREDIENTS AND FORMS OF MEDICAL NEGLIGENCE

Medical negligence is established only when certain essential legal requirements are satisfied. The mere fact that a patient suffers injury or an operation does not produce the expected result does not automatically create legal liability. Medical science is not an exact discipline, and every treatment involves a degree of uncertainty. Consequently, courts carefully examine whether the injury resulted from a breach of the professional standard of care rather than from an unavoidable medical complication or the natural progression of the disease.⁶

The first and most fundamental requirement is the existence of a **duty of care**. This duty arises once a doctor undertakes to examine, advise, diagnose, or treat a patient. From that moment, the medical practitioner assumes a legal obligation to provide treatment with reasonable competence and diligence. The duty extends beyond prescribing medicines or performing surgery; it includes timely diagnosis, appropriate investigations, proper monitoring, maintenance of medical records, obtaining informed consent, and referring the patient to specialists whenever necessary. The standard expected is not perfection but reasonable professional competence consistent with accepted medical practice.

The second essential element is the **breach of duty**. A breach occurs when the conduct of the healthcare provider falls below the standard that an ordinarily competent practitioner would have maintained under similar circumstances. Determining such a breach requires consideration of the prevailing medical knowledge, the facilities available, the urgency of the situation, and accepted clinical practices. The law recognises that differences in professional opinion are inevitable and therefore does not impose liability merely because another doctor might have adopted a different method of treatment.⁷

The third requirement is **causation**, which establishes a direct connection between the negligent act and the injury suffered by the patient. Even where a breach of duty is proved, liability cannot arise unless it is demonstrated that the injury was substantially caused by that breach. If the damage results from the patient's pre-existing condition, unavoidable complications, or recognised risks associated with treatment, negligence cannot ordinarily be inferred. This requirement ensures that medical practitioners are held responsible only for injuries that are reasonably attributable to their own conduct.

The fourth element is **actual damage**. Negligence becomes legally actionable only when the breach results in identifiable harm. Such harm may include physical injury, permanent disability, prolonged illness, psychological suffering, financial loss, loss of future earning capacity, or death. While monetary compensation cannot restore health or reverse permanent injury, it serves as an important legal mechanism for acknowledging the harm suffered and promoting accountability within the healthcare system.

Medical negligence may occur in several forms depending upon the stage of treatment. One of the most common forms is **diagnostic negligence**, where a disease remains undetected because

⁶ *Laxman Balkrishna Joshi v. Dr. Trimbak Bapu Godbole*, AIR 1969 SC 128; *Jacob Mathew v. State of Punjab*, (2005) 6 SCC 1.

⁷ *Bolam v. Friern Hospital Management Committee*, [1957] 1 WLR 582; *Kusum Sharma v. Batra Hospital & Medical Research Centre*, (2010) 3 SCC 480.



appropriate clinical examination or necessary investigations were not undertaken. However, an incorrect diagnosis by itself does not constitute negligence. Liability arises only where the error reflects a failure to exercise reasonable professional care rather than an honest difference in medical judgment.

Another important category is **treatment or surgical negligence**. This includes errors such as prescribing inappropriate medication, administering incorrect dosages, surgical mistakes, anaesthetic errors, inadequate post-operative care, or failure to respond promptly to complications. In such cases, courts examine whether recognised medical procedures were followed and whether reasonable precautions were adopted to minimise foreseeable risks.

Modern medical jurisprudence also places considerable importance on **informed consent**. Every competent patient possesses the legal right to receive adequate information regarding the proposed treatment, its potential risks, expected benefits, and available alternatives before making a decision. Informed consent is therefore not merely a procedural requirement but an expression of patient autonomy and personal dignity. Failure to obtain valid consent may itself amount to negligence, even where the treatment is otherwise performed competently.⁸

Contemporary healthcare has also expanded the scope of negligence beyond the conduct of individual doctors. Hospitals and healthcare institutions may incur liability where patient injury results from inadequate infrastructure, shortage of trained personnel, defective medical equipment, poor infection-control measures, administrative inefficiency, or ineffective coordination among healthcare professionals. This reflects the modern understanding that patient safety depends upon the effective functioning of the entire healthcare system rather than the competence of a single practitioner.

