



2025

MEDICAL NEGLIGENCE D I G E S T

BY- AJMAL KHAN



PUBLISHED

HAMI LAW HOUSE

NEW DELHI-INDIA

TABLE OF CONTENTS

| | | |
|------|----------------------------------------|----|
| I | Introduction to Medical Negligence | 3 |
| II | Definition and Scope | 4 |
| III | Increasing Cases of Medical Negligence | 5 |
| IV | Classification of Medical Negligence | 6 |
| V | Proving Negligence | 10 |
| VI | Common Defenses | 11 |
| VII | Doctor-Patient Relationship | 12 |
| VIII | Investigator's Role | 15 |
| IX | Common Malpractices | 21 |
| X | END OF THE DIGEST | 22 |

MEDICAL NEGLIGENCE



INTRODUCTION TO MEDICAL NEGLIGENCE

MEDICAL NEGLIGENCE IS A CRITICAL ISSUE IN HEALTHCARE THAT AFFECTS BOTH PATIENTS AND MEDICAL PROFESSIONALS. THIS BOOK AIMS TO PROVIDE A COMPREHENSIVE UNDERSTANDING OF MEDICAL NEGLIGENCE, ITS CLASSIFICATION, LEGAL IMPLICATIONS, AND THE ROLE OF INVESTIGATORS IN SUCH CASES.

DEFINITION AND SCOPE



MEDICAL NEGLIGENCE REFERS TO ACTIONS OR OMISSIONS BY A DOCTOR THAT RESULT IN HARM TO THE PATIENT. THIS INCLUDES PROFESSIONAL NEGLIGENCE, MALPRACTICES, LACK OF SKILL, WILFUL NEGLIGENCE, AND CARELESSNESS. MEDICAL NEGLIGENCE BECOMES LEGALLY ACTIONABLE WHEN THE PATIENT SUFFERS DAMAGE, WHETHER IMMEDIATE OR DELAYED, MENTAL OR PHYSICAL, FINANCIAL, OR AFFECTING THE QUALITY OF LIFE.

INCREASING CASES OF MEDICAL NEGLIGENCE



DEATHS AND DAMAGE DUE TO MEDICAL NEGLIGENCE ARE ON THE RISE. AGGRIEVED PERSONS ARE INCREASINGLY FILING SUITS AGAINST DOCTORS FOR NEGLIGENCE, LEADING TO A GROWING NUMBER OF SUCH CASES. THE REASONS FOR THIS INCREASE CAN BE ATTRIBUTED TO SEVERAL FACTORS, INCLUDING THE GROWING AWARENESS AMONG PATIENTS ABOUT THEIR RIGHTS, THE COMPLEXITY OF MEDICAL PROCEDURES, AND THE PRESSURE ON HEALTHCARE PROFESSIONALS TO PERFORM UNDER STRESSFUL CONDITIONS.

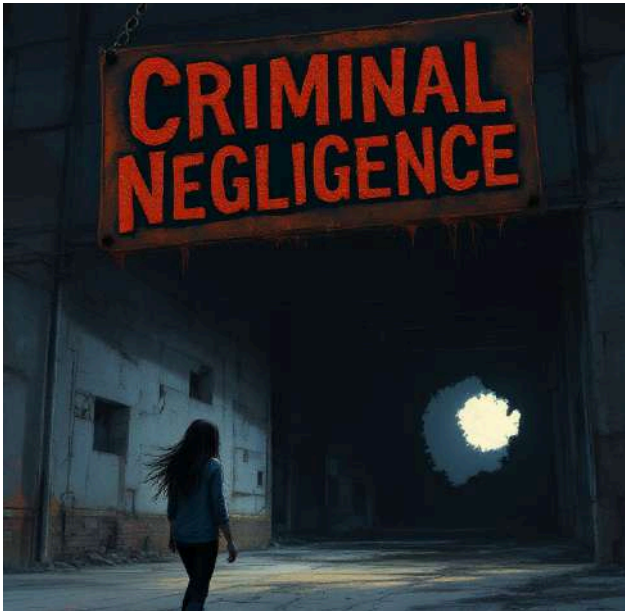
CLASSIFICATION OF MEDICAL NEGLIGENCE



CRIMINAL NEGLIGENCE AND CIVIL NEGLIGENCE.

