

Contents

<i>Foreword by Dr Bakul Jayant Parekh</i>	<i>vii</i>
<i>Foreword by Dr Girish Mathur</i>	<i>ix</i>
<i>Foreword by Dr Ashok Sharda</i>	<i>xi</i>
<i>Preface to the Second Edition</i>	<i>xiii</i>
<i>Preface to the First Edition</i>	<i>xv</i>

VOLUME 1

Section I: Issues Related to Ethics, Doctor—Patient Relationship and Communications 1–70

1. Introduction to Medicolegal Issues	3
Medical Ethics	3
Ethical Oaths	3
Uncertainty of Patient's Life in Practice of Medicine	3
Doctor–patient Relationship (DPR)	4
Depersonalization and Hospital–Patient Relationship	4
Trust Your Patients	4
Rights and Duties of Patients and Doctors	4
Duties of the Patient/Attendant	4
Help of Communication Skills	4
Medical Documentation and Record Maintenance	4
Consent, Assent, Approval, Permission and Dissent	4
Proof of Negligence	4
“Sudden Unexpected Death” (SUD)	5
Ethical Code Under NMC 2019	5
Laws Available against Medical Negligence	5
Consumer Protection Act-2019 (CPA or COPRA)	5
The CPA 2019: What is New	6
How Should a Doctor Approach the Case of Litigation under CPA/COPRA?	7
Don'ts in CPA/COPRA	7
State of Healthcare in India	7
Doctors in Government and Charitable Hospitals	8
Doctors, Hospitals, Nursing Homes and Clinics	8
Comparisons of Government and Private Doctors	8
State Responsible for Healthcare but General Practice is being Replaced by Specialization	8
Fear of Litigation	9
What Doctors can do to Correct and Fix the Situation Prone to Litigations	10
2. Basic of Ethics, History and Ethical Principles of Importance	12
Medical Ethics	12
Law and Ethics	12
Basics of Ethics	12
Conflicts between Old Ethos and New Changing Values	13
History of Ethics	13
Western Medical Ethics	13
Ethics in India	13
Four Ethical Principles of Importance in Brief	13
Law and Medical Ethics	14
Difference between Ethics and Law	14
Ethical Issues in Clinical Practice	14
Future Challenges to Medical Professionals	17
3. Understanding National Medical Commission Act, 2019 and Professional Conduct, Etiquette and Ethics	18
Nature of the Medical Profession and Medical Practice	18
Ethics	18

Profession	18
National Medical Commission Act 2019	18
National Exit Test (NExT) under NMC	19
Summary of The Amendments done in NMC Act in March 2022	19
NMC to Improve Government Statistical Data without Spending much by Re-jigging	19
How NMC is Going to Change Statistical Data	20
How NMC is Going to Change Statistical Data in Critical Care by Deploying Paramedical Staff for Preventive and Primary Healthcare	20
Ethics and Medical Registration Board shall Regulate Ethics	21
Introduction to Ethics Code 2002	21
Who is a Medical Practitioner with Registration Number? Described in Chapters 1, 2 and 7 of Code	21
Who is a Patient?	22
Association with Unqualified Persons	24
Commission and Cut Practice	24
RMP and Pharma Co	24
Advertising and Soliciting Patients by RMP	24
Patent and Copyrights	24
Running an Open Shop (Dispensing of Drugs and Appliances by RMP's)	24
Secret Remedies	24
Medical Research	24
Evade Legal Restrictions	24
Duties of RMP to the Public	24
Duties of RMP to the Paramedical Profession	24
Human Rights	25
Euthanasia	25
Annexed Guidelines Appended to NMC Code of Conduct 2022	25
Procedure for Disciplinary Action and Punishment	25
Ethics Board of NMC and Profession Practice	25
Professional or Ethical Misconduct	25
Offences and Penalties	25
Doctors: Traders, Technicians or Professionals?	26
How to Apply Ethics to Present Day Practice is a Challenge or do We Need to Change?	26
4. Doctor–Patient Relationship	33
What is Doctor–Patient Relationship (DPR)?	33
Is there contractual Doctor–Patient Relationship?	33
Can Doctor–Patient Relationship be Inferred?	33
Traditional Concept of Doctor–Patient Relationship	33
Paternalism	34
Models of DPR	34
Respect for Patient Autonomy	34
Alternative Models of Doctor–Patient Relationships	34
Doctor and Patient Involvement in Stuart and Roter Model	34
What is the Domain of Doctor–Patient Relationship?	35
Who are Out of the Domain of Doctor–Patient Relationship?	35
Rights Emanating from Doctor–Patient Relationship	35
Duty of Particular Standard of Care Emanating from Doctor–Patient Relationship	35
What is that Conduct Doctor which Signals Doctor–Patient Relationship as Established and When it Gets Terminated?	35
Basic Principles of a Sound DPR	35
Difficulties in Doctor–Patient Relationship is Overpowered by Hospital–Patient Relationship	36
Factors Related to Deteriorating Doctor–Patient Relationship	36

The Doctor–Patient relationship	37	What is the Importance of Good Communication within the Healthcare Team?	62
When this Breach of Duty would Amount to Negligence?	38	How to Improve Communication with Staff?	62
Duty of Care which a Doctor Owes Towards his Patient	38	Communication with Terminally Ill Patient	62
Doctor–Patient Relationship is integral to the Formation of a Legal Relationship	38	Family Conference Process Steps	62
Shaky or Stable Future of DPR	39	Delivering Bad News	62
5. Hospital–Patient Relationship Emerging from Mediclaim Insurance TPA Managed Healthcare Through Corporate Hospitals	41	Information for Parents and Families about Ventilator Withdrawal	63
What is Mediclaim Insurance Policy?	42	9. Laws Applicable to Practicing Doctors, Clinics, Nursing Homes, Dispensaries, Consulting Rooms, Hospitals are Boon or Bane?	65
What are Third Party Administrators (TPA)?	42	Laws Governing the Commissioning of Nursing Home, Clinic, Day Care Centre or Hospital	65
Need for Third Party Administrators	42	Laws Governing to the Qualification/Practice and Conduct of Professionals	65
Revenue Model of Third Party Administrators	42	Laws Governing to Sale, Storage of Drugs and Safe Medication	65
Changes due to IRDA Infusing FDI in TPA	42	Laws Governing Management of Patients	66
Disadvantages of Cashless Facility	43	Laws Governing Environmental Safety	67
Reasons Insurance Premiums Going up	43	Laws Governing Employment and Management of Manpower	67
Problems Faced by Hospitals under TPA	43	Laws Governing to Medicolegal Aspects	67
What is Preferred Provider Network of TPA	43	Laws Governing Professional Training and Research related to Allopathic Doctors	67
Preserving Doctor–Patient Relationship	44	Laws Governing the Business Aspects	68
Evidence-based Medicine is Used to Minimize Healthcare Costs Selectively	44	Licences/Certifications Required for Hospitals	68
Hospitals Liability with Respect to Medical Negligence	45	Periodic Reports and Returns as Legal Commitment	68
6. Doctors Please Trust Your Patients	47	Section II: Issues Related to Documentations, Consents, Confidentiality and Standard of Care, Sudden Death, End-of-Life Decisions, and Violence against Doctors	71–350
Traditionally, Patients Trust Doctors	47	10. Medical Documentation and Record Maintenance, Preservation, Destruction Related Legal Issues	73
Trust is a Key to Relationship	47	Principles of Good Record Keeping	73
Patients are More Vulnerable	48	Standardized Medical Records	74
Trust in Patient by Doctors	48	Functions of Medical Records	74
Trust Patient is New Dimension in Professional Care by Doctor/Hospital	48	Sorry State of Record Keeping by Healthcare Giver in India	74
Uncover Patients' Actual Needs	48	Indian Legal System and Medical Records	74
Think Dialogue, not Monologue	49	Common Deficiencies in Record Keeping	74
Don't Force "the Close"	49	What is in a Medical Record?	75
How Trust can be Nurtured?	49	What is the Purpose of a Medical Record?	75
Happier, Healthier Patients	49	What is a Health Record?	75
7. Rights and Duties of Patients and Doctors	51	What is the Purpose of Documentation in a Patient's Medical Record?	75
Introduction to Medical Practice	51	Importance of Record Keeping	75
Duties and Obligations of a Doctor	51	Essentials Details of the Medical Record	75
Duties of the Patient/Attendant	53	What are the Criteria for an Ideal Medical Record?	75
Doctor–Patient Contract	53	What are the Types of Medical Record?	75
8. Help of Communication Skills in Preventive Medicolegal Problems in Medical Practice	56	Training of Doctors in Medical Record Keeping	76
Paternalistic Communication	56	Hospital Records	76
Communication and Diagnosis	56	Medical Records and Medical Record Department	77
Communication and Use of Technology	56	When Should the Doctor Start Medical Notes Writing?	77
Communication is Bilateral Interaction	56	Illegible Handwriting	77
Communication and Patient Illness	57	How to Record and Note Down Telephonic Consultations from Senior Doctors?	77
What are the Benefits of Good Communication Skills?	57	What are the Points to be Documented for Neonatal Resuscitation?	77
Importance of Communication Skills	57	What Does Medical Record Includes or What Types of Records to be Maintained?	78
What are the Ways we Communicate with the Patients?	58	Medical Records and RTI 2005	78
What is the Role of Communication in Doctor/Patient Relationship?	58	Record Keeping Explaining Surgical Complication	79
What are the Steps in a Medical Interview?	58	Undated Prescription	79
What are the Barriers to Effective Communication?	59	Common Problems of Record Retention: Should it be with Patient or with Doctor?	79
What is Blocking Behavior?	59	Altering Medical Record	80
What are the Reasons for Patients not Disclosing Problems?	59	Medical Certificates Also Form Part of Medical Records	80
What are Some Common Mistakes Made by Doctors?	60		
Barriers to Good Communication	60		
How can Doctors Improve their Communication Skills?	60		
Important Don'ts when Patients Show Anger	61		
The Art of Listening	61		
How can we Improve our Listening Skills?	61		
The Art of Questioning	61		
How to Break the Bad News to the Relatives?	62		

How Long to Maintain Records (Preservation of Document) 80	Perception of Indian Society about the Role of a Doctor's Authority in the Domain of Consent 115
For Children (Minors) and Mentally Retarded—No Limitation Applies Till Child Becomes Major 82	Reference to Statutory Law or the Written Law Regarding Patient's Consent for Practicing Doctors 116
Period of Medical Records Maintenance under Preconception Prenatal Diagnostic Test Act, 1994 (PNDT), MTP Act and Biomedical Waste Rules 82	Condition of Person Who Can Give Legal and Valid Consent 116
How to Destroy Records 82	Invalid Consent 116
Medical Records in the Information Age 83	Validity of the Consent 117
The Future of Health Record Management 83	Consent of Adolescent Usually Arrogates with Confidentiality 117
24 × 7 CCTV Audio-Video Recording as Records 84	Types of Consent 117
Indian Scenario Recording Doctors Consultation Talk 84	What is Blanket Consent? 118
General Negative Effects of Encouraging Patients to Record Consultations 84	Real Consent which is Procedure and Complications Specific 118
Misuse of Recording 84	Problem of Real Consent in India 118
Records of Registration, Approvals, Licences, Nursing Home/Shop Establishment 85	Consent for Complications 118
The Right to Retain Medical Documents 86	Situations Requiring Extra Caution 119
What Care is to be Taken by the Treating Doctor as far as the Case Paper File of Patient is Concerned to Maintain Confidentiality? 86	Consent with Disclaimers 119
Medical Records and Confidentiality 86	Ideal Components of Valid Consent 119
Medical Records—Personal or Impersonal 87	Refusal of Treatment, Dissent, Negative Consent 119
What Care is to be Taken by the Treating Doctor when Records are Released to Third Party Insurance (TPA) or Mediciam Insurance Company? 87	Patient Refusal or Negative Consent, Dissent or Part Refusal or Best Option Refusal 119
Records and Insurance 87	Situations Where Consent may not be Obtained 120
Medical Records and Indian Evidence Act 87	What is Evolving Mature–Minor Concept 121
What are the Types of Summons Issued by the Court to Procure Medical Records? 88	
Court Orders Bring Records by Issuing Subpoena 88	13. Forewarning and Counseling for Disclosure of Risks Prior to Informed Consent 125
Protection of Records 88	Subject Matter of Disclosure before Obtaining Consent is Statement of Risks 125
Can Police Ask for Records 88	Medical Informed Consent Law 125
Benefits to Individual Patient and Doctors of Record Keeping 88	Proof for Non-disclosure 125
Cases Regarding Record Keeping/Maintenance 88	Standard of Disclosure 125
Non-supply of Medical Records is against Fundamental Right of Quality and Dignity of Life 92	Non-disclosure Excused 126
Records Showed that Opinions May Vary 92	Materiality of Risk Undertaken 126
Doctors Should Use Good Or Capital Handwriting and Avoid Illegible Scrawls 92	Consent, Risk, Reasonable, Information, Disclosure 126
No Records Shown to Court 92	Medical Informed Consent 126
Record Keeping Paradox 93	Onus of Proof 127
Admissibility of Hospital Records in Court of Law 93	How to Describe Risk or State to Patient? 127
Content of Medical Records 93	Unforeseen Adhesions of Organs 128
Exceptions to Rule of Hearsay Related to Hospital Records 94	Nature of Visibility during Surgery, Operation, Procedure 128
What Doctors Need to Prove for Getting Medical Records Admitted as Evidence? 94	Concept of Materiality of Risk and Consent 128
Orders to Nurses and Attendants and Hospital Records 95	Disclosure Related to Research and Financial Interests: Prudent 132
Double Hearsay Problem is Excluded for Hospital Records 95	
11. Medicolegal Issues Related to Audio Taping, Video Recording and Photography on Pen Camera, Smart Phones and Personal Camera 104	14. Case Laws on Consent, Informed Consent, Dissent 134
FAQ Related to Telemedicine 104	Position under Indian Constitution 134
Recording by Patient 106	General Principles of Precedents 134
IPD Visual and Audio Recordings of Patients on Personal Smart Phones and Cameras 107	Elaboration is not only about Disclosure of Risks but to Various other Aspects of Consent 135
Telephone and Other Audio Recordings 108	Why Consent is a Major Source of Dispute between Doctors and Patient Party? 135
IPD—Storing and Disposing of Recordings 109	Schools of Thought in Judicial Thinking about Consent Law 135
Misuse of Recording 109	Indian Judgments before 2008 Samira Kohli Judgment 136
12. Consent, Assent, Approval, Permission and Dissent in Medical Practice 111	Medical History and Investigations of the Case 141
Consent, Assent, Approval, Permission 111	Alleged no Information given about Treatment before Consent 142
What are Statutory Consents? 112	Discussion on Consent 142
What is Statutory Confidentiality? 112	Unauthorized Procedure Allowed where it is Necessary to Save the Life or Preserve the Health 143
Specific Consents 112	Diagnostic Procedure Consent Cannot be Considered as Authorization to Perform Therapeutic Surgery 144
Legal Reason for Requirement of Consent for Medical or Surgical Invasive Treatment Procedures? 114	Nature of Information Required for Real Consent 144
Legal Reason for Requirement of Professional Secrecy, Privileged Communication, Patient Privacy and Confidentiality? 114	Canterbury Decision 144
Warning to Doctors for Overstepping Authority of Consent 115	Duty of Risk-Disclosure 144
	Bolam Test 145
	The 'Reasonable Person in the Patient's Position' 170
	Consent of Autonomy in Research is Based on Nuremberg Code of 1947 171
	Hooker Concept of Consent 172
	Pernick Concept of Consent 173