In essence, the law of medical negligence does not seek to guarantee successful treatment in every case. Its purpose is to ensure that healthcare professionals and institutions consistently maintain reasonable standards of competence, care, and ethical responsibility. Such an approach protects patients from avoidable harm while preserving the professional independence necessary for responsible medical practice.

LEGAL FRAMEWORK GOVERNING MEDICAL NEGLIGENCE IN INDIA

Medical negligence in India is regulated through a combination of constitutional principles, statutory provisions, judicial precedents, and professional regulatory standards. Unlike several jurisdictions that have enacted comprehensive legislation exclusively dealing with medical malpractice, India follows a multi-layered legal framework where different branches of law collectively determine the rights and liabilities of patients, healthcare professionals, and medical institutions. While this approach has enabled the law to evolve gradually through judicial interpretation, it has also created procedural complexity and overlapping remedies.

The constitutional foundation of medical negligence is rooted in **Article 21 of the Constitution of India**, which guarantees the right to life and personal liberty. Judicial interpretation has consistently expanded the scope of this provision by recognising that the right to life includes access to timely and adequate healthcare. Consequently, both public authorities and government hospitals bear a constitutional obligation to provide essential medical services in a manner

⁸ Samira Kohli v. Dr. Prabha Manchanda, (2008) 2 SCC 1.



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consistent with human dignity. Failure to discharge this responsibility, particularly in emergency situations, may amount to a violation of fundamental rights and invite judicial intervention.⁹

Civil liability for medical negligence continues to be governed primarily by the principles of the law of torts. Although India has no codified law of torts, courts have consistently recognised that medical practitioners owe a legal duty to exercise reasonable skill and care while treating patients. Where this duty is breached and the breach directly causes injury, the patient becomes entitled to claim compensation. The principal objective of civil liability is restorative rather than punitive; it seeks to compensate the victim for the loss suffered rather than punish the medical professional. Consequently, courts generally consider medical expenses, future treatment costs, loss of income, permanent disability, pain and suffering, and other consequential losses while determining compensation.

The enactment of consumer protection legislation significantly strengthened patient rights by recognising medical services rendered for consideration as consumer services. This development made legal remedies more accessible by enabling patients to approach Consumer Commissions instead of engaging in prolonged civil litigation. Consumer jurisprudence has also encouraged hospitals to maintain better standards of documentation, transparency, and patient care. Nevertheless, the increasing number of consumer complaints has generated concerns regarding defensive medical practice, where fear of litigation may influence clinical decisions. While such concerns deserve attention, they should not undermine the fundamental objective of ensuring accountability for negligent healthcare.

Criminal liability occupies a comparatively limited but important place within the legal framework. Courts have repeatedly emphasised that criminal prosecution should not be initiated merely because medical treatment proves unsuccessful. Since medical professionals frequently make decisions under conditions of uncertainty and urgency, criminal sanctions should be reserved only for conduct demonstrating gross negligence or reckless disregard for patient safety. This distinction protects honest professional judgment while ensuring that serious departures from accepted medical standards remain punishable under criminal law.¹⁰

Professional accountability is further reinforced through the regulatory framework established by the **National Medical Commission (NMC)**. Registered medical practitioners are expected to comply with ethical obligations relating to professional competence, informed consent, confidentiality, maintenance of medical records, and respectful treatment of patients. Professional disciplinary proceedings complement judicial remedies by promoting ethical conduct within the medical profession. Unlike civil or criminal proceedings, however, disciplinary action primarily seeks to maintain professional standards rather than award compensation.