MEDICAL NEGLIGENCE IS CLASSIFIED INTO TWO CATEGORIES: CRIMINAL NEGLIGENCE AND CIVIL NEGLIGENCE. UNDERSTANDING THESE CLASSIFICATIONS IS CRUCIAL FOR LEGAL PROCEEDINGS AND INVESTIGATIONS.

CRIMINAL NEGLIGENCE



CRIMINAL NEGLIGENCE INVOLVES GROSS HARMFUL ACTS THAT USUALLY RESULT IN THE DEATH OR IMPAIRMENT OF THE PATIENT. SUCH CASES ARE INVESTIGATED UNDER SECTION 304A OF THE INDIAN PENAL CODE. EXAMPLES INCLUDE THE ILLEGAL REMOVAL OF BODY ORGANS FOR SALE. CRIMINAL NEGLIGENCE IS A SERIOUS OFFENSE THAT CAN LEAD TO SEVERE LEGAL CONSEQUENCES FOR THE DOCTOR INVOLVED.

CASE STUDY ORGAN THEFT IN AMRITSAR AND FIROZPUR



IN A RECENT CASE, A GANG IN AMRITSAR AND FIROZPUR WAS INVOLVED IN THE ILLEGAL REMOVAL OF KIDNEYS FROM UNSUSPECTING VICTIMS. THE GANG MEMBERS WOULD EITHER INTIMIDATE OR PROMISE COMPENSATION TO THE VICTIMS, PERFORM THE SURGERY, AND THEN OFTEN LEAVE THE VICTIMS WITHOUT PROPER POST-OPERATIVE CARE, LEADING TO THEIR DEATHS. THIS CASE HIGHLIGHTS THE EXTREME FORMS OF MEDICAL NEGLIGENCE AND THE CRIMINAL ACTIVITIES ASSOCIATED WITH IT.

CIVIL NEGLIGENCE



IN CIVIL NEGLIGENCE, THE POLICE ARE NOT INVOLVED.
THE AFFECTED PARTY SUES THE DOCTOR FOR DAMAGES.
TO PROVE NEGLIGENCE, THE FOLLOWING MUST BE
ESTABLISHED:

- THE DOCTOR WAS NEGLIGENT, AND THE DAMAGE OCCURRED DUE TO THIS NEGLIGENCE.
- THE DOCTOR DID NOT PERFORM HIS DUTY WELL.
- THE DAMAGE TO THE PATIENT WAS DUE TO THE DOCTOR'S FAILURE.
- THE PATIENT DID NOT CONTRIBUTE TO THE DAMAGE.
- THE DOCTOR WAS INCOMPETENT.
- THE DOCTOR INDULGED IN MALPRACTICES.
- THE DOCTOR HAD NO REGARD FOR HUMAN LIFE.
- THE DOCTOR SHOWED PROFESSIONAL MISCONDUCT.

PROVING NEGLIGENCE



TO ESTABLISH MEDICAL NEGLIGENCE, THE FOLLOWING ELEMENTS MUST BE PROVEN:

1. **DUTY OF CARE:** THE DOCTOR HAD A DUTY TO CARE FOR THE PATIENT.
2. **BREACH OF DUTY:** THE DOCTOR BREACHED THIS DUTY THROUGH NEGLIGENCE.
3. **CAUSATION:** THE BREACH OF DUTY DIRECTLY CAUSED HARM TO THE PATIENT.
4. **DAMAGES:** THE PATIENT SUFFERED DAMAGES AS A RESULT OF THE BREACH. PROVING NEGLIGENCE REQUIRES A THOROUGH INVESTIGATION AND PRESENTATION OF EVIDENCE.

COMMON DEFENSES



DOCTORS OFTEN DEFEND THEMSELVES BY CLAIMING THAT THE PATIENT OR THEIR ATTENDANTS FAILED TO COOPERATE, DID NOT TAKE THE SUGGESTED TREATMENT, OR DID NOT FOLLOW THE DOCTOR'S ADVICE. THESE DEFENSES ARE COMMONLY USED IN CIVIL CASES TO SHIFT THE BLAME AWAY FROM THE DOCTOR.