Cases of Battery and Assault Leading to Informed Consent	173	Medicine is Considered Traditionally a Noble Profession by Custom and Usage	247
The Right to Informed Consent Based on Battery	173	Why Doctors Take Risks?	247
Consent Protected against Battery under Tort	176	How Civil Medical Negligence is Different?	247
Consent, Battery, Assault or Contract	176	Is Negligence Offence?	248
Informed Consent and its Expanding Legal Vistas	176	Lay Concept of Medical Negligence	248
American Medical Association on Informed Consent	182	Who is Responsible for Failures to Cure? Is it Patient, Doctor or Disease or Treatment?	248
What Risks Must be Disclosed	184	Treatable and Preventable Diseases—Who is Negligent?	248
When Informed Consent is Not Required	184	Negligence Under Contract	249
What If the Doctor Performs a Different Procedure	185	Negligence as a Crime	249
15. Consent Forms, Counselling, Content, Model Forms of Different Types	197	Negligence under Consumer Protection Legislations	249
What are the Component Contents of Consent Forms	197	Deficiency in Services Amounting to Negligence in Consumer Protection Act	253
Blanket Consent Form	198	Components of Medical Negligence	254
Situations Requiring Extra Caution	200	Medical Negligence: A Specific Tort	255
High Risk Consent	200	When Law of Torts is used in India	255
Claims by Patient	200	Negligence of Omission and Commission Under Tort	256
Disclaimers by Doctors	200	Causation of Tort	256
Annexures to Content Forms	200	Novus Actus Interveniens (New Intervening Act)	257
Information for Medical Treatment	207	Novus Actus Interveniens—Act of Third Party	257
Guidelines for TL or Sterilization	208	Novus Actus interveniens—Act of the Patient Party	257
Cesarean Section Risks	211	Civil Law of Tort and Consumer Law Provides for Compensation for Damages	258
General Risks	211	Criminal Law Punishes for Damages by Imprisonment	258
Consent for Surgery	211	Defenses for the Accused Doctor and Hospital as Party	258
16. Doctor–Patient Confidentiality and its Disclosure	224	Consent Protects Doctors	258
Confidential Information Disclosure	224	Doctrine of Estoppel	258
Breach of Confidence is Tort	224	Does Failure of Newer Treatment Modalities Constitutes Negligence	258
Professional Secrecy	225	19. Consumer Protection Act and Doctors	261
Privileged Communication	225	Consumer Awareness	261
Privacy is a Basic Human Right	225	Consumer Redressal Agencies	261
Legal Reason for Requirement of Professional Secrecy, Privileged Communication, Patient Privacy and Confidentiality?	226	Consumer Commissions Proceedings	262
Exceptions to Privacy Rule	227	Consumer of Medical Services as under CPA, 2019	262
Breach of Confidence of Patients	228	How Doctors Came under the Consumer Protection Act	262
Doctor–Patient Confidentiality	229	Judicial Thinking Favours Right to Life	263
Compromising Confidentiality	229	What Doctors should Know about the Consumer Protection Act, 2019	263
Confidentiality and Maintenance of Medical Records	229	Appeals and Revisions in Consumer Matters and the Object of Expeditious Adjudication of the Consumer Disputes	271
Lose Ends with Respect to Confidentiality in Ethics	2002	What Constitutes Medical Negligence?	278
Adopted by National Medical Commission	229	Proof of Medical Negligence	278
Issues of Confidentiality in Adolescents	230	The Need for Expert Evidence in Medical Negligence Cases	279
Case Laws on Disclosure of Confidential Information	231	20. Errors in Medical Practice	284
17. Below Which Standard of Medical Care it will be Negligence in Medical Practice?	234	Iatrogenic Injuries Caused by Medical Errors	284
What is the Duty Owed by Doctor as per Supreme Court	234	Healthcare Professionals Lower Awareness of Medication Safety	284
What is the Standard of Care	234	Miscommunication or Lack of Communication, Cooperation and Collaboration	285
Reasonable or Standard of Degree of Care	235	ICU Space Specific Environmental Determinants	286
Locality or Geographic Practice	235	Classification of Medication Errors	289
The Degree of Care	235	Causes of Preventable Medical Errors	290
Level of knowledge that is Expected from a Doctor	235	Cost of Medical Errors	290
Post Bolam Standards: Sidaway	236	Disclosure of Medical Errors is New Territory	290
Standard of Care	238	Disclosure of Error is not Accepted Charitably	291
Tests Used In India	239	Approach to Disclosing Medical Errors in Practice	291
Legal Presumption for Special Professional Tasks	239	Most Errors can be Prevented	293
Comparison of Care Equivalent to Average Practitioner	239	Other Potential System Improvements	294
Conduct of Average Practitioner	241	Electronic Prescribing	294
Emergency Care Standards	241	21. Criminal Liability of Doctors	300
Standard of Care for Alternative Medicine	242	Criminal Negligence	300
Barnett Principle of Standard of Care	242	Caveat	300
Tests Used to Determine Negligence	243	The Four Ds of Medical Malpractice	301
Bolam Replaced Barnett Principle	243	What are the Four Types of Mens Rea?	301
18. Medical Negligence under Tort, Consumer Protection Act and Civil Liability	245		
History of Medical Negligence Cases	246		
Why do you Need Law?	246		

How is Mens Rea Proven? 301	Narcotic Drugs and Psychotropic Substances Act 333
What are the Seven Elements of a Crime? 301	Directives of the Indian Society of Critical Care Medicine 333
What are the Three Types of Intent? 301	Timely Palliative Care for EOL Disease 334
Criminal Liability 301	Research in EOL Disease 334
Mens Rea and Doctors 302	Prefer LAMA for Withdrawal of Life Support 334
Degree of Negligence 302	Guidelines for Limiting Life-support Interventions for EOL 336
When Doctor Should Inform Police 304	Withdrawal of Life Support is Legal Now if Patient Wished 336
Grievous Hurt and Criminal Negligence under Section 338	Do Not Intubate/Resuscitate (DNI/DNR), is Legal now if
Indian Penal Code (IPC) 305	Patient Wished 336
Defenses Available for Accused Doctors Charged of Criminal	Physician-assisted Suicide (PAS) 336
Liability 305	Medical Futility and Unilateral Decisions by Physicians 340
Consent in Criminal Law—Section 90 Indian Penal Code	What Constitutes Medical Futility? 340
(IPC) 305	Palliative Care in Teaching 340
Medical Expert's Opinion 305	
What Does the Law Say about Criminal Negligence? 306	24. Violence against Doctors: A Frightening New
Indian Penal Code, 1860 and Medical Negligence 306	Epidemic and Law Related to Prevention of
Can a Doctor be Arrested 307	Violence 343
Legal Rights of Arrested Person 308	Why Violence against Doctors? 343
What Criminal Negligence Means for a Doctor? 310	The Medical Community's Reaction 343
No Criminal Prosecution without Medical Board Opinion 311	Non-reporting of Violence 343
22. Medicolegal Aspects of Sudden Unexpected Death,	Violence against Doctors is a Global Phenomenon 343
Difficult Situations in Medical Practice, Brought	Factors Causing Violence 344
Dead, Postmortem 317	Indian Health Care Policy Factors 344
What is the Definition of MN in SUD 317	Critical Care Professional Factors 345
Sudden Death in Small Nursing Homes 317	Immediate Provocation Causes of Violence in Critical Care Unit
Preventive Steps for Emergency of Sudden Death 318	of Hospital 345
Can we Prevent Allegations of Medical Negligence? 318	Main Reason is Non-administration of Oxygen at the Moment of
Why ML Problems are on Rise in the Event of SUD 318	Death in ICU 346
How to Tackle Situation of SUD when it Occurs in Presence of Lot	Should You Inform Police when Violence Occurs or you Anti-
Many Relatives 319	cipate Violence 346
Unacceptable and Ugly Behavior of Patient Party in Small	How to Avoid Violence 346
Nursing Homes 321	How to Declare Sudden Death to Relatives 346
Critical Care Unit or Intraoperative Death in OT or Immediate	Politicians and Violence 346
Postoperative Death in Recovery Room and Mob Violence 321	Long Term Impact of Violence on Health Professionals 346
Legal Proof of Documenting Continuous Monitoring 322	Violence against Doctor—Protective State Legislations further
Document Clinical Findings and Obtain Written Consents and	Augmented by Kerala in May 2023 347
Dissents 322	Responsibility of Electronic, Social and Print Media 347
Legal View Regarding Diagnosis 322	Post-violence Media Trial 347
How to Transport Sick and Serious Dying Patient 323	Responsibility of the Doctors 347
Legal Standards of Reasonable Medical Care in Emergency	Responsibility of Critical Care Institutions 348
Rooms in Case of SUD 323	
Legal Standards of Reasonable Medical Care in Emergency	Section III: Medical Negligence, Vicarious
Rooms in Case of Difficult Situation of Unexpected Death 324	Liability, Compensation Calculation,
About Consent, Dissent, Assent, Counseling, Forewarning in	Contributory Negligence and Legal Maxima 351–524
Difficult Situation of Unexpected Death 324	
About Monitoring and Record Keeping Prior to Difficult	25. How to Defend Medical Negligence Case? 353
Situation of Unexpected Death Occurrence 325	Are Consumer Cases Decreasing Recently in India? 353
About Critically Ill Patients where "Known Complication"	Types of Medical Negligence 353
Which cannot be Prevented Prior to Difficult Situation of	Potential Litigant 354
Unexpected Death Occurrence 325	Locus Standi of Person Filing Case 354
About Cases Related to Anaphylaxis Causing Difficult Situation	Non Maintainable Complaint 354
of Unexpected Death 325	Complainant not Maintainable without Sanction of Government
Emergency Blood Transfusion Prior to Difficult Situation of	as per Criminal Procedure Code, 1973 Section 197—Prosecution
Unexpected Death Occurrence 325	of Public Servant 355
Medicolegal Aspects of Euthanasia, DNR, Vegetative Life and	Defending Criminal Court Case 356
Active and Passive Withdrawal of Life Support Systems 325	Dictum in Criminal Cases 356
Sudden Unexpected Deaths Requiring Extra Caution 327	Warrant Cases where Allegation is Murdering a Patient—Very
23. How to Proceed Medicolegally in a Scenario of	Unusual for Doctor to get such kind of Criminal Case 356
Suspected Last Stage Disease Like End-of-life-care	Important Features of a Warrant Case 356
(EOL) and not to Confuse with Active Euthanasia 329	Examination of Complainant and its Witnesses 357
Unclear Legal Stumbling Blocks Equating EOL Situations with	Magistrate may Order an Inquiry 357
Euthanasia 329	Summon Cases 357
Incidence and Prevalence 330	Summary Trial 358
Why Palliative Care 331	Out of Court Settlement for Criminal Cases is Known as
History of Palliative Care 331	Compounding 358
Facilities of Palliative Care to Cancer Patients in India 331	Abatement of Proceedings on the Death of the Accused 358
International Palliative Care 331	Death of the Accused in Criminal Case 358
General Ethical Issues 332	Types of Alternate Dispute Resolution 359
	Case Law on FIR 359