An important feature of recent judicial developments is the growing emphasis upon **institutional liability**. Earlier legal approaches concentrated mainly upon the conduct of individual doctors. Modern healthcare, however, is delivered through multidisciplinary institutions where patient safety depends upon adequate infrastructure, qualified staff, effective communication, infection-control measures, and efficient hospital administration. Consequently, negligence may arise not

⁹ *Parmanand Katara v. Union of India*, (1989) 4 SCC 286; *Paschim Banga Khet Mazdoor Samity v. State of West Bengal*, (1996) 4 SCC 37.

¹⁰ *Jacob Mathew v. State of Punjab*, (2005) 6 SCC 1; *Indian Medical Association v. V.P. Shantha*, (1995) 6 SCC 651.



only from professional error but also from organisational deficiencies. Recognising institutional responsibility represents a significant shift towards a more comprehensive understanding of patient safety.

Despite considerable judicial progress, the existing legal framework continues to face important challenges. The absence of a dedicated statute governing medical negligence has resulted in legal principles being dispersed across constitutional law, tort law, consumer legislation, criminal law, and professional regulations. This fragmented structure often leads to procedural overlap, multiple proceedings arising from the same incident, and uncertainty regarding the appropriate legal remedy. Greater legislative clarity would therefore improve consistency while reducing unnecessary procedural complications.

In my view, the future development of medical negligence law in India should not depend exclusively upon judicial innovation. Parliament should consider enacting a comprehensive Medical Negligence Act that consolidates the principles already established by judicial decisions while addressing contemporary issues such as institutional liability, telemedicine, artificial intelligence, digital health records, and alternative dispute resolution. Such legislation would enhance legal certainty, strengthen patient confidence, and provide clearer guidance to healthcare professionals without restricting legitimate medical discretion.

REMEDIES AVAILABLE FOR MEDICAL NEGLIGENCE IN INDIA

The recognition of legal rights becomes meaningful only when effective remedies exist for their enforcement. In cases of medical negligence, the law seeks not merely to compensate an injured patient but also to promote accountability, improve healthcare standards, and preserve public confidence in the medical profession. Indian law adopts a comprehensive remedial framework by permitting an aggrieved person to seek relief through civil proceedings, consumer forums, criminal prosecution, constitutional remedies, and professional disciplinary mechanisms. The availability of multiple remedies reflects the complex nature of medical negligence, which often involves private rights as well as broader public interests.

The most common remedy is a civil action for damages. Civil liability is based upon the principle that a person who suffers injury due to another's negligence should receive fair compensation for the loss sustained. In medical negligence cases, courts examine both economic and non-economic losses while determining compensation. Economic losses include medical expenses, future treatment costs, loss of income, and rehabilitation expenditure. Non-economic losses may include pain and suffering, emotional distress, permanent disability, loss of amenities of life, and, in appropriate cases, compensation to the dependants of a deceased patient. The objective is restorative justice rather than punishment, ensuring that the injured person receives reasonable financial relief without imposing excessive liability on healthcare professionals.

The development of consumer jurisprudence has considerably strengthened patient protection in India. Since medical services rendered for consideration fall within the ambit of the Consumer Protection Act, patients may seek redress before Consumer Commissions for deficiencies in medical services. These forums provide comparatively faster and less expensive remedies than ordinary civil courts, making justice more accessible. The consumer protection regime has also encouraged hospitals to maintain better documentation, improve service standards, and adopt



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greater transparency in patient care. At the same time, consumer forums have reinforced the principle that healthcare institutions are accountable for the quality of services they provide.¹¹

Criminal remedies are available in exceptional circumstances where medical negligence amounts to gross negligence or recklessness. The purpose of criminal law is fundamentally different from civil liability. While civil proceedings focus upon compensation, criminal prosecution seeks to punish conduct that demonstrates a serious disregard for human life and public safety. Indian courts have consistently cautioned that criminal law should not be invoked merely because a treatment has failed or a medical error has occurred. The threshold for criminal liability is intentionally high to protect honest medical practitioners from unnecessary prosecution while ensuring that truly reckless conduct remains punishable.¹²

Patients may also invoke constitutional remedies where negligence by public authorities results in a violation of the fundamental right to life under Article 21 of the Constitution. Constitutional courts have repeatedly emphasised that the State has an obligation to provide timely and effective medical care, particularly in emergency situations. Where systemic failures in public healthcare lead to avoidable injury or death, constitutional remedies not only provide relief to the affected individual but also encourage administrative reforms capable of improving healthcare delivery for society as a whole.