DOCTOR-PATIENT RELATIONSHIP



THE RELATIONSHIP BETWEEN A DOCTOR AND A PATIENT IS ONE OF IMPLIED CONTRACT. ONCE THE DOCTOR TAKES UP THE CASE, HE IS EXPECTED TO:

- USE NECESSARY CARE, ATTENTION, JUDGMENT, AND SKILL.
- USE CLEAN AND PROPER APPLIANCES.
- ADMINISTER PROPER MEDICINE.
- GIVE DIRECT, INTELLIGIBLE INSTRUCTIONS IN SIMPLE LANGUAGE.
- CONTINUE THE CASE UNTIL THE PATIENT IS CURED.
- REFER THE CASE TO SPECIALISTS IF THE DISEASE IS BEYOND HIS SKILL.
- NOT TREAT PATIENTS WHILE UNDER THE INFLUENCE OF LIQUOR OR DRUGS.

IMPLIED CONTRACT



THE DOCTOR-PATIENT RELATIONSHIP IS BASED ON AN IMPLIED CONTRACT, WHICH MEANS THE DOCTOR IS OBLIGATED TO PROVIDE COMPETENT MEDICAL CARE ONCE THEY ACCEPT A PATIENT. THIS CONTRACT IMPLIES A DUTY OF CARE AND A RESPONSIBILITY TO ACT IN THE BEST INTEREST OF THE PATIENT.

DUTIES OF A DOCTOR



A DOCTOR IS EXPECTED TO:

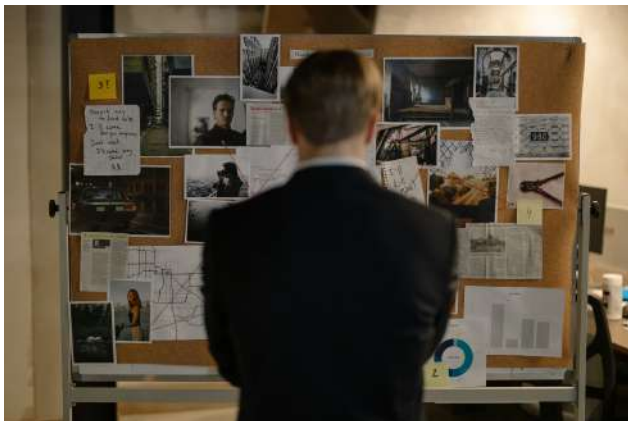
- USE NECESSARY CARE, ATTENTION, JUDGMENT, AND SKILL.
- USE CLEAN AND PROPER APPLIANCES.
- ADMINISTER PROPER MEDICINE.
- GIVE DIRECT, INTELLIGIBLE INSTRUCTIONS IN SIMPLE LANGUAGE.
- CONTINUE THE CASE UNTIL THE PATIENT IS CURED.
- REFER THE CASE TO SPECIALISTS IF THE DISEASE IS BEYOND HIS SKILL.
- NOT TREAT PATIENTS WHILE UNDER THE INFLUENCE OF LIQUOR OR DRUGS.

INVESTIGATOR'S ROLE



THE INVESTIGATOR'S ROLE IS CRUCIAL AND OFTEN INVOLVES TECHNICAL EVIDENCE. THE INVESTIGATOR SHOULD PROCEED SYSTEMATICALLY, GATHERING INFORMATION FROM THE DOCTOR'S RELATIVES, FRIENDS, ASSOCIATES, SUBORDINATES, SUPERIORS, AND OTHER CURRENT OR PREVIOUS PATIENTS. THE INVESTIGATOR MUST BE THOROUGH AND METICULOUS IN THEIR APPROACH.

SYSTEMATIC APPROACH



THE INVESTIGATOR SHOULD PROCEED SYSTEMATICALLY, GATHERING INFORMATION FROM VARIOUS SOURCES AND UNDERSTANDING THE TECHNICAL ASPECTS OF THE CASE. THIS INCLUDES REVIEWING MEDICAL RECORDS, INTERVIEWING WITNESSES, AND CONSULTING WITH MEDICAL EXPERTS.

CHECK POINTS FOR DIFFERENT SCENARIOS



1. DEATH IN OPERATION

- PROPER RECORD OF CONSENT AND CONSULTATIONS.
- PROPER DIAGNOSTIC INVESTIGATIONS.
- WRONG PATIENT, BODY PART, MEDICINE, OR CONTAMINATED DRIP.
- GROSS NEGLIGENCE SUCH AS INSTRUMENTS OR SPONGES LEFT INSIDE.
- CAUSE OF DEATH, SUCH AS OPERATIONAL SHOCK OR VAGAL INHIBITION.
- CRIMINAL WOUNDING FOR ORGAN THEFT.