Mediation under CPA 2019	359
Coordinate with the National Legal Services Authority and the State Legal Services Authorities	360
Outside Court Settlement Prior to Receiving Notice	360
Receiving Legal Notice and Replying it	361
When Experience is Considered Skill	362
Receive or Refuse Notice	363
Time Given for Filing Written Statement	363
Summary and Classification of Allegations	363
Written Statement (WS) under New Consumer Protection Act 2019 or any other Court	364
Case Laws on Inflated Claims	365
Legal Technical Defenses	365
Factual Defence	366
Affidavits of Expert Doctors and Scientific Literature	367
Other Residual Defences	367
Contributory Negligence of not Following up	367
Basics of Rules of Drafting of Reply	367
Dealing with an Allegation against the Doctor/Hospital	368
Pleading Additional Facts by Doctor/Hospital	368
Procedural Defences/ Action Taken by Doctor/Hospital	368
Sworn Verifications Required for	368
File Objection for the Complaint without Affidavit	369
Application for Cross-examination of the Witnesses	369
Affidavit of Evidence	369
Appeal as Barred by Limitation	370
Cross Appeal	370
Review/Revision Petition	370
Execution Petition	370
Duration of Proceedings	370
Frivolous Litigations	371
How to Avoid Litigation	371
Factual Defenses	371
Technical Defenses	372
Prevention by Professional Indemnity and Error Omission Policy	372
What can be the Role of Professional Association like IMA	372
Avoid Medical Malpractice Stress Syndrome (MMSS)	373
26. Medicolegal Issues Related to Vicarious Liability, Master Servant Relationship, Respondent Superior	375
What is Vicarious Liability?	375
Doctrine of Respondent Superior	375
Agency (Employer–Employee) Relationship Malpractice	375
Employer–Employee Relationship	376
Test for Vicarious Liability	376
Principle of Captain of Ship	376
Vicarious Liability of Hospitals	377
Vicarious Liability Under Criminal Law	377
Vicarious Liability of Hospital of Employing Unqualified Nurse	378
Vicarious Liability of Hospital of Employing Scrub Nurse who did Not Count Mops Properly, thus Mop was Left in Abdomen	378
State or Government Vicariously Liable	379
Hospital Vicariously Liable Foreign Body Mop Left during LSCS	379
Delegation of Duty but not Responsibility	379
Medical Professional Remains Responsible for Lack of Care in Delegated Work	379
In India the Government is a Necessary Party in a Suit Instituted against a Medical Professional Attached to the Government Hospital for Damages	380
The Hospital could not Escape its Liability for Negligence of Part Time Medical Man	380
Respondent Superior Responsible	380
Ostensible Agency	382
Borrowed Employee	383
Locum Tenens Physician	383
27. Medicolegal Issues Related to Contributory Negligence	385
History of Contributory Negligence	385
Exceptions to its Application of Contributory Negligence	385
What is Contributory Negligence?	385
Delegation of Duties to Patient or his Attendants	386
“Contributory Negligence” in Taking Treatment	390
28. Medicolegal Issues Related to Multiple Legal Remedies	392
Cause of Action	392
Cause of Action Under Constitution of India	392
Cause of Action Code of Civil Procedure	392
Doctrine of Forum Conveniens	393
Forum Non Conveniens (FNC)	393
Specific Causes of Action	393
Territorial, Subject matter, Pecuniary Jurisdiction of Courts in India	393
Territorial Jurisdiction of Indian Civil Courts	394
Subjudice Case—Plead before Court About other Cases based on same Cause of Action in other Courts as Bar to Continue	394
Double Jeopardy	394
Jurisdiction Hunting by Abuse of Process of Law	394
Abuse of Pecuniary Jurisdiction	394
Foreign Case on Multiple Remedies	395
29. Role of Expert Witness in Medical Negligence Cases	398
Medical Expert not Defined in India	398
Judicial Interpretation Paved Way for Interpreting Medical Expert under Section 45	398
Witness is Just an Informant of Facts	400
Testimony by Experts	400
Why Doctors are Afraid of Becoming Expert Witness Role	400
Procedure of Presentation of Evidence is Time Consuming and Laborious	401
Evidence is Presented in a Systematic Order	401
What is the Law Today Related to Expert Witness?	401
Prologue Related to Role of Expert Witness	401
Bolams Test	401
Bolitho Test	401
Montgomery Test	402
Role Expert Witness Explained	402
Why Expert Witness Role is Crucial	402
One Cannot Presume Negligence from Unexpected Results	402
Before Admitting Case in Court of Law or Pretrial Role of Expert Testimony	402
Duty of the Expert Witness	402
Value of Expert Opinion	402
Medical Expert Opinion	403
Case Law on Contradictory Medical Witness	403
Strength of Medical Evidence over Other Witness	403
Evidentiary Value of Expert Witness	404
Expert Witness in Medicine is Demonstrative Evidence	405
Why Take Expert Witness?	405
How Soon Do You Need a Medical Expert?	405
Evidentiary Value of Postmortem Report	406
Can an Expert suo moto Examine and Furnish his Opinion in Criminal Medical Negligence Case?	406
Investigating Police Officer to get Expert Opinion	406
Procedure of Forwarding Exhibits to Experts in Criminal Medical Negligence Cases	406
When is an Expert Witness not Necessary?	407
What are the Primary Elements that Constitute a Medical Expert’s Testimony?	407
Expert Witness Assist Lawyers and Judges	407
Who is Expert Witness or Who can be Called as an Expert	407
What is Required to be Medical Expert?	407
Deposition of Key Witness	408

Threshold for Admissibility of Expert Evidence 408	Media Trial of Subjudice Case 436
Subject Matters of Expert Evidence 408	Judicial Impropriety 437
Cross Examination of Medical Expert 409	Willful Judicial Impropriety 439
Inordinate Delays in Recording Expert Evidence 409	Judicial Hierarchy 440
Standard Violated Needs to Testified by Medical Expert 409	
Problem of Hired Expert Witness 410	32. Res Judicata and Estoppel, Sine Die, Law of Limitation and Latches 443
Bias of Hired Experts 410	Res Judicata 443
Absence of Evidence in Form of Expert Witness Leads to Application of <i>Res Ipsa Loquitur</i> 410	Res Judicata as Defined Under Code of Civil Procedure, 1908 443
Judicial Immunity of the Medical Expert Witness 410	Section 11 of CPC is Mandatory 444
The Erosion of Absolute Immunity to Medical Expert Witness 410	Res Judicata and Res Ipsa Loquitur 446
Medical Expert Testimony is Whether or not, it Constitutes Medical Practice? 411	Doctrine of Constructive Res Judicata 446
Omission of Defensive Practice 411	Res Judicata and Limitation not Applicable 447
Sworn Affidavit of Expert Witness 412	Res Judicata and Public Interest Litigation 447
Professional Guidelines for Medical Expert Witnesses 415	Law of Limitation or Laches 448
	The Limitation Act, 1963 448
30. Res Ipsa Loquitur 419	Limitation under Consumer Act 448
Legal Aspects of Doctrine 419	Law of Limitation 448
Section 106 of the Indian Evidence Act—1872 420	Limitation Extinguishes the Remedy—Not the Right 449
Res Ipsa Loquitur and Prima Facie: Is there any difference? 422	Plea of Limitation 449
Res Ipsa Loquitur 422	Law of Limitation is Rigid and Condonation of Delay 449
Res Ipsa Loquitur cannot be Applied for Cases of criminal case and where Special Damages are Asked for 423	Condonation of Delay for Minority/Insanity/Idiocy 449
Res Ipsa Loquitur not Applied to Criminal Cases 423	Continuous Cause of Action Condonation of Delay 449
The Concept of Res Ipsa Loquitur 423	Acquisition of Ownership by Possession 450
Defenses by Doctor 423	Miscellaneous Clauses of Limitation Act 450
Freedom from Contributory Negligence 424	Schedules under Limitation Act 450
Accessibility of Evidence 424	Violation of the Law for the Time Being in Force 450
The Effect of Res Ipsa loquitur 424	
Rebuttal 424	33. Supreme Court of India Judgments on Medicolegal Issues 452
What is the Nature of Onus, which Rests upon the Defendant in such Cases? 424	Dr Laxman Balkrishna Joshi vs Dr. Trimbak Bapu Godbole (SC) three judge bench, Civil Appeal No. 547 of 1965. D/d. 2.5.1968 452
Indian cases on res ipsa loquitur 425	A.S. Mittal vs State of UP, (SC) two judge bench, Writ Petition No. 1247 of 1986. D/d. 12.5.1989 453
Wrong Side or Wrong Patient 425	Achutrao Haribhau Khodwa vs State of Maharashtra, (SC) two judge bench, Civil Appeal No. 3318 of 1979. D/d. 20.2.1996 455
Retained Mops, Sponge 425	Spring Meadows Hospital and Another vs Harjot Ahluwalia (through K.S. Ahluwalia) and Another, 1998 (3) CPR I (SC): 1998 (1) CPJ I : JT 1998 (2) SC 620 455
Wrongly Given Injection 425	Charan Singh vs Healing Touch Hospital and others (2000) 7 SCC 668 456
Amputation of the Wrong Limb, Digit or Operation of Wrong Eye/Tooth 425	State of Haryana vs Smt. Santra, (2JJ, SC), Civil Appeal No. 2897 of 2000 (Arising out of S.L.P. (Civil) No. 18827 of 1999). D/d. 24.4.2000 456
Normal Delivery—Death of Mother—Res Ipsa Loquitur—Multiplier Formula Compensation Applied 425	Smt. Vinitha Ashok vs Lakshmi Hospital, (SC) two judges bench, Civil Appeal No. 2977 of 1992. D/d. 25.9.2001 462
Leaving Tip of Suction Cannula—Res Ipsa Loquitur 425	Dr. JJ Mechant vs Shrinath Chaturvedi AIR 2002 SC 29316 463
Failure to Take Care of Intravenous Lines (IV) 426	Suresh Gupta vs NCT of Delhi (2 JJ, SC) Crl. A. No. 178 of 2004. D/d. 4.08.2004 465
Mop Left in Abdomen 426	Smt. Savita Garg vs The Director, National Heart Institute, (2JJ,SC), Civil Appeal No. 4024 of 2003. D/d. 12.10.2004 465
Negligence with Res Ipsa Loquitur 426	Kishori Lal vs Chairman, Employees State Insurance Corporation, (3 JJ, SC) Civil Appeal No. 4965 of 2000. D/d. 8.5.2007 467
Vicarious Liability and Res Ipsa Loquitur 427	B. Jagdish vs State of AP (2 JJ, SC), Criminal Appeal No. 2049 of 2008 (Arising out of SLP (Crl.) No. 1688 of 2007). D/d. 16.12.2008 468
Operation Theater Occupied is not Res Ipsa Loquitur 428	Mahadev Prasad Kaushik vs State of UP (2 JJ, SC), Criminal Appeal No. 1625 of 2008 [Arising out of Special Leave Petition (Crl.) No. 2023 of 2007]. D/d. 17.10.2008 468
Cannot Apply Res Ipsa Loquitur when OP have Explained MI Treatment 429	Samira Kohli vs Dr. Prabha Manchanda, SC in three judge bench, in Civil Appeal No. 1949 of 2004. D/d. 16.1.2008 468
Res Ipsa Loquitur and Evidence Law 429	C.P. Sreekumar (Dr.), MS (Ortho) vs S. Ramanujam, (2009) 7 SCC 130 469
First Statement Made in a Case about the Doctrine of “Res Ipsa Loquitur” 430	Ramesh Chandra Agrawal vs Regency Hospital Ltd. (SC) Civil Appeal No. 5991 of 2002. D/d. 11.9.2009 470
Statutes of Limitation Overpowers Res Ipsa Loquitur and Rule of Discovery shall Prevail 432	Malay Kumar Ganguly vs Dr. Sukumar Mukherjee (2 JJ, SC), Criminal Appeal Nos. 1191–1194 of 2005. D/d. 07.08.2009 470
Res Ipsa Loquitur and Vicarious Liability Together 433	
Accident of Unknown Cause is one that would not Normally Happen without Negligence 433	
No Full Reversal of Burden of Proof 433	
31. Subjudice Matters, Judicial Impropriety, Willful Judicial Impropriety, Legal Hierarchy beyond Jurisdiction 435	
Subjudice 435	
Subjudice and RTI—2005 435	
The Justifications for the Subjudice Rule 435	
Case Laws Related to Subjudice 435	
Subjudice Matters Operates 436	

Martin F. D'Souza vs Mohd. Ishfaq, Supreme Court of India, 17 Feb 2009; Bench: Markandeya Katju and G.S. Singhvi, JJ; the Judgement was Delivered by Katju; citation: AIR 2009 SC 2049 473

Difficulties in Application of Mathew Guidelines 473

Police and Harassment of Doctors 473

Kusum Sharma and others vs Batra Hospital and Med. Research 474

V.N. Shrikhande vs Anita Sena Fernandes (SC) Civil Appeal No. 8983 of 2010. Arising out of SLP(C) No. 5479 of 2009. D/d. 20.10.2010 475

A Srimannarayana vs Dasari Santakumari (2JJ,SC) Civil Appeal No. 368 of 2013 (Arising out of S.L.P. (C) No. 26043 of 2010). D/d. 9.1.2013 477

A.S.V. Narayanan Rao vs Ratnamala (2JJ,SC), Criminal Appeal No. 1433 of 2013 (Arising out of Special Leave Petition (Criminal) No. 649 of 2011). D/d. 13.9.2013 477

Bhanwar Kanwar vs R.K. Gupta (2JJSC), Civil Appeal No. 8660 of 2009. D/d. 5.4.2013 478

Anirudh Aggarwal vs Dharam Bir Bhatia, (2JJ,SC) Civil Appeal No. 2770 of 2009 (Arising out of SLP(C) No. 29120/2008). D/d. 15.4.2009 478

P.B. Desai vs State of Maharashtra (2 JJ, SC), Criminal Appeal No. 1432 of 2013 (Arising out of S.L.P. (Crl.) No. 9568 of 2012). D/d. 13.9.2013 478

Daljit Singh Gujral vs Jagjit Singh Arora (2 JJ, SC), Criminal Appeal Nos. 506–508 of 2014 (Arising out of SLP (Crl.) Nos. 2421–2423 of 2013. D/d. 27.2.2014 479

Mrs. Kanta vs Tagore Heart Care and Research Centre Pvt. Ltd. (2JJ, SC) Civil Appeal No. 6284 of 2014 (Special Leave Petition (Civil.) No. 18367 of 2012). D/d. 10.7.2014 479

Alfred Benddict vs M/s. Manipal Hospital, Bangalore (2JJ, SC) Civil Appeal No. 7620 of 2014 (Arising out of S.L.P. (C) No. 35632 of 2013). D/d. 11.8.2014 479

V. Krishnakumar vs State of Tamil Nadu (2JJ, SC), Civil App Appeal No. 8065 and 5402 of 2009. D/D. 1.7.2015 480

Dr. Manorama Tiwari v Surendra Nath Raj (2JJSC), Criminal Appeal No. 1193 of 2015 (Arising out of S.L.P. (Cri) No. 9386 of 2012). D/D. 10.9.2015 480

Bijoy Sinha Roy (D) vs Biswanath Das, (2 JJ,SC) Civil Appeal Nos. 4761 of 2009. D/d. 30.8.2017 480

Sheela Hirba Naik Gaunekar vs Apollo Hospitals Ltd., (2 JJ, SC), Civil Appeal Nos. 3625 of 2005. D/d. 5.10.2016 481