Apart from judicial remedies, professional disciplinary proceedings play an equally significant role in maintaining ethical standards within the medical profession. The National Medical Commission possesses the authority to investigate allegations of professional misconduct and impose disciplinary measures ranging from warnings to suspension or cancellation of registration in appropriate cases. Unlike civil proceedings, disciplinary action primarily seeks to preserve the integrity of the profession and maintain public confidence in medical practice rather than award compensation.

Although the availability of multiple remedies strengthens patient protection, it also creates certain practical difficulties. A single incident of medical negligence may give rise to proceedings before civil courts, Consumer Commissions, criminal courts, constitutional courts, and professional regulatory authorities simultaneously. Such parallel proceedings often increase litigation costs, prolong dispute resolution, and create uncertainty for both patients and healthcare professionals. A more coordinated procedural framework would therefore enhance efficiency without restricting access to justice.

In my opinion, the future of medical negligence law should focus not only on providing remedies after harm has occurred but also on preventing avoidable medical errors before disputes arise. Greater emphasis should be placed on hospital accreditation, mandatory patient-safety protocols, clinical risk management, continuing medical education, mediation in appropriate disputes, and effective grievance-redress mechanisms within healthcare institutions. Preventive governance is likely to improve healthcare standards more effectively than litigation alone.

Ultimately, remedies for medical negligence should serve a dual purpose. They must provide fair and timely justice to injured patients while simultaneously encouraging ethical medical practice

¹¹ *Indian Medical Association v. V.P. Shantha*, (1995) 6 SCC 651; Consumer Protection Act, 2019.

¹² *Jacob Mathew v. State of Punjab*, (2005) 6 SCC 1.



and institutional accountability. A legal system that successfully balances these objectives will strengthen both public confidence in healthcare and respect for the medical profession.

JUDICIAL EVOLUTION OF MEDICAL NEGLIGENCE IN INDIA

The evolution of medical negligence law in India is largely a product of judicial innovation rather than legislative intervention. In the absence of a comprehensive statute governing medical malpractice, the Supreme Court and various High Courts have progressively developed principles that define the scope of professional responsibility and patient rights. Through a series of landmark decisions, the judiciary has sought to achieve a balance between protecting patients from negligent treatment and safeguarding medical professionals from unreasonable legal liability. This balanced approach has become the defining characteristic of Indian medical negligence jurisprudence.

The foundation of modern medical negligence law was laid by the Supreme Court in *Laxman Balkrishna Joshi v. Dr. Trimbak Bapu Godbole*, where it was held that once a doctor undertakes the treatment of a patient, a corresponding legal duty arises to exercise reasonable skill, knowledge, and care throughout the course of treatment. The Court clarified that liability depends upon the quality of professional conduct rather than the success or failure of medical treatment. This principle continues to guide courts while determining whether a healthcare professional has discharged the duty expected from an ordinarily competent practitioner.¹³

A major shift in Indian medical jurisprudence occurred when the Supreme Court delivered its decision in *Indian Medical Association v. V.P. Shantha*. By bringing medical services rendered for consideration within the scope of consumer protection law, the Court substantially widened patients' access to legal remedies. The judgment transformed the legal relationship between doctors and patients by recognising that accountability and professional autonomy can coexist within a fair legal framework. Consumer protection has since become one of the most effective mechanisms for addressing deficiencies in healthcare services without undermining the dignity of the medical profession.