2. POST-OPERATIONAL CARE

- ADEQUATE ATTENDANCE.
- PROPER MEDICATION/INJECTION AT THE PROPER TIME.
- APPROPRIATE TIGHTNESS OF PLASTER.

3. ANAESTHETIC DEATHS

- PATIENT UNFIT FOR ANAESTHESIA.
- IMPROPER DOSE.
- BASAL OR WRONG GAS/ETHER ANAESTHESIA.
- PROLONGED ANAESTHESIA.
- FAULTY RELAXANTS.

DEATH IN OPERATION



IN CASES OF DEATH DURING OPERATION, THE INVESTIGATOR SHOULD CHECK FOR PROPER RECORDS, DIAGNOSTIC INVESTIGATIONS, AND ANY SIGNS OF GROSS NEGLIGENCE. THIS INCLUDES ENSURING THAT THE CORRECT PATIENT AND BODY PART WERE OPERATED ON, AND THAT ALL INSTRUMENTS AND MATERIALS WERE PROPERLY ACCOUNTED FOR.

POST-OPERATIONAL CARE



POST-OPERATIONAL CARE IS CRUCIAL FOR THE RECOVERY OF THE PATIENT. THE INVESTIGATOR SHOULD CHECK FOR ADEQUATE ATTENDANCE AND PROPER MEDICATION. THIS INCLUDES ENSURING THAT THE PATIENT RECEIVES THE CORRECT DOSAGE OF MEDICATION AT THE APPROPRIATE TIMES AND THAT ANY DRESSINGS OR CASTS ARE PROPERLY APPLIED.

ANAESTHETIC DEATHS



ANAESTHETIC DEATHS OCCUR DUE TO NEGLIGENCE, IGNORANCE, OR LACK OF PROPER HANDLING. THE INVESTIGATOR SHOULD CHECK FOR THE PATIENT'S FITNESS FOR ANAESTHESIA, PROPER DOSAGE, AND ANY FAULTY RELAXANTS. THIS INCLUDES ENSURING THAT THE PATIENT IS NOT UNDER THE INFLUENCE OF DRUGS OR HAS ANY MEDICAL CONDITIONS THAT COULD COMPLICATE THE ANAESTHESIA.

COMMON MALPRACTICES



COMMON MALPRACTICES INCLUDE:

- THEFT OF BODY ORGANS.
- UNAUTHORIZED TERMINATION OF PREGNANCY.
- EXPERIMENTAL TRANSPLANTATION OR USE OF NEW DRUGS AND MEDICINES.



MEDICAL NEGLIGENCE IS A COMPLEX AND SERIOUS ISSUE THAT AFFECTS BOTH DOCTORS AND PATIENTS. UNDERSTANDING THE DIFFERENT TYPES OF NEGLIGENCE, THE ELEMENTS REQUIRED TO PROVE IT, AND THE INVESTIGATOR'S ROLE IS CRUCIAL FOR ADDRESSING AND PREVENTING SUCH CASES. THIS E-BOOK PROVIDES A COMPREHENSIVE GUIDE TO MEDICAL NEGLIGENCE, ITS LEGAL IMPLICATIONS, AND THE STEPS INVOLVED IN INVESTIGATING AND PROVING NEGLIGENCE.

END

COMING SOON

OUR NEW GUIDE ON MEDICAL NEGLIGENCE

MESSAGE



AJMAL KHAN

To students, the complexities of law and medicine come together in medical negligence, demanding both intellectual curiosity and practical awareness. It is essential to develop an understanding of the ethical responsibilities of medical professionals as well as the legal recourse available to victims of malpractice. Let this work be a stepping stone to greater knowledge, and may it inspire you to make meaningful contributions to the world of health law and ethics.

To advocates, your role in ensuring justice for victims of medical negligence cannot be overstated. Each case you represent is an opportunity to hold healthcare professionals to the highest standards, and your diligence can make a significant difference in someone's life. I encourage you to use the information within this book to strengthen your arguments and advocate for better patient protection.

To researchers, this topic offers vast potential for deeper exploration. The intersections of law, medicine, and ethics are complex, and your efforts in exploring medical negligence can lead to ground breaking work. May this book ignite further inquiry and serve as a foundation for your studies in medical law, ethics, or forensic science.

Together, through education, legal action, and research, we can continue to raise awareness of the critical issue of medical negligence. Let us work to create a more just healthcare system where patients' rights are respected, and negligence is minimized.

Best regards,

Ajmal Khan

FOUNDER HAMI LAW HOUSE