Asoke Kumar Chaudhuri vs Kunal Saha, (2JJ,SC), Criminal Appeal No. 1163 of 2016 (Arising Out of SLP (Criminal) No. 8024 of 2013). D/d. 29.11.2016 481

Dr. Sou Jayshree Ujwal Ingole vs State of Maharashtra, (2JJ, SC), Criminal Appeal No. 636 of 2017 (Arising out of SLP (Crl.) No. 7186 of 2014). D/d. 6.4.2017 482

Sathy M. Pillay vs S. Sharma, (2JJ,SC) Civil Appeal Nos. 1988–1989 of 2010. D/d. 9.8.2017 482

Shilaben Ashwinkumar Rana vs Bhavin K. Shah (2JJ, SC) Civil Appeal No. 1442 of 2019 (Arising out of SLP(C) No. 14301 of 2015). D/d. 4.2.2019 487

Shoda Devi vs DDU/Ripon Hospital Shimla (SC), Civil Appeal No. 2557 of 2019 (Arising out of Special Leave Petition (Civil) No. 26789 of 2018). D/d. 7.3.2019 488

Arun Kumar Manglik vs Chirayu Health and Medicare Private Limited and Anr., (2019) 7 SCC 401 488

Mukesh Tyagi vs Fortis Escorts Heart Institute (2 JJ, SC), Civil Appeal Nos. 4390–4391 of 2019 (Diary No. 46849 of 2018). D/d. 8.4.2019 489

Vinod Jain vs Santokba Durlabhji Memorial Hospital (2 JJ, SC) Civil Appeal No. 2024 of 2019 , Arising out of SLP(C) No. 32721 of 2017. D/d. 25.2.2019 489

Union of India vs N.K. Srivasta (3 JJ, SC): Civil Appeal No. 2823 of 2020 (Arising out of Special Leave Petition (C) No. 28056 of 2017). D/d. 23.7.2020 489

Maharaja Agrasen Hospital vs Master Rishabh Sharma (SC), Civil Appeal No. 6619 of 2016. D/d. 16.12.2019 490

Federation of Obstetrics and Gynecological Societies of India (FOGSI) vs Union of India, (SC) Writ Petition (Civil) No.129 of 2017. D/d. 3.5.2019 491

Anjana Agnihotri vs State of Haryana (SC), Criminal Appeal No. 770 of 2009. D/d. 6.2.2020 493

Bombay Hospital and Medical Research Centre vs Asha Jaiswal (SC) 2 judge bench in Civil Appeal No.1658 of 2010. D/d. 30.11.2021 495

Chanda Rani Akhouri vs Dr. M.A. Methusethupathi (SC), 2022(2) R.C.R. (Civil) 845: 2022 ACJ 1219: 2022(2) TAC 354: 2022(2) C.P.R. 237 496

34. Calculation of Compensation, Capping of Compensation, Contractual Capping of Compensation, Paying Interest on Court Proceedings Delay 500

What is the Limit for Asking Compensation in India (Pecuniary Jurisdiction of Various Courts in India) 500

Meaning and Object of Compensation 501

Just Compensation 501

Assessment by Application of Multiplier 504

Compensation in Cases of Medical Negligence 504

Compensation for Medical Negligence Needs to be Just and

Equal to Damage Done by Medical Negligence 505

Damage—Reasonable Foreseeability 505

Mode of Assessment 505

Assessment by Application of Multiplier 505

Restitutio Integrum for Compensation 509

Res Ipsa Loquitur—Meaning of the Maxim 511

Non-pecuniary General Damages 511

The Mode of Assessment of Quantum of Compensation under The CP Act 512

Consumer Forum/Commission may Grant a Relief, which is not Specifically Prayed for in the Interest of Justice 513

Compensation for Legal Technical Negligence 515

Out of Court Settlement 515

Inflated Claims 517

Future Suggestions 518

Section IV: Issues Related to Speciality-wise Practice of Medicine 525–1032

35. Medicolegal Implications of Delayed Diagnosis, Misdiagnosis, Difference in Diagnosis and Wrong Diagnosis 527

Delayed Diagnosis, Misdiagnosis, Difference in Diagnosis and Wrong Diagnosis 527

Usually after Diagnosis the Treatment Commences but Many a Times it May Not Happen—Why? 527

History Taking and Examination 528

Alleged Wrong or Missed Diagnosis 528

Investigations 528

Postoperative Care 529

Essential Equipment Necessary for Diagnosis 529

Defining Errors in Medicine 529

Non-availability of Surgical Machines: Drill Machine 529

Delayed, Mis, Wrong, Late Diagnosis of the Complications 530

Delayed, Mis, Wrong, Late Diagnosis of Diseases Occurring Concurrently Due to Same or Similar Etiology 530

Rare, Sudden Unexpected Rare Complication 530

Delay in Diagnosis of Complication 530

Complications are Too remote then it is not Negligence 530

Unmanageable Diagnosed Complications Need Referral to a Higher, Better Equipped Center 530

Non Diagnosis, Mistaken or Delayed Diagnosis 530

Wrong Diagnosis and Not Using Ultrasound 531

False Ascetic Fluid Report for Malignancy 531

Misdiagnosis, Wrong Diagnosis and Delayed Diagnosis of SJS 531

Diagnosis in Emergency Situation 531

Wrong Diagnosis, Delayed Treatment 531
 Delay in Diagnosis and Hence Delay in Referral 531
 Radiotherapy was Given for 36 hours on the Wrong Diagnosis 532
 Wrong Diagnosis Failure of Heart due to Wrong Treatment 532
 Hodgkin's Disease Missed and Diagnosed Wrongly Tuberculosis 532
 Delay in Diagnosis of Medulloblastoma—Death 532
 Delay in Diagnosis of Paralytic Ileus—Negligence 532
 Missed Diagnosis on Targeted Anomaly Scan 533
 Antenatal Wrong Diagnosis of not Suffering from Sickle Cell on DNA Test 533
 Wrong Diagnosis—Malignancy Missed 534
 Misdiagnosis of Heart Problem Because of GERD 534

36. Medicolegal Issues for Practicing General Practitioners and Internal Medicine Physicians 537

Qualified Registered Medical Practitioners do not Need a License to Dispense Medicines to their Patients 537
 Allopathic Drugs 537
 Wrong Drug Toxicity 537
 Excessive Drug Dose (Excessive Quinine Toxicity not Related—Res Ipsa Loquitur—Negligence) 538
 Drug Toxicity (Lithium Drug Toxicity—Negligence) 538
 Improper Drug Combination 538
 Banned Drug 539
 "Nimesulide" Tablet Given—No Negligence 539
 Drug Overdose 539
 Amikacin Overdose—Causing Permanent Injury to the Auditory System—Negligence 540
 Wrong Route of Drug Administration (Injection Proluton Depot Administered Intravenously Causing Death) 540
 Administered Expired Medicines—Not Proved—No Negligence 540
 Calmpose Should not be Used for Hypoglycaemic Convulsions—Negligence 540
 Injection Kesol (Potassium Chloride) (IV)—death of four babies—no criminal negligence 541
 Drug Reactions 541
 Anaphylaxis Case 541
 Anaphylactic Shock—Steps to Control the Reaction—Death—Negligence 542
 Stevens-Johnson Syndrome (SJS) Cases 542
 Nimesulide—SJS—Negligence 542
 Sulfa Group Drug Causing Aplastic Anemia 543
 Animal Bites 543
 Cobra Bite 543
 Dog bite—Rabies 543
 Consumption of Poison 544
 Consumed Poison—Death—No Criminal Negligence 544
 Poison Taken for Suicide—Death—No Negligence 544
 Organophosphorus Compound Poison—Death—No Negligence 544
 Use of Sclerotherapy vs Sengstaken's Tube 545
 Severe Upper Abdominal Infection Developed Later Unrelated Myocardial Infarction 545
 Cardiac Patient—Terminal—Death—No Criminal Negligence 545
 Wrong Diagnosis—Death of Patient—TEN Mistakenly Diagnosed as Measles 546
 Non-Hodgkin's, Lymphoma (NHL) Treated as Hodgkin's, Lymphoma by ABVD Regime 546
 Fall from Bed—Doctor Not Responsible—Nurse Cannot be Discharged 546
 Hydatid Disease of Liver MODS and ARDS—Death—No Negligence 547
 DM, HTN, Contributory Negligence for Not Getting Operated on Tumor—No Award 547
 Renal Dialyses—Fainting—ICU—Death Negligence 547
 H1N1—Protocol Violated—Death—Negligence 547

Dengue Fever with Shock—Negligence 547
 Dengue Fever—Death—No Negligence—This Judgement is Overruled by Supreme Court Holding Doctors Responsible in Delay in Giving Treatment 547
 Dengue Shock Syndrome (DSS)—LAMA—Death—No Negligence 548
 Dengue Shock Syndrome—Death—No Negligence 548
 Jaundice—Death—No Criminal Negligence 548
 Referring the Viral Fever Patient is not Negligence 549
 Massive Heart Attack—Death—No Negligence 549
 Pyo-nephrosis—Delay in its Drainage Operation—Lost Chance Doctrine, Patient Treatment Got Delayed—Death—Negligence 549
 No Written Instructions or Orders are Brought on Record—said Doctor was Banned to Carry out Private Practise 549
 Typhoid Fever—Renal Failure—Negligence 550
 Connective Tissue Disorder—Lung Problems—Corticosteroid given in Doses Deviating from Standard Treatment Protocol, Sepsis—Death—Negligence 550
 KCL—Extravasation of IV Fluid—Weakness of Hand—Negligence 551
 Injecting KCL/Insulin to a Patient Leading to her Death—Proceeding Set Side 551
 Fever and Cough—Kidney Failure Later—No Criminal Negligence 551
 Frank Metastasis in Brain and Liver—No Negligence 551
 Possibility of Misdiagnosing (Seizure vs Breathlessness) and Probably Inappropriate Treatment 551
 Referral to Dermatologist is not Negligence 552
 DM, Hypertension and Septicaemia—Standard Protocol was not Followed—Negligence 552
 SLE—On Steroids, BT and Plasmapheresis—Death—Negligence 553
 Systemic Lupus Erythematosus (SLE)—Various Complications of Heart, Lungs, Kidney—Death—No Negligence 553
 Non-mentioning of the Problems in the Prescription does not Amount to Medical Negligence 553
 Hyperthyroidism—No Negligence 553
 Improper CVP Complications Requiring ICU—Ventilator—Negligence 553
 Delayed Diagnosis of TB Meningitis—Death—Negligence 554
 Gallbladder Disease—ERCP—Acute Pancreatitis—Negligence 554
 H1N1—Death of patient—no Medical negligence 555
 Encephalitis—Death—Alternative Medicine not Recognized—Negligence 555
 PUO—Meningitis—Rule out Psychiatric Illness—No Negligence 555
 Biliary Stenting—Records Not Maintained—Deficiency of Service 555
 DM, HTN, Cirrhosis of Liver—Respiratory Failure and with Renal Failure—Death—No Negligence 556
 Dengue Hemorrhagic Shock—Optic Complication—Blindness 556
 Hepatitis E—Live Failure—Death—No Negligence 557
 Anterior Horn Cell Disease—Death—Relatives of the Patient were Never Explained the Prognosis 557
 Injection 'Phenargan' IV, 25 mg in the Brachial Artery—Gangrene—Amputation of Fingers 558
 Extravasation—Septic Shock—Negligence 558
 Pancreatitis—Death—No Negligence 558
 Diabetic Ketoacidosis with Severe Pneumonia Left Lung—Death—No Negligence 559
 Injection Abscess—Sepsis—Proper Treatment—No Negligence 560
 GB Disease Operated—Treated Diligently—Death due to ALL—No Negligence 560
 Wrong Treatment with ATT—Coma—Death—Negligence 561
 Congenital Heart Disease Operated—Later Developed Cerebral Malaria—Death—No Negligence 561

Expired HME (Heat and Moisture Exchanger Filter) Used—Negligence 562

Chronic Ulcer Disease—Delay in Referral—Death of Patient—Negligence 562

Possibility of Leukaemia Causing Bleeding—death—Difference in Opinions of Doctors—No Criminal Negligence 562

Anabolic Steroid in the Treatment of Aplastic Anemia—No Negligence 563

Failed to Diagnose Acute Pancreatitis—Negligence 563

V.P. Shunt Operation Refused—No Negligence 563

“No Cure” Cannot Held to be no Negligence 564

Diabetes Mellitus Type 2 (DM), Hypertension (HTN) and Old Cerebral Vascular Accident (CVA) Brain Stroke. The Patient had also Undergone Coronary Artery Bypass Graft (CABG) Died of Sepsis—MODS—No Negligence 564

Overwriting, Erasures at Many Places in the IPD Record, which could be Manipulations—Alcoholic Cirrhosis of Liver—Bleeding—Death—Negligence 565

Gastrointestinal Bleeding in a Post CABG on Anti-platelet Therapy—Death—No Negligence 565

Severe Jaundice—Discharged—Death—Negligence 565

Steroid Treatment—Higher Doses—Wrong Diagnosis of Lung Ailment—No Infrastructure of ICU—Death—Negligence 565

IV Infusion on Right Hand—Gangrene—Amputation 566

“Necrotizing Fasciitis-Fournier’s Gangrene”—No Negligence 566

Frame Rules for Resident Doctors—Resident Doctors Working in Inhuman Conditions for Long Hours 567

Rural Areas Services where the Modern Facilities are Not Available 567

‘Acute Cholecystitis’—Treatment as per Standard Protocol—No Negligence 567

Wrong Diagnosis of “Acute Pancreatitis” for GB Sludge 568

No Delay in Diagnosis of TBLN (TB Lymphadenitis)—No Negligence 568

Wrong Diagnosis of Malaria and Giving Quinine—Death 568

Hodgkin’s Disease Missed and Diagnosed Wrongly Tuberculosis 568

Typhoid—Septicemia—Death—Negligence 569

Misdiagnosis of Heart Problem Because of GERD 569

Progressive Neurological Disease 569

Dissenting Judgment 569

No Relief from Treatment is not Deficiency in Service 570

Injection Causing Gangrene 570

Injection Causing Arm Paralysis 570

Acute Pancreatitis, ALD (Alcoholic Liver Disease), B/L Pleural Effusions Ascites ICU Care by Ayurvedic Doctors—Crosspathy Practice not Allowed—Death 570