Another landmark development came through the decision in *Jacob Mathew v. State of Punjab*, which remains the leading authority on medical negligence in India. The Court recognised that medicine is a profession characterised by uncertainty, evolving scientific knowledge, and the need for prompt decision-making. Consequently, negligence cannot be inferred merely because treatment has failed or because another doctor might have adopted a different course of action. The judgment further distinguished civil negligence from criminal negligence by holding that criminal prosecution should be restricted to cases involving gross negligence or reckless disregard for patient safety. This distinction protects sincere medical practitioners while ensuring accountability for conduct that falls far below acceptable professional standards.¹⁴

The doctrine of informed consent received significant judicial recognition in *Samira Kohli v. Dr. Prabha Manchanda*. In this case, the Supreme Court emphasised that every competent patient possesses the right to make an informed decision regarding medical treatment. Doctors are therefore under a legal obligation to explain the nature of the proposed procedure, its material risks, expected benefits, and available alternatives before obtaining consent. The judgment reinforced the constitutional values of dignity, bodily autonomy, and personal liberty by

¹³ *Laxman Balkrishna Joshi v. Dr. Trimbak Bapu Godbole*, AIR 1969 SC 128.

¹⁴ *Jacob Mathew v. State of Punjab*, (2005) 6 SCC 1; *Samira Kohli v. Dr. Prabha Manchanda*, (2008) 2 SCC 1.



recognising informed consent as an essential component of ethical medical practice rather than a mere procedural formality.

Further refinement of negligence principles occurred in *Kusum Sharma v. Batra Hospital & Medical Research Centre*, where the Supreme Court cautioned against evaluating medical decisions solely with the benefit of hindsight. The Court observed that judges should assess professional conduct in light of the circumstances existing when treatment was provided rather than judging decisions based upon subsequent outcomes. This approach reflects judicial recognition that medicine frequently requires difficult choices under conditions of uncertainty and that courts should respect genuine professional judgment while remaining vigilant against unreasonable departures from accepted medical standards.

An important feature of recent judicial developments is the increasing emphasis upon institutional accountability. Earlier decisions focused predominantly upon the conduct of individual doctors. Contemporary healthcare, however, is delivered through hospitals functioning as integrated organisations involving multiple specialists, advanced technology, and administrative systems. Courts have therefore begun recognising that negligence may arise from inadequate infrastructure, shortage of qualified staff, defective equipment, communication failures, or poor hospital management. This broader understanding reflects the reality that patient safety depends upon the efficiency of the healthcare system as a whole rather than solely upon individual medical practitioners.

A careful examination of these decisions reveals a consistent judicial philosophy. Indian courts have deliberately avoided both extremes—neither granting absolute immunity to doctors nor imposing liability for every unsuccessful treatment. Instead, they have developed a balanced legal standard that protects patient rights while recognising the practical realities of medical practice. This equilibrium has enabled the law to evolve in a manner that encourages professional responsibility without discouraging innovation or independent clinical judgment.

In my opinion, the greatest contribution of the Indian judiciary has been its ability to adapt traditional legal principles to changing social and technological realities without waiting for legislative reform. Nevertheless, judicial decisions alone cannot adequately address emerging issues relating to artificial intelligence, telemedicine, digital health records, and algorithm-assisted diagnosis. The principles evolved by the courts should now form the basis of comprehensive legislation capable of providing greater certainty to both patients and healthcare professionals while preserving the balanced approach that has characterised Indian medical jurisprudence.

COMPARATIVE PERSPECTIVES AND CONTEMPORARY CHALLENGES

Medical negligence is no longer a purely domestic legal issue. The rapid advancement of healthcare technology, increasing international mobility of patients, and global recognition of patient rights have encouraged many jurisdictions to reconsider the traditional principles governing professional liability. Although every country has developed its legal framework according to its own healthcare system and social conditions, comparative analysis provides valuable insights that may guide future reforms in India. Comparative jurisprudence should not be viewed as a model for direct transplantation but as a source of principles that may be adapted to domestic legal and institutional realities.

Indian medical negligence law has historically drawn significant influence from **English common law**, particularly the principles established in *Bolam v. Friern Hospital Management Committee*. Under the *Bolam* test, a doctor is not considered negligent if the treatment provided is supported



by a responsible body of medical opinion. This principle recognised that courts should not readily substitute judicial opinion for professional medical expertise. However, subsequent English decisions gradually refined this approach by holding that professional opinion must itself be reasonable, logical, and capable of withstanding judicial scrutiny. This development reflects an important shift from unquestioning reliance on expert opinion towards greater protection of patient rights while continuing to respect professional autonomy.¹⁵

The experience of the **United States** illustrates a substantially different approach. American medical malpractice law is characterised by extensive civil litigation and comparatively high compensation awards. This system has undoubtedly strengthened accountability among healthcare providers and improved patient awareness regarding legal rights. However, it has also contributed to increasing healthcare costs, expensive professional indemnity insurance, and the widespread practice of defensive medicine, where doctors sometimes order unnecessary investigations or avoid high-risk procedures primarily to minimise legal exposure. The American experience demonstrates that while strong legal remedies are necessary, excessive dependence upon litigation may produce unintended consequences that ultimately affect the accessibility and affordability of healthcare.

Several **Commonwealth jurisdictions**, including Australia and Canada, have increasingly focused on preventing medical errors rather than merely compensating patients after harm has occurred. These jurisdictions emphasise clinical governance, mandatory reporting of adverse medical events, professional education, institutional risk management, and alternative dispute resolution. Such preventive strategies recognise that improving healthcare quality requires systematic reforms rather than reliance upon litigation alone. For India, where healthcare institutions often face infrastructural and administrative challenges, this preventive approach offers particularly valuable lessons.

Technological innovation has introduced an entirely new dimension to medical negligence law. The growing use of **artificial intelligence (AI)** in diagnosis, treatment planning, predictive healthcare, and robotic surgery has improved medical efficiency but has also complicated traditional concepts of legal responsibility. When a clinical decision is influenced by an AI-based system, determining liability becomes significantly more difficult. Responsibility may potentially extend to the treating physician, hospital administration, software developer, technology manufacturer, or even multiple stakeholders simultaneously. Existing legal principles were developed on the assumption that medical decisions are taken exclusively by human professionals. Consequently, current legal doctrines require substantial adaptation to address technology-assisted healthcare.

The expansion of **telemedicine** has similarly transformed healthcare delivery, particularly in rural and geographically remote areas where specialist medical services are often unavailable. Remote consultations have improved accessibility and reduced healthcare disparities, but they also generate complex legal questions relating to patient identification, informed consent, maintenance of electronic medical records, confidentiality, cybersecurity, and jurisdiction. While the Telemedicine Practice Guidelines introduced in India provide an important regulatory foundation,

¹⁵ *Bolam v. Friern Hospital Management Committee*, [1957] 1 WLR 582; *Bolitho v. City and Hackney Health Authority*, [1998] AC 232 (HL).



continued legal development will be essential as virtual healthcare becomes increasingly integrated into routine medical practice.¹⁶

Another contemporary challenge arises from the increasing **commercialisation of healthcare**. The rapid growth of corporate hospitals and private healthcare institutions has altered the traditional doctor-patient relationship. Patients today increasingly perceive healthcare as a professional service for which transparency, accountability, and quality assurance are expected. Simultaneously, healthcare providers operate within financially competitive environments that may sometimes influence clinical decision-making. The legal framework must therefore ensure that commercial considerations never compromise professional ethics or patient welfare.

In my view, the future of medical negligence law should move beyond the traditional question of whether an individual doctor was negligent. Greater emphasis must be placed upon institutional governance, technological accountability, patient safety systems, and ethical healthcare administration. Comparative experience clearly demonstrates that effective healthcare regulation is achieved not simply through increased litigation but through a balanced combination of professional accountability, preventive regulation, continuous education, and institutional transparency.

India has already developed a strong judicial foundation for regulating medical negligence. The next stage of legal development should involve comprehensive legislative reforms capable of addressing emerging technological challenges while preserving the balanced principles established through judicial precedent. Such an approach would enable Indian medical negligence law to remain responsive to future healthcare developments without compromising either patient rights or professional independence.