Transfer of Patient 571

Injection Causing Necrotising Fasciitis 571

Cancer in the Liver 571

Wrong Medicines Causing Reaction and Complications and Death 571

Leukemia Referred to Hematologist 571

Endoxan is the Drug of Choice in the Treatment of Hodgkin’s Lymphoma 571

Shifted to the ICU 572

No Consideration was Paid to the Doctors hence not a Consumer 572

Quinine in Malaria with Jaundice—No Negligence 572

Injection Causing Gangrene 573

Diabetic Gangrene 573

Allergic Bronchial Condition 573

Gangrene Due to ‘Thromboangiitis Obliterans’ 574

Negligence Cannot be Presumed 574

Critical Patient where Life could not be Saved 574

Intra-articular Injection of Corticosteroids 575

Stevens-Johnson Syndrome Causing Death 575

Hypoglycemia in Diabetic 575

Injection Causing Gangrene 575

Follow Standard Treatment Protocol 576

Non-examination of Patient 576

Treatment of Diabetes, Tuberculosis and Heart Ailment 577

Not Attending Serious Patient 577

Treated by Non-qualified Staff 578

Not Suffering from Tubercular Meningitis 579

Pharmacy had Supplied the Medicine other than the Prescribed One 580

Not Prescribing the CT Scan of Brain at the Appropriate Time 580

Patient was Treated as Outpatient for Encephalitis is Impossible to Believe 581

Death Due to Gas Gangrene 581

Intravenous Injection Causing Swelling and Pain in the Left Forearm not Supported by any Substantial Evidence 582

Injection Given by Nurse Doctor Vicariously Liable 582

Patient Took to the Allopathic Medicines and Treatment too Late in the Day when Perhaps the Damage had Become Irreversible 583

Adverse Effect on Patient does not Amount to Negligence 583

Immediate Surgery would not Save the Life of Patient with Chronic Peptic Ulcer 583

Primaquin has No Effect on Kidneys 584

2019—Delay in Treating Infection by Medical Specialist and Hospital in Bilateral Knee Replacemnt 584

Shortening of Neck and Trachea after Tracheosomy in Polytrauma Case—Negligence Held 584

Liver Failure—Death—No Negligence 585

Death—Typhoid Fever—No Negligence 585

Acute Renal Failure Due to Pancreatitis—Death—No Negligence 586

Tuberculosis was Given Treatment for Cancer—Radiation Stopped—Complainant Deserves to be Compensated for Mental Agony 586

An Error of Judgment on the Part of the Professional is also not Negligence per se 586

Judge General Practitioner by the Average Standard and not of Specialist 586

Not Warning Family Members of Tuberculosis Patient about Transmission of Infection 587

Drug Induced Aplastic Anaemia 587

Duty of Doctor to Warn about Drug Reaction and Side Effects 587

Contagious Disease Causing Illness to Other Indoor Patients 587

Failed to Detect a Tubercular Spine 587

Illegible Prescription 588

Anoxic Fit Resulting in Brain Damage due to Ingestion of Boiling Tea 588

Erroneous Diagnosis of Schizophrenia and Hypomania 588

37. **Medicolegal and Ethics Issues in ICU** 593

Frustration of Patient Party in ICU 593

Major Ills of ICU Care 593

Changing Expectations of Patient Party 593

Practice of Ethical Principles in ICU 593

Legal/Ethical Dilemma of Resuscitation 594

Once Begun, Withdrawing and Withholding is Difficult 594

Legal Perils and Solutions 594

Bedsore—Death—Dismissed in Limine as no Material on Record of Alleged Negligence—Admit and Proceed as per Law 594

Patient Could Not Afford to Pay ICU Cost—Doctor Left the Patient in a Critical Condition under Care of other Doctor 594

Alleged Poor ICU Care—No Negligence 595

ICU Admission—Exelyte, for the Preparation of Bowel Planned for Sigmoidoscopy—West Bengal Medical Council said Infamous Conduct—HC Quashed Order 595

BAMS (Gyne) Running ICU 595

Restrictive Cardiomyopathy—No ICU Care—Death—Negligence 595

Referred to the ICCU in a Very Critical Condition—Negligence	596	One Big Barrier to Good Communication	611
ICCU—Myocardial Infarction—Cardiac Arrest—To Resuscitation done—No Negligence	596	Delivering Bad News	611
Proper Monitoring in ICU Care—No Negligence	596	Situations Requiring Extra Caution	611
38. Medicolegal Issues in Pediatric Practice	599	Alleged Transfusion of Wrong Blood Group in HUS	611
What is Pediatric Age?	599	Vicarious Liability Due to Burns Caused by Hot Water Bottle	612
Who is A Pediatrician?	599	Drug Reaction of Stevens-Johnson Syndrome (SJS)	612
About Cases Related To Qualifications	600	Fever and Convulsions can Occur after DPT Vaccination	612
Minimum Legal Requirements for Practice are Based on Different Judgments	600	Intramuscular injection be given on antero-lateral aspect of thigh	612
About Cases Related to Diagnosis	600	Wrong Route or Bolus Injection can be Hazardous	613
Advise only Reasonable Investigation and Treatment	601	Blood Cancer—Wrong Method of Injection by Student—Death—Negligence	613
Other Case of Alleged Wrong Diagnosis	601	Judicious Use of Floxacins is Selectively Permitted	614
About Cases of Alleged Wrong Diagnosis	601	Septicemia Needing Blood Transfusion, Blood has to be Routed Through Blood Bank even at the Cost of Delay	614
About Failure to do Investigations	601	Kernicterus is Avoidable	614
About Cases Related to “Known Complication” which cannot be Prevented	601	Kernicterus—Child Becoming Mentally Handicapped—Contributory Negligence of Parents—No Negligence of Doctor	615
About Cases of Non-anticipation of a Common Complication and its Failure to Diagnose, Treat Himself or Refer is Negligence	601	Treating Without Diagnosis	615
About Cases Related to Anaphylaxis	601	Aminoglycosides may Cause Deafness but in this Case it Appears to be Congenital	615
About Cases Related to Unqualified Paramedical Staff	601	Non-availability of Ventilator	616
Other Cases of Nerve Paralysis due to IM injection	602	LSCS—Meconium Aspiration—No Negligence of Pediatrician	616
About Case Related to Improper Intravenous Administration	602	Negligence and Mistake both are Different Things—Prima Facie, it is Clear that both Doctors were not Negligent while Discharging their duty as Medical Practitioners	616
Thalassaemia Major Missed on DNA Analysis	602	MBBS can Practice Pediatrics	617
Delivery—Premature Child—Death—No Negligence	602	Banned Drug	617
Failed to Diagnose Congenital Cyanotic Heart Disease	602	Acute Diarrhea—Injection in Eye—Serious Injury—Negligence	617
Retinopathy of Prematurity (ROP)	602	Wrong Administration of Grilinctus Syrup to 5 month old Child—Negligence	617
ROP—No Screening Advised for Twins—Negligence	603	Postoperative Care	617
No screening for Retinopathy of Prematurity (ROP)—Negligence	603	Anaphylactic Shock due to Antibiotics	618
Retinopathy of Prematurity (ROP)—No Criminal Negligence	604	Turning Down Admission of Pneumonia Needing Admission	618
LSCS—Premature baby—Retinopathy of Prematurity (ROP)—Negligence	604	Visual Impairment after Tonsillectomy—Not Substantial Probable Risk	618
Retinopathy of Prematurity (ROP)—Gramoneg not Responsible for Loss of Vision	605	Death Caused by Infection and not due to Hyaline Membrane Disease	618
Screening of Retinopathy of Prematurity (ROP) not Advised—Negligence	605	Breastfeeding and Other Good Infant and Young Child Feeding Advices must be Practiced to Avoid Litigation	618
Muscular Dystrophy—No Negligence	607	Medicolegal Aspect of Vaccinations	618
IV Fluids—Extravasation—Gangrene—Negligence Held	607	Individual Paediatrician in Clinic Setting	618
DMD, Pulmonary Infections are often Cause of Death—No Negligence	607	Well Baby Clinics of Private and General Hospitals	619
Wrong Diagnosis of Appendicitis—Cause was Constipation—Negligence	607	Medicolegal Significance of Referral to Other Doctor or Higher Centre	619
Pediatric ICU Not Available—No Negligence	608	Who Should Refer to Whom?	619
“Toxic Generalized Eruptions” treated as of ‘Measles’—Negligence	608	How Long a Referral Note is Valid?	619
Newborn Burn Injury—Two to Three Fingers and Suffered Permanent Deformity of Fingers in his Right Hand—Negligence	608	39. Medicolegal Issue of When not to Resuscitate or to Stop Resuscitating a Newborn Child	622
Neonatal <i>Klebsiella</i> Infection—Gangrene—Amputation—No Negligence	609	2018—Five Judge Constitutional Bench—Supreme Court	622
Other Cases of Injection Related Gangrene	609	Right to Die with Dignity	622
About Cases Related to Injections Causing Abscess	609	Technical Advance have made Life Possible even when it is not Worth Enjoying for Newborn	623
About Cases of Fasciitis after IM Injection	609	Frustration of Nurturing Defective/Damaged Newborn/Child	623
About Cases where Information Related to Spread of TB in Family Members not Given	609	Respect Parents/Relative’s Autonomy for Initiation, Continuation of Resuscitation	623
About Cases of Illegible Prescription	609	Pediatricians to Promote Parents/Relatives to Take their own Decisions Regarding ‘Resuscitation’ and Avoid Imposing own Decisions to Avoid Litigation	624
About Cases of Limitation for Filing Cases for Children (Minors) and Mentally Retarded—No Limitation Applies Till Child Becomes Major	610	Legally Facts and Circumstances say it is Euthanasia/Negligence?	624
Medicolegal Aspects of Euthanasia, DNR, Vegetative Life and Active and Passive Withdrawal of Life Support Systems	610	Euthanasia: Existing Legal Framework and 2018 SC Judgment	624
Information for Parents and Families about Ventilator Withdrawal	610		
Medicolegal Aspects of Difficult Situations, Declaration of Death and Communication with Patient Party	611		

Is it Legal to Withhold/Withdraw Life Support Therapy where it is Futile to Continue? 625
 Once Begun, Withdrawing and Withholding Difficult 625
 Who Should Decide about Discontinuing Life Support System Since it Amounts to Passive Euthanasia for PVS 625
 For Legal Safety Inform about Optimum Duration of 'Resuscitation' after Birth without Results 625
 Legally How Much Parents/Relatives Should Know Regarding Unsalvageable Newborn/Child Regarding DNR 626
 Potential Legal Problems may Brew up by Unnoticed Passive Euthanasia 626
 Passive Euthanasia by Accident/Negligence 626

40. **Medicolegal Issues in Obstetrics, Gynecology, Abortion and MTP Cases** 628

Pan-Hysterectomy—Postoperative ARF—Negligence 628
 Hysterectomy and Umbilical Hernia—Postoperative death—No Negligence 628
 Hysterectomy Causing VVF 629
 Delay in LSCS—Death of Baby 629
 No Documentation of Antenatal Check up—Shoulder Dystocia—Total Brachial Palsy—Negligence 630
 TAH + BSO with Post-op-VVF—Negligence 630
 Post Delivery Hepatitis—Patient Developed Multi-organ Failure and Died—No Negligence 631
 Hysterectomy—Renal Failure—Death—No Criminal Negligence 632
 Pregnancy with Rupture of the Uterus—No Criminal Negligence 632
 Repeat LSCS Baby was Delivered—No Criminal Negligence 632
 Hysterectomy—UV Fistula is a Complication—No Negligence 632
 Ectopic—Two Operating Scissors were Left behind in the Abdomen 633
 Delivery—AFE—Death of Mother and Baby—No Negligence 633
 Medical Termination of Pregnancy other than in the Circumstances wherein the Life of the Pregnant Women is in Grave and Imminent Danger is not Unconstitutional for Violating Article 21 633
 MTP—Death—No Criminal Negligence 634
 Normal Delivery—Baby MR with CP—No Negligence 634
 Curettage Done—Post Curettage Sepsis—Negligence 634
 Robotic Removal Fibroid in the Uterus—Bleeding—Kidney Failure—Death 634
 LSCS—AF—Death—Onus was upon the Complainants to Prove that the Opposite Parties were Negligent in the Treatment 634
 LSCS—Sepsis—MOFS—Death Negligence 635
 Emergency Caesarean—Not Referring to PGIMS—No Negligence 635
 LSCS—PPH—Laparotomy for Checking Hemostasis—Death—No Negligence 635
 Primi Forceps Delivery—Fourth Degree Tear—Perineorrhaphy 635
 Cancer of the Cervix—Radical Hysterectomy—Death—Negligence 635
 Newborn Suffered Thermal Burns—Disability—Contributory Negligence 636
 LSCS—Spinal Anesthesia—Ependymoma—Paraparesis—No Negligence 636
 LSCS—Twins—PPH—AKF—Coma—Death—Negligence 636
 Allowed to Abort 26 week Old Foetus—Minor Rape Victim 637
 ANC Treatment Protocol Faulty—Stillbirth—Negligence 637
 Hysterectomy—Death—Negligence 637
 Abortion—Death—No Criminal Negligence 638
 LSCS—Death—Negligence 638
 Monoamniotic Twins are Quite Rare, but Require Special Care, Follow up and Monitoring—Wrong Diagnosis or Wrong USG