CRITICAL ANALYSIS AND THE WAY FORWARD

The legal framework governing medical negligence in India has evolved considerably through judicial interpretation and statutory developments. Courts have succeeded in establishing a balanced approach that protects patients from negligent medical treatment while recognising the practical realities within which healthcare professionals perform their duties. This balance has prevented both excessive judicial interference in medical decision-making and unrestricted professional immunity. Nevertheless, the increasing complexity of healthcare delivery demonstrates that the existing legal framework is no longer sufficient to address all dimensions of contemporary medical practice.

One of the most significant shortcomings of the present legal system is the absence of a comprehensive legislation exclusively dealing with medical negligence. At present, legal principles are dispersed across constitutional law, consumer protection legislation, criminal law, professional regulations, and judicial precedents. While this multi-layered structure provides flexibility, it also creates uncertainty regarding applicable standards, procedural requirements, and appropriate forums for dispute resolution. A consolidated legislative framework would improve legal certainty while reducing procedural duplication and conflicting judicial interpretations.

Another concern relates to the growing tendency towards **defensive medicine**. The increasing possibility of litigation has undoubtedly encouraged greater professional accountability; however, it has also influenced clinical decision-making in certain situations. Doctors may prescribe unnecessary diagnostic tests, seek multiple specialist opinions, or avoid complex procedures

¹⁶ Board of Governors in supersession of the Medical Council of India, *Telemedicine Practice Guidelines* (2020).



primarily to minimise legal risk rather than because such measures are medically necessary. This practice increases healthcare costs without necessarily improving patient outcomes. Future legal reforms should therefore encourage responsible medical practice while avoiding unnecessary fear of litigation among healthcare professionals.

The present legal framework also places considerable emphasis upon determining individual liability after harm has occurred. Modern healthcare, however, is largely institutional in nature. Patient safety depends not only upon the competence of doctors but also upon hospital infrastructure, qualified nursing staff, laboratory services, communication systems, administrative efficiency, infection-control measures, and technological support. Consequently, legal reform should increasingly focus upon strengthening institutional accountability rather than limiting negligence exclusively to the conduct of individual practitioners.

Rapid technological advancement presents perhaps the greatest challenge for future medical negligence law. Artificial intelligence, robotic surgery, telemedicine, electronic health records, wearable medical devices, and predictive healthcare technologies are fundamentally transforming the delivery of medical services. These developments improve efficiency and accessibility but simultaneously create complex questions regarding professional responsibility, allocation of liability, cybersecurity, and protection of patient data. Existing legal principles, which were largely developed for conventional healthcare systems, cannot adequately resolve every issue arising from technology-assisted medical practice. Future legislation must therefore establish clear standards governing digital healthcare without discouraging innovation.

An equally important issue concerns **patient awareness and professional education**. Legal rights can be effectively enforced only when patients are aware of their entitlement to informed consent, confidentiality, access to medical records, and available legal remedies. Similarly, medical professionals require continuous medico-legal education to remain informed about evolving legal standards and ethical obligations. Integrating legal education within medical training and encouraging continuing professional development would reduce avoidable disputes while promoting ethical medical practice.

In my opinion, future reforms should also encourage **alternative dispute resolution (ADR)** mechanisms, particularly mediation, in appropriate medical negligence cases. A significant number of disputes arise from communication failures rather than deliberate negligence. Early mediation can provide quicker compensation, preserve professional relationships, reduce litigation costs, and decrease the burden upon courts without compromising patient rights. ADR should complement judicial remedies rather than replace them.

Another reform that deserves serious consideration is the establishment of specialised **Medical Negligence Tribunals** consisting of judicial members and independent medical experts. Such specialised forums would enable technically complex disputes to be decided more efficiently and consistently than ordinary civil litigation. Faster adjudication would benefit both patients seeking timely justice and healthcare professionals facing prolonged legal uncertainty.

In my considered view, the future of medical negligence law should extend beyond compensating victims after an adverse event. Greater emphasis should be placed upon preventing medical errors through improved hospital governance, mandatory clinical audits, patient-safety programmes, ethical compliance, transparent reporting systems, and effective regulatory supervision. A preventive legal framework is likely to strengthen public confidence in healthcare more effectively than a system that focuses primarily upon post-incident litigation.



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Ultimately, the success of medical negligence law should be measured not merely by the number of compensation awards granted by courts but by its ability to improve the quality of healthcare itself. A legal framework that encourages accountability, transparency, ethical conduct, technological responsibility, and institutional excellence will better protect patients while allowing medical professionals to perform their duties with confidence and integrity.¹⁷

CONCLUSION

Medical negligence has emerged as one of the most dynamic areas of contemporary healthcare law because it directly concerns the protection of human life, patient dignity, and professional accountability. The increasing complexity of medical practice, rapid technological advancement, and growing awareness of patient rights have transformed the legal understanding of negligence from a narrow question of professional fault into a broader issue of healthcare governance. Consequently, the law today must perform a dual function: it must protect patients against negligent treatment while preserving the professional independence that is essential for responsible medical practice.

This study has demonstrated that India possesses a well-developed body of judicial principles governing medical negligence. Through a series of landmark decisions, the Supreme Court has clarified the standard of professional care, strengthened the doctrine of informed consent, recognised patient rights under consumer protection law, and established a clear distinction between civil and criminal liability. These judicial developments have significantly contributed to balancing the interests of patients and healthcare professionals while promoting greater accountability within the medical profession.¹⁸

Despite this progress, important challenges continue to exist. The absence of a comprehensive legislation specifically governing medical negligence has resulted in a fragmented legal framework operating through constitutional principles, consumer protection law, criminal law, professional regulations, and judicial precedents. While this framework has evolved effectively through judicial interpretation, future healthcare challenges—including artificial intelligence, telemedicine, digital health records, and institutional liability—require greater legislative clarity and regulatory coordination.

The article further demonstrates that the future of medical negligence law should not be confined to awarding compensation after injury has occurred. A more effective legal framework should prioritise prevention through stronger institutional governance, ethical medical practice, continuous professional education, patient-safety programmes, transparent hospital administration, and technology-responsive regulation. Such an approach would reduce avoidable medical errors while simultaneously improving public confidence in the healthcare system.

Another important conclusion emerging from this study is that patient rights and professional autonomy should not be viewed as competing interests. An efficient healthcare system requires both. Excessive legal intervention may encourage defensive medicine, whereas inadequate accountability may weaken public trust in healthcare institutions. Sustainable legal reform

¹⁷ World Health Organization, *Global Patient Safety Action Plan 2021–2030* (2021); National Medical Commission, **Registered Medical Practitioner (Professional Conduct) Regulations*, (2023).

¹⁸ *Jacob Mathew v. State of Punjab*, (2005) 6 SCC 1; *Indian Medical Association v. V.P. Shantha*, (1995) 6 SCC 651; *Samira Kohli v. Dr. Prabha Manchanda*, (2008) 2 SCC 1.

therefore requires a balanced approach that protects patients without discouraging competent medical professionals from exercising independent clinical judgment.

In my considered opinion, India has now reached a stage where judicial development alone may no longer be sufficient. The time is appropriate for a comprehensive legislative framework consolidating the principles evolved through judicial decisions while addressing the legal implications of modern healthcare technologies. Such legislation should clearly define standards of professional care, strengthen institutional accountability, promote alternative dispute resolution, and establish effective mechanisms for resolving medical negligence disputes in a timely and transparent manner.

Ultimately, the objective of medical negligence law extends beyond determining liability in individual cases. Its broader purpose is to strengthen the quality, integrity, and credibility of the healthcare system itself. A legal framework founded upon accountability, fairness, ethical responsibility, and patient welfare will not only improve healthcare governance but also reinforce public confidence in the rule of law. As medical science continues to evolve, the law must evolve with equal commitment, ensuring that innovation always remains guided by the fundamental obligation to protect human life and dignity.

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