Report Leads the Doctor in Mismanagement of Patient—Negligence 639
 LSCS—Death of Mother—Negligence 639
 LSCS—Twins—AFE—Death—No Negligence 639
 LSCS Surgery Conducted—Brain Damage and Paralysis Suffered by Patient (Mother)—No Negligence 640
 Death of Mother and Child in Womb—No Criminal Negligence 640
 Medical Negligence—When it is Case of Medical Negligence, it Need not be Because of Mens Rea as Intent 640
 LSCS—Postpartum Acute Kidney Injury/Postpartum Hemolytic Uremic Syndrome (HUS) 640
 Removal of Uterus—Best Professionals may Sometimes have Failures—Negligence Not Proved 641
 Cancerous Growth in her Ovary—Death—No Negligence 641
 Delayed LSCS—Intrapartum Hypoxia—CP—No Negligence 641
 Laparoscopic Surgery for Endometriosis—Pulmonary Embolism—Manipulations in Medical Records do not Match with Nursing Records—Death 641
 Ectopic Pregnancy—Operated—Death—No Negligence 642
 Ovarian Surgery—No Negligence 642
 LSCS—Sepsis—Postpartum Haemorrhage—Acute Renal Failure—Multi-organ Dysfunction Syndrome—No Negligence 642
 Antenatal Wrong Diagnosis of Not Suffering from Sickle Cell on DNA Test—No Negligence 642
 Not Detecting Ectopic Pregnancy was not Misdiagnosis—No Negligence 642
 Doctor Not Available in Nursing Home while Patient Became Serious—Patient Died—Negligence 643
 Excessive Use of Syntocinon and Delay in Decision to Perform C-section, which Caused Birth Asphyxia to Baby—Negligence—Awarded 1 crore 643
 Doctors Failed to Advise Diagnostic Test for Cardiomyopathy at Proper Time Resulting in Loss of Baby in Womb—Negligence 643
 Failure of TL—FT Pregnancy—Death—Negligence 643
 'Scar Tenderness'—Emergency LSCS—Death of Mother—No Negligence 643
 Laparotomy Surgery—Uterus, along with Ovarian Tumour—Gossypiboma—Res Ipsa Loquitur—Negligence 644
 Total Abdominal Hysterectomy—Death—Negligence 644
 Hysterectomy—Complications—Res Ipsa Loquitur—Negligence Found 644
 Hysterectomy—Complications—Traumatic Gut Injury—Death—Negligence 644
 Salpingo Oophorectomy—Sepsis with Septic Shock—Death—Res Ipsa Loquitur—Negligence 645
 LSCS—Bleeding—DIC—AE—Death—Negligence 645
 LSCS—Premature Baby—Retinopathy of Prematurity—Negligence 646
 Twin Delivery—Death of Twins—No Criminal Negligence 646
 LSCS—Bleeding—Death—No Criminal Negligence 646
 Medical Negligence if Operation of the Patient Conducted in Hospital having no ICU Facility 646
 LSCS—Post Delivery Complication Managed and Referred—No Negligence 647
 LSCS—No ICU—Death of Mother—Negligence 647
 Ectopic—IVF Recommended—No Negligence 647
 Hysterectomy—Small Gut Perforation, She Developed Respiratory Distress due to Infection—Negligence 647
 LSCS—Female Child Born—Postoperative Infection—No Negligence 647
 LSCS—Bleeding Ligament Haematoma and ARDS—Recovered—No Negligence 648
 BOH—Cholecystitis with Cholelithiasis Pancreatitis—IVF—ET—No Negligence 648
 Anaphylactic Reaction to Epidural—Emergency LSCS Done Vegetative Life of Mother—No Consent Taken for Surgery—Rs. 50 lacs Awarded as Compensation 649

- Pregnancy—Blood Transfusion Reaction—Death not due to Abruptio Placentae—Negligence 650
- Total Abdominal Hysterectomy—No Negligence 650
- Hysterectomy Ureterovaginal Fistula 651
- LSCS—Bundle of Cotton have been Removed. Res Ipsa Loquitur 651
- Two Parallel Complaints are not Maintainable Simultaneously for Birth Defect 651
- Forceps Delivery—Child Died in Seven Days—Proper Care Taken—No Negligence, No Criminal Negligence 651
- Anaesthesia—Caesarean under Local Anaesthesia—Death—No Criminal Negligence 651
- Nurse Undertaking a Complicated Case of Delivery—Uterus Ruptured and Newborn Child Died—Negligence Held—Compensation of Rs. 2 lac and Costs Rs. 10,000 awarded 652
- Post IV—Gangrene—Abortion—Negligence 652
- MTP—Cervical Pregnancy—Profuse Bleeding—Emergency Hysterectomy—No Negligence 652
- Complicated Case of Delivery—Both Mother and Child Died—Misrepresentation of Facts about Qualifications of Doctor—Negligence Held—Compensation of Rs. 77,000 Awarded against the Hospital 653
- Case of Ectopic Pregnancy Diagnosed as Missed Abortion—Diagnosis Difficult—No Negligence 653
- Sponge Left behind after Caesarean—Insufficient Evidence—Complaint Dismissed 653
- Normal Delivery—Meconium Aspiration—Death of Newborn Male—Negligence 653
- Normal Delivery—Death of Mother—Res Ipsa Loquitur—Multiplier Formula Compensation Applied 655
- Pregnant Lady—Developed Fever and Jaundice—Referred to Physician—Died—No Negligence Held 656
- Major Hysterectomy—Consent Taken—No Negligence 656
- Caesarean—Premature Baby—Not Attended Properly and Paediatrician not Called—Same Subject Matter Subjudice before Criminal Courts—Complaint not Allowed 656
- Incomplete Abortion or Ectopic Pregnancy—Non-compliance of Proper Procedure during Treatment of Wife of Complainant 656
- Hysterectomy—Death—No Criminal Negligence 657
- Remove Dead Child from Womb—Bleeding—Death—Negligence 657
- Delivery—PPH—Death—No Criminal Negligence 657
- Delivery—Death—No Criminal Negligence 657
- LSCS—No Transfusion Reaction given after 2 Months—Later Died of Jaundice, Encephalopathy, Kidney Failure not due to Blood Transfusion 657
- LSCS—Death—No Quashing of Criminal Proceedings 658
- Ectopic—No Negligence 658
- Tubectomy Done after Consent—Subsequent Complications not Related to Operation—No Negligence 658
- Caesarean—UVF caused—Held negligence 658
- Large Baby—USG not Done to Assess Size of Baby—No Evidence of Refusal for Caesarean—Erb's Palsy due to Excessive Shoulder Traction during Delivery—Negligence Held 658
- Delivery Attempted First by a Midwife—Opposite Party only Clinically Examined and Advised to Shift Patient to Bigger Hospital—No Negligence 659
- Operated for Left TO Mass—RVF Developed—No Negligence 659
- Caesarean Section—Severe Pain and Urinary Trouble after Operation—On Second Operation a Mass Removed—Metallic Tip of Suction—Negligence Held 660
- Artery Forceps Left behind after Caesarean—Negligence Held 660
- Caesarean Operation in a Government Maternity Hospital—Leaving Mop—Negligence 660
- Cervical Cancer—Radical Hysterectomy—Death of Patient—Negligence Held 661
- Abortion—Evacuation—Infection Developed—Adequate Care and Skill—No Negligence 661
- Causing Perforation of Uterus during MTP—Negligence Held 661
- Hysterectomy—Complications—Death—No Irregularity in Treatment—Not Negligent 661
- MTP Done, but Pregnancy Continued—Possibility of Two Ovums, of which one could not be Evacuated due to Bi-cornuate Uterus—No Negligence 661
- Complications after Caesarean Operation—Patient Died—No Negligence 662
- Chorion Biopsy Test—Sample Unfit for Test Because of Delay in Transmission—Deficiency in Service—Compensation of Rs. 20,000 and Refund of Fees Awarded 662
- Caesarean Operation—Uncontrolled Bleeding—Death—Negligence 662
- MTP—Pregnancy Continued—Could be a Case of Twin Pregnancy—Appeal Dismissed 663
- Bilateral Oophorectomy—Developed Intestinal Obstruction—Operated Elsewhere—No Negligence 663
- Prolapsed Uterus Surgery—Patient Given Injection of Diazepam Intravenously Resulting in Death—Negligence 663
- Anaesthesia—Meningitis Following Spinal Anaesthesia for Caesarean Section—No Negligence 664
- Hysterectomy—Complications—Contributory Negligence 664
- Sponge Left behind—Scrub Nurse held Responsible—Negligence Held—Vicarious Liability of Hospital 664
- Caesarean—Incontinence of Urine—Foley's Catheter Inserted—No Negligence 664
- Caesarean Section—Later on Gauze Piece Removed from Body at Another Hospital—No Negligence 664
- Emergency Caesarean—Death of Child—No Negligence 664
- Premature Delivery—Death of Child—No Negligence 665
- Allegation of Cotton Sponge Left behind in Rectum—No Explanation as to how it could Enter in Rectum—Frivolous Complaint 665
- Uterus Cancer—Urinary Leakage—No Evidence Produced to Establish Negligence—Costs Awarded to Doctor 665
- Consent—Removal of Uterus without Consent along with Lump in Breast—No Negligence 666
- Hysterectomy Excessive Bleeding—Death—Negligence Held 666
- Improper Anaesthesia—Brain Damage—No Negligence 667
- 2012—LSCS—Pulmonary Embolism—No Negligence—Ex Gratia Reward 667
- Delivery Case—Simultaneous Tubectomy—Death due to Post-operative Shock—No Negligence 667
- Hysterectomy—Death due to Complications of Anaesthesia—Negligence of Anaesthetist and Doctors Held 667
- Spontaneous Abortion—Dilatation and Evacuation Done—Developed Complications—No Negligence 667
- Caesarean Operation—Postoperative Bleeding—New Plea by Complainant—Not Accepted—Negligence not Proved 668
- Antenatal Examination—VDRL Test 'Positive'—Deficiency in Service 668
- Post-partum Complications—No Surgery at the Time of Delivery—Negligence Not Proved 668
- Threatened Abortion with Foetus without Cardiac Activity—No Deficiency in Service 669
- Caesarean Delivery—Trial of Labour not Succeeded—Foetus Dead before Surgery—Ruptured Uterus not Removed but Repaired—No Deficiency in Service or Negligence 669
- Re-canalisation—Non-conception After Operation—Secondary Sterility with Previous two LSCS Following Tubectomy. Re-canalisation Operation after more than 12 years—Failure to Conceive—No Negligence or Deficiency in Service 669
- Treatment for Pain in Abdomen—Medicines and Injections Given not Shown to have Caused Termination of Pregnancy 670
- DIC Causing Post-Partum Haemorrhage—Death due to Delivery of Child—No Deficiency or Negligence 670

Medical Termination of Pregnancy (MTP)—No Product Obtained, but on Second MTP Product taken out by Suction Evacuation—Patient Advised for D&C Process, an Approved Method—No Negligence, as the Chances of Continuance of Pregnancy are Higher when MTP is Done Prior to Six Weeks of Pregnancy 671

Incomplete Abortion—MTP Done without Prescribed Qualification or Hospital Recognised for Doing MTP—Negligence Established 671

Caesarean Operation—Death of Patient after Delivery Surgeons Competent to Conduct Caesarean—No Expert Evidence to Attribute Death due to Negligence—No Postmortem Conducted to Ascertain Actual Cause of Death Though Complainants Registered Criminal Case—No Negligence 671

Ovarian Cyst—Patient Sustaining Cardiac Arrest at Fag End of Operation, Shifted to Another Hospital and Death after Eight Days 672

Post-partum Haemorrhage—Death After 18 Hours of Normal Delivery—Excessive Bleeding within 2 Hours of Delivery and Conservative Method of packing to stop it failed—Delay of 5 Hours in calling Anaesthetist—Negligence Held 672

Threatened Abortion and Premature Labour—Ayurvedic Preparations having no Side Effects Administered, Preventing Abortion and Curing Spotting—Congestive Heart Failure and Death—No Evidence to Show Death Attributable to Medicines Given—No Negligence 673

Sonography Report—Intrauterine Foetal Death—Subsequent Conception and Delivery—Factum of Abortion Suppressed—Report not Wrong, No Deficiency in Service 673

False Representation as Doctor—ANM, Acting as Qualified Medical Practitioner, Handling Complicated Delivery Case, Manages Delivery of Dead Foetus—Death of Patient due to DIC Coagulation Failure out of Intra-uterine Death—Negligence Held 673

Caesarean Section—No Specific Act of Negligence Averred in Complaint nor Expert Evidence Produced—Death of Patient—No Negligence 674

Circulatory Collapse—Death of Mother and Foetus in Womb—Failure to Requisition Additional Expert and Anaesthetist—Negligence Held 674

Sterilization—MTP—Failure Sterilization Leading to MTP—Compensation Rs. 5,000 and Cost Rs. 500 Awarded 675

Caesarean Operation—Sponge Left in Abdomen—No Scanning, X-ray or Needle Test—Removal of Sponge by Another Surgery—Negligence Held 675

Medical Termination of Pregnancy—Removal of Uterus Consequent upon Ectopic Pregnancy 675

Male Child Born but Female Child Given, Alleged—Female Baby Handed over Immediately after Delivery—Discharge Certificate Mentioning Male Child Earlier Changed to Female—Objection of Complainant for DNA Test of Child and Mother—Clerical Mistake in the Certificate, No Deficiency in Service 676

Delay in Inducing Labour Pain—Birth Asphyxia due to Swallowing Amniotic Fluid Mixed with Meconium—Coloured Vaginal Discharge, is of *Candida albicans*—No Negligence in Not Inducting Labour Pain and Conducting Delivery 676

Removal of Ovarian Cyst—Complainant Who was Passing Urine Normally before Operation, Unable to Pass Urine without Use of Catheter after Operation—Negligence 677

Caesarean Operation—Old Retained Sponge Deteriorated Condition of Patient—Negligence 677

Delivery Case Admitted in a Government Hospital—Negligence—Emergency Surgery Required could not be Performed in Time due to Non-availability of Doctor or Anaesthetist Resulting in Death of Patient—State Vicariously Liable 678

Twin Pregnancy—Doctor—OP-I Applying Forceps—Male Child Dies and Female Child Survived—No Negligence 679

Caesarean Operation with Uterovesical Fistula (UVF)—No Negligence 679

Operated for Hysterectomy been Transfused Blood of Her Brother—Donor—Donor's blood not Screened for HIV—Patient Becoming HIV Positive—Negligence 680

Caesarean Operation—Surgery Performed without Proper Infrastructure—Patient Bleeding Profusely Needing Blood Transfusion—No Blood of Patient's Group nor Oxygen Cylinders in the Nursing—Negligence 680

D&C—Gangrene—Right Arm Amputated—Negligence 681

Termination of Pregnancy—Petitioners Practising Medicine Known as GCIM, Homeopath—Negligence 681

Abdominal Hysterectomy—Surgical Pack Left Inside Abdomen—Negligence 681

Caesarean Operation—Case One of Post-dated Delivery—Patient Complaining Less Foetal Movement and Non-stress Test (NST) Report Revealing Foetal Distress—Emergency Operation by OP-2 Surgeon with Other Doctors after Obtaining Consent of Patient's Father—But After Operation her Condition Deteriorated and Died—No Negligence 682

Sterilization Failure—No Negligence 683

Dead Child Born after Operation—Appellant not a Qualified Doctor but an ANM—A Piece of Sponge/Surgical Cotton Left in the Womb—No Negligence 684

Refusal to See the Patient 684

Caesarean Operation with Meconium Stained Liquor—Jaundice—Death—No Negligence 684

Medical Termination Pregnancy (MTP)—MTP Performed Negligently Causing Rupture of Bladder Resulting in Vesicovaginal Fistula (VVF)—Negligence 685

Delivery Case—Scar Rupture—Not Ready for LSCS in Previous LSCS Case—Blood was not kept Ready 686

Caesarean Operation—Foreign Body seen in Abdomen—Negligence 687

2015—Excessive Use of Syntocinon and Delay in Decision to Perform LSCS, which Caused Birth Asphyxia to Baby—Res Ipsa Loquitur—Awarded Rs. 1 crore 687

2012—Unpredictable Amniotic Fluid Embolism (AFE) in LSCS—No Negligence 687

Patient Unattended for Twelve Hours—Failure of Doctor to Administer Proper Treatment—Condition of Patient Becoming Unmanageable—Death on Account of Excessive Bleeding—Negligence 687

Forceps Delivery—Profuse Bleeding—Death—Negligence 688

Caesarean Delivery—Death due to Amniotic Fluid Embolism—No Negligence 688

Post LSCS Internal Bleeding—MODS—No Negligence 689

TAH Operation for Eight Hours where Patient—RVF—2nd Surgery—Lost Her Ovaries and Left Kidney—Negligence 689

Caesarean Delivery—Allegation of Wrong Diagnosis—No Negligence 689

Surgery for Ovarian Cyst—Surgeons Leaving a Gauze Pad in the Abdominal Cavity—Negligence 689

MTP—Development of Peritonitis for which Laparotomy done for Gut Injury—No Negligence 690

Tubectomy—Injection Given in Right Hand—Becoming Septic, Developing Gangrene and Ultimate Amputation of the Hand—Negligence 690

Hysterectomy—Removal of Ovarian Cyst/Mass-Reappearance of Cyst Even after Operation—Second Operation—No Negligence 690

A Doctor cannot be Subjected to Travails of Criminal Prosecution on Vague Allegations of Medical Negligence during Administered Anesthesia to Facilitate Caesarean Delivery 690

Foreign Cases 691

Caesarean—Motion Picture Made and Shown Publically 691

Operation for Uterus Problem—Fallopian Tubes found Full of Pus, Performed Hysterectomy—Negligence 691

Appendectomy—Ectopic Pregnancy Suspected but Found to be Normal—Acute Appendicitis Found—Appendectomy without Consent—No Negligence 691

Antiseptic Burns—Held Negligent 691

Caesarean Delivery—A baby's Face was Severely Cut 691

41. Medicolegal Issues in Sterilization, Tubectomy, Vasectomy and IVF**697**

Tubectomy—Death due to Tracurium Given by Nurse—Negligence 697

Sterilization Operation—No Negligence 697

Sterilization TL is No Negligence—Supreme Court of India 697

TL—Failure—State Vicariously Liable 697

Sterilization of Unmarried Person with Consent—No Negligence 698

Family Planning Operation IV—Gangrene—Amputation of Limb 698

After Tubectomy, Patient Left of her Own Accord—Developed Tetanus and Died—Contributory Negligence—No Negligence on Part of Doctor 698

Tubectomy in Government Hospital—Death 698

Caesarean with TL Mop Left behind—Complications—Death—Res Ipsa Loquitur Applied—Negligence Held 699

Sterilization—Failure—No Negligence 699

TL—Anesthesia Given by Not Specialized in Anesthesia—‘Xylocaine Shock’—PM Done—Death 699

In Sterilization—Failure—No Negligence 700

Tubectomy—Failure—Pregnancy After 2½ years of Operation—Pomeroy’s Technique Adopted—Failure in Tubal Sterilization 0.2%—Reunion of Tubes in Natural Course during such Long Period not be Ruled out—No Negligence 700

Laparoscopy—Sterilization, Failure—Risk of Failure to a Certain Rate Inherent as in any other Method, Despite due Care and Caution—Not Indicative of Negligence in Procedure 700

Tubectomy—Failure—Chances of Reunion of Disconnected Ends of Fallopian Tubes Resulting in Pregnancy—No negligence 700

Sterilization—Tubectomy—Operated for Right Tube and not for Left Tube—Negligence 701

Sterilization—Consent—Patient in General Anesthesia during Caesarean Operation—Deficiency in Service 701

Tubectomy—Government Hospital—Patient Becoming Unconscious and Bed-ridden for about 30 Years, Not Even Able to Recognize Her Child—Negligence established 701

Sterilization—Vasectomy at Government Hospital—Failure—Vicarious Liability of State 702

Tubectomy-failure—Tort-damages—Operation Under State Family Planning Scheme—Conception after Operation due to Negligence of Surgeon 702

Sterilization—Tubectomy Failure 703

Tubectomy—Subsequent Conception due to Failure of Operation 703

Tubectomy Operation Failure—Conception 703

Tubectomy-Failure—Operation Done Free of Cost—National Family Welfare Programme—Incentive Money Paid—Complainant Not a Consumer 704

Sterilization-failure—Tort-operation Performed in Government Hospital—Vicarious Liability of State 704

Sterilization-failure—Tort—Vicarious Liability of State 705

Sterilization-failure—Complainant Undergoing Tubectomy Operation—Becoming Pregnant After One Year—Advised MTP Free of Cost and Repeat Tubectomy—No Negligence 705

MTP Failure with Tubectomy—Despite Tubectomy or Abortion, Pregnancy may Continue 705

Sterilization Failure—No Negligence 706

Sterilization Failure—Laparoscopic Operation 706

Failure in Sterilization Operation 706

Failure of TL—No Negligence 707

Post-partum Sterilization Operation was not Emergency to be Performed Immediately after Delivery of Child—Hospital and Doctors Liable for Rs. 30 lakh Compensation 707

42. Medicolegal Issues in PCPNDT Act Cases**710**

Amendments 713

Main Provisions in the Act 713

Form “F” is Biggest Stumbling Block 713

Past Significant Cases under PCPNDT 715

Criminal Procedure Code, 1973 Section 200 Preconception and Pre-natal Diagnostic Techniques (Prohibition of Sex Selection) Act, 1994 Section 28 716

Pre-conception and Pre-natal Diagnostic Techniques (Regulation and Prevention of Misuse) Act, 1994, Section 23 716

De-sealed USG Machines and be Handed over to the Petitioner 717

De-seal USG Machine—More Serious the Offence, the Stricter the Degree of Proof, since Higher Degree of Assurance is Required to Convict the Accused 717

Renewal of USG Machine was Rejected—Writ Dismissed 717

De-sealing of USG Machine 718

Offence of Female Foeticide—No Leniency be Granted as same may Reinforce Notion that PC and PNDT Act is only Paper Tiger—No Bail 718

De-seal USG Machine and Hear for Renewal 718

Gender Test—Bail not Granted 718

Pre-Natal Diagnostic Techniques—Pre-natal Sex Determination and Abortion of Female Fetuses Immoral Practice, Constitutes Form of Violence against Women, and its Potential to Damage Very Fabric of Gender Equality 719

Gender Test—No Evidence—Case Dismissed 719

Medical Termination of Pregnancy—Aborting Female Child and Consequential Loss to Life of Expecting Mother does not Call for Interference under Section 482 of Cr.PC 1973 720

Offence is Committed Inside Chamber of a Medical Practitioner by Misuse of Diagnostic Techniques—No Misuse of Process of Law 721

Fake Female Gender Told—Playing with Women’s Future 721

Pre-conception and Pre-natal Diagnostic Techniques (Prohibition of Sex Selection) Act—Unregistered Owner of Hospitals can also Sell Ultrasound Machines 721

Pre-conception and Pre-natal Diagnostic Technique Act, 1994, Section 3A/4/5(1)/6A/18/23/29—No pre-arrest Bail 721

Limitation Period Under S. 468 of Cr.PC 722

Purpose of Section 482 of the Code is to do Real and Substantive Justice and not Abused 722

Female Foeticide 723

Violations of Form F 723

Drop S. 25 and Charge under S. 23 723

Cognizance of Offence on Ground that Complaint not Filed by Appropriate Authority—Cognizance not Sustainable 724

Sex Determination—Bail Granted 724

Illegal Racket of Sex Determination—Quashed 724

Termination of Pregnancy—Illegal Abortion—Seizure of Ultrasound Scanning Machine and Building—Police Officer has no Such Power to Seize Immovable Property Like Plots of Land, Residential Houses, Mountains, Rivers Streets or Similar Properties 725

Determination of Sex—Information of Sex Determination Test Being Conducted Received—Presence of Applicant not Necessary at the Time of the Sex Determination Test to Hold him Liable 725

Sex Determination—No Anticipatory Bail 725

Main Accused Who was Doctor Already Expired and Co-accused been Acquitted—Dismissed 725

Quashed Being in Violation of the Provisions Contained in Section 28(1)(a) of the PCPNDT Act Read with Sections 4 and 5 of the CrPC and Following the Binding Principles of Law Enunciated by their Lordships of the Supreme Court in the Matter of State of Haryana and others v. Bhajan Lal and others 1992 Supp (1) SCC 335 725

Sex Determination—No Anticipatory Bail 726

Sex Determination—No Quashing 726

Bypassing Session’s Court—Allowed 727

For Determination of Sex of Foetus Leading to Female Foeticide and to Prevent Abuse of Techniques Discriminatory against Female Sex and Affecting Dignity and Status of Women 728

To be Cruel to Female is Unthinkable 729

43. Medicolegal Aspects for General Surgery**732**

- Indication for Surgery 732
 Anesthesia Fitness 732
 Physician Fitness/Clearance 732
 Planned Surgical Procedure 732
 Emergency Surgical Procedure 732
 Identification of Patient 732
 Marking of Surgical Site and Side of Operation 732
 Selection of Hospital/Day Care Clinics 733
 Pre-counseling and Communication before Consent 733
 Re-surgery Requires Fresh Consent 733
 Refusal of your Advice Needs to be Documented 733
 Emergency Surgery 733
 Equipment, Gases, Drugs, Blood, etc. 733
 Documents are Irrefutable Evidence and Defense 733
 Qualifications Skills of General Surgeons 734
 Qualification, Skill and Expertise Super Specialty Surgeons 734
 Surgical Care More Important than Surgical Cure 734
 Indemnity Policy for Surgeons and Anesthetist 734
 Haemoperitoneum—No Treatment—Negligent 735
 Incision Strangulated Hernia is Easily Diagnosable by Patient's Symptoms and Signs—Medical Records on File did not Show Operative Details—Negligence 735
 No Evidence of Foreign Material Left Inside Body—Criminal Negligence under S. 203 of CrPC Set Aside 735
 TURP Surgery—No Negligence 736
 No Documentation of Ureteric Injury 736
 Kidney Transplant—Post-operative Infection not Controlled—Death 736
 Kidney Transplant—Postoperative Medical Negligence—Doctors are Expected to Take Reasonable Care, but they Cannot Assure Patient's Survival. Medical Negligence—Fact that Doctors Failed to Save Patient cannot be Considered to be Case of Postoperative Medical Negligence 736
 GB Surgery—Bile Duct Injury—No Negligence 737
 Renal Stone—Septicemia—Death—No Negligence 737
 Bilateral Hernia—Infection—Death—Negligence 737
 Acute Appendicitis Surgery Delayed for 17 Hours 738
 Accidental Injury—Suturing—Infection—No Negligence 738
 No Consent Laparoscopic Assisted Vaginal Hysterectomy (LAVH)—Consent Pertained only to Removal of Gallbladder through Laparoscopy 738
 Laparoscopic Cholecystectomy—CBD Injury—Negligence 739
 Not Proved that Biliary Stent Inserted in Patient was Defective or Expired or of Substandard Quality as no Record to Show Purchase of Stent Inserted in Patient 739
 Stone in Right Kidney and Right Ureter—No Negligence 739
 No Consent of Patient for Colonoscopy 739
 Appendectomy—No Negligence 740
 Ventral Mesh Hernioplasty—Non-supply of Details of Expenses for the Second Surgery 740
 Acute Intestinal Obstruction—Death—No Negligence 740
 Cystoscopy and Urethral Dilatation with Co-morbidities Like Breathing Difficulty, Hypothyroidism and Post-tuberculosis Inflammation of Lungs—Death—DMC and MCI also did not Find Negligence from the Hospital and Treating Doctors 740
 Stone in CBD—No Negligence 741
 CA Breast—Multiple Co-morbidities—Bed Sores—Death—No Negligence 741
 First Operation for Appendicular Perforation—Second Doctor did Surgery for Adhesion of Jejunal Loops to the Colon, which will Lead to Postoperative Intestinal Obstruction—No Negligence 742
 Failure to Diagnose Ca Colon in Renal Stone Patient—Negligence 742
 LAP Converted to Open Gallbladder—No Explanation—Negligence 742
 Appendicitis—Death—No Negligence 742
 License for Renal Transplant Expired—UTP 743
 Tuberculosis in Intestine along with Severe Perforations Detected, and Patient was Shifted to LNJP Hospital where She Died—No Negligence 743
 Renal Transplant—No Precautions Taken—Dialysis—Negligence 743
 Pancreatic Necrosectomy with Insertion of Drain with Ligation of Bleeding Vessels—Alcoholic Pancreatitis—Death—No Negligence 744
 Ureteric Calculus with Grade-2 Hydronephrosis Surgical Procedure and during Postoperative Period Patient Developed Urosepsis with Multi-organ Dysfunction Syndrome—No Criminal Negligence 744
 Removed Both the Enlarged Spleen and the Gallbladder in Severe Sickle Cell Anemia—PM—Bleeding from Short Gastric Artery—No Criminal Negligence 745
 Colonoscopy—Perforation—Negligence 745
 Intestinal Perforation—No Proper Discharge Summary was Furnished—Deficiency Proved—Rs. 3 lakh Awarded 745
 Atrophic Testis—Orchiectomy—No Negligence 745
 Two Times Nephrectomies of Donated Kidneys in CRF Patients—No Negligence 746
 Court is not Expert in the Medical Field—Permanent Lok Adalat is Directed to Seek Experts Opinion—Sigmoid Colon Perforation after Diagnostic Laparoscopy 746
 Appendectomy, Peritoneal Lavage, Peritoneal Drainage—No Negligence 746
 Gallbladder Disease—Death—No Negligence 746
 Appendix Surgery—Death—Negligence 747
 Ca Breast—Anthracycline Cardiac Monitoring not Done—Negligence 747
 Multiple Co-morbidities—Subtotal Gastrectomy—Death—No Negligence 747
 No Surgery Done as per Bills—No Negligence 747
 Gallbladder—CBD Injury—No Negligence 748
 Acute Severe Pancreatitis—Death—Negligence 748
 Surgical Needle Holder Left Inside the Abdomen 748
 Carcinoma of the Sigmoid Colon—Bradycardia—Coma—Death—Negligence 749
 Liver Transplantation—Bleeding—Second Operation—Death—No Negligence 749
 Congenital Absence of GB—No Negligence 749
 Delay in Doing Exploratory Laparotomy—Negligence 749
 Surgery of Hernia—Wrong diagnosis—Death of patient 750
 Laparotomy—Perforation in the Intestine—Septicemia—Death 750
 Ca Breast—No Negligence 750
 Liposuction Unconnected with Weakness in Lower Limbs—No Negligence 750
 Gastric Outlet Obstruction—Fungal Septicaemia—MODS—Death—Negligence 751
 Surgery for Removal of Kidney Tumour—Signs of Bleeding in Abdomen Missed—Patient Died 751
 Breast Cancer—No Negligence 752
 Gastric Cancer Patient—No Negligence 752
 Performed Sleeve Gastrectomy—Death—No Negligence 752
 Gangrene—Negligence 752
 Lung Surgery—Dislocation of Left Arytenoid—Negligence 752
 Removal of CBD Stent—Endoscopy Retrograde Cholangiopancreatography 753
 PCNL—Damaged Kidney had to be Removed—Negligence 753
 Bile Duct Injury—No Negligence 753
 Laparoscopic/Open Cholecystectomy—Negligence 753
 SAIO-IBD—Subacute Obstruction—Operated—No Negligence 754
 Gynaecomastia—Death 754
 Excision and Removal of Retroperitoneal Hydatid cyst—Retained Foreign Body (Broken Surgical Forceps) 755
 No Ca Breast—Mastectomy—Negligence 755

- Penile Phimosis Surgery—Severe Mental Retardation and Brain Hypoxic Ischaemic Encephalopathy—7 lakh awarded 755
- Laparoscopic Cholecystectomy—IBDI—No Negligence 755
- Haemophilic—Pain Abdomen and Hemorrhage—Surgery Done For Peritonitis—Death—Negligence 756
- High Grade Bladder Cancer—OT Notes not Given—Negligence 756
- Kidney Transplant—HLA Tissue Typing Tests not Done—Negligence 759
- Fabricated and Prepared So-called Consent Forms—PCNL—Lt. Perinephric Haematoma—Perinephric Bleeding—Removing Kidney—Negligence 760
- Malignant Adrenal Tumor—Operated—Sepsis—Death—No Negligence 763
- Classification of Medical Negligence or Mistakes 765
- Laparoscopic Cholecystectomy 765
- Indications for Choledochotomy 765
- Mainagement of Bile Duct Obstruction 765
- Choledochotomy 766
- Postoperative Stricture 766
- Extrahepatic Bile Ducts 766
- Diagnosis 766
- Postcholecystectomy CBD Injuries 766
- How to Prevent the Injury 766
- How to Suspect and Diagnose? 767
- Laparoscopic Surgery—CBD injury—No Negligence 767
- Open Cholecystectomy—CBD Injury—Negligent 768
- Cholecystectomy—Complications—CBD Injury—Negligence 768
- CBD Injury—Negligence 768
- CBD Injury is a Well-known Complication of Laparoscopic Cholecystectomy—No Negligence 768
- Laparoscopic Cholecystectomy—Negligent 768
- Operation of Appendix—No Negligence 769
- Appendicitis—Appendix Found Normal on Opening—Instead Gallbladder Removed—Death—Negligence 769
- Appendicitis—Not Operated in Time of Emergency—Held Negligent 769
- Oral Consent—Death after Thyroid Surgery—Proper Treatment Given—Oral Consent Sufficient—No Negligence 769
- Prostate Gland Biopsy—No Malignancy Reported—Later on Discovered Prostate Cancerous—No Negligence 771
- Kidney Stone—Death—Negligence 771
- Consent Taken—Alleged Removal of Testis without Consent—Vexatious Complaint 771
- Varicose Veins with Haemangioma—Development of Foot Drop—No negligence 771
- Appendicitis—Complications Developed during Surgery—Second Operation without Consent of Patient 772
- Large Size Artery Forceps Left behind during Surgery—Held Negligent 772
- Accident Case—Delay and Improper Treatment Retroperitoneal Bleeding and Operated upon him after a Considerable Delay Alleged—No Negligence 772
- Gallstone Operation—Stricture Near Bulbous Urethra Developed—No Negligence 772
- Wrong Diagnosis—Ileocecal Tuberculosis Treated as Chronic Appendicitis—No Negligence 773
- Post Hernia Surgery—Osteitis Pubis—No Negligence 773
- Consent—Removal of Testes with Consent—Proper Consent Taken—Ill-conceived Complaint—Costs to Doctor 773
- Appendectomy—Cancer Recto-sigmoid—No Negligence 773
- Complaint was Barred by Limitation which is 2 years—Gallbladder Surgery 773
- Laprosopic Cholecystectomy—Biliary Leakage—Death Thereafter—Negligence Held 774
- Appendicitis—Operation on Basis of X-ray and Ultrasonography—Consultant Doctor not Held Negligent—Radiologist and Ultrasonologist Held Negligent 774
- Hernia—Septicemia and Death—Blood Culture, Bacteriological Tests not Done—Negligence Held 774
- Laparoscopic Removal of Gallbladder—Cutting Common Bile Duct While—Negligence Held 774
- Phimosis Surgery—Amputation of Penis—Negligence Held 775
- Surgery—Impotence—Treatment for Pain and Swelling Intesticle 775
- Acute Appendicitis—Abdominal Pain, Fever and convulsive Vomiting Post-operation, Not Subsiding Even after Second Operation—Patient Referred to Better Equipped Hospital for Proper Diagnosis and Treatment but taken to Another Centre and Condition Became Stable—No Damage to Patient Attributable to Operations Shown—No Negligence 776
- Intestinal Obstruction—Myocardial Infarction with Cardiac Arrest, Unpredictable—No Post-mortem—Operation was Urgent as the Obstruction Caused Retention of Urine and Fever—No Negligence 776
- Gallstone and Obstructive Jaundice—Hemorrhage during Operation and Loss of Vision of Both Eyes—Ailment for which Treatment Given Cured—No Nexus between Hemorrhage and Blindness Established—No Negligence in Service 777
- Hernia—No fasting—Aspiration—Death of Patient—Res Ipsa Loquitur 777
- Chronic Duodenal Ulcer—Death due to Renal Problem—Wrong Diagnosis Not Proved—No Negligence 777
- Gauze Piece Left behind Inside the Body Alleged—Removal Thereof in Second Operation—Allegations Not Supported by any Documentary Evidence, but Frivolous and Malafide, No Deficiency in Service—Complainant to Pay Costs 778
- Laparoscopic Cholecystectomy—Endoscopic Retrograde Cholangiopancreatography (ERCP) Test Not Done—Death of Patient—Negligence Held for Deficiency in Postoperative Care 778
- Inguinal Hernia—Operation Done Ten Times—Negligence 778
- Postoperative Care—Patient Not Shifted to ICU Immediately after Operation, Not Proved to be Cause of Death—Negligence Not Held 778
- Non-toxic Adenoma of Thyroid—Nursing Home Having No Monitoring Equipment—Anesthetist not Keeping Constant Watch on Cardiac Changes Incidental to or Because of Anesthesia, Nor Observed Pulse Rate and BP Continuously to Detect Changes in Vital Signs of Patient—No Blood Oozing from Skin Incision—Operation Not an Emergency One—Cardiac Arrest, and Death of Patient—Negligence 779
- Ischiorectal Fossa Abscess—Under Anesthesia and Pus Drained Out—Pipe Placed for Irrigating the Wound Removed by Patient Against Medical—Same Treatment Given in Another Hospital also Failure to Follow up Treatment by Patient—No Negligence or Wrongful Diagnosis and Treatment 779
- Improper Postoperative Care—Postoperative Treatment by Homoeopathy Doctors, Typhoid Perforation Developing Severe Complications Including Fecal Fistula 780
- Intestinal Obstruction—Due to Intestinal Knot—Condition of Patient not Improving—Second Operation Performed—No Negligence 780
- Laparoscopic Surgery—Removal of Gallbladder Stones—Surgeon was Aware of the Need of Second Surgery not Taking Precaution to Avoid Liver Tear 781
- Laparoscopic Cholecystectomy—Having Noticed Adhesions in Gallbladder Region Surgeons Deciding to Perform Open Surgery Instead of Laparoscopic Method for which Free Written Consent of Relative's Obtained—Death 781
- Gallbladder Stones Removal Surgery—State Commission Held Opposite Party—Doctor Negligent for Delay in Referral—Negligence—Complainant Failing to Prove these Ingredients of Negligence—State Commission's Decision Holding Appellant—Doctor Negligent Set aside 782
- Laparoscopy—Cholecystectomy—Biopsy Report also Mentioning GB Chronic Cholecystitis—Later Cancer Found Negligence 783
- Gallbladder Stones Removal Surgery—Ligation in CBD Caused Biliary Stricture—Development of Jaundice After Operation—Surgical Drainage—Patient Referred to IGIMS, Patna and of Varanasi—Complaint Liable to be Dismissed 784
- Removal of Gallbladder Stones—after Discharge Abdominal Pain of the Patient Continued and in Another Hospital She was Admitted Wherein She was Found to be Suffering from Incurable Cancer due to Gallstone—District Forum Finding OP Guilty of Negligence—Appeal—dismissed District Forum order 784

Cholecystectomy Referred to Apollo Hospital at Hyderabad where again Operated for Same Complaint—Discharge Certificate Issued by Apollo Hospital Shows that Complications like Jaundice due to Defective Earlier Operation Performed—Negligence 785

Generalized Peritonitis—Sonography Report Showing Small Amounts of Ascites and Mild Splenomegaly—Haematology Report also Suggestive of Some Infection—Opening of Abdomen not for Operation of Appendicitis but for Generalized Peritonitis—after Opening Peritoneum Blackish Brown Fluid came out which was Drained out—after Exploration, Abdomen Closed in Layers and Pancreas Untouched— Examination of the Fluid Revealed Acute Pancreatitis Ascites—Expert Opinion from Doctors of Medical Colleges who Approved the Treatment Given—No Deficiency in Service or Negligence 786

Deceased Suffering From TB, Hypertension, Diabetes and Nephropathy Since Long Resulting in DIC and Consequent Death—No negligence 787

Gallstones and Chronic Cholecystitis—Negligence in Post-operational Care—Removal of stitches after 6 days of Operation—negligent—Upheld by State Commission—Revision against the Decision Dismissed by National Commission 787

Laparoscopic Cholecystectomy—Fixing of Clip at Wrong Site and Accumulation of Bile in Liver Resulting in Post-cholecystectomy CBD Stricture, Obstructive Jaundice and Anterior Abdominal Wall Abscess—No Surgical Exploration for Six to Seven Months—Death of Patient—Complainant Equally Negligent being Doctor 788

Cholecystectomy—Postoperative complications—Subjecting Patient to ERCP, Stenting, Laparotomy, and T-Tube Drainage—Frequent Biliary Leakage—Second Operation Performed Patient could not Survive—No negligence 789

Surgeon Leaving a Guide Wire in the Body of Patient after Fracture in the Neck of the Left Femur Operation—Second Operation in Another Hospital for Removal of the Guide Wire from bladder—Expenses of which Borne by the Doctor—Amounts to Admission of Negligence 789

No Attempt by Opposite Parties to Make a Diagnosis of Left Pleural Effusion—No Necessity to Conduct the Operation on the Abdomen—Wrong Diagnosis— District Forum Upheld by State Commission 790

Finger Injury—Material on Record Showing that when Complainant Approached Doctor, Gangrene had Already Developed—Plea that Doctor put Wrong Incisions and Thereby Cut Blood Supply and Never and Thereby Gangrene Developed not Substantiated by any Document—Complaint Dismissed 790

Removal of Gallstones—Patient Died—Lack of Proper Care during Operation—State Commission Dismissed Complaint as not Maintainable—Revision Petition against this Order—Dismissed by NCDRC 791

Acute Appendicitis—Negligence in Postoperative Care 791

Surgery—Operation of Hernia as well as that of Gallbladder—Fistula—No Negligence 791

Removal of Kidney Stones done with three Surgeries—Negligence 792

Kidney Stone—DJ Stent not Removed—Negligence 792

Oesophageal Cancer Patient—Oral Administration of Tablet was Prescribed as per Medical Assessment— No Negligence 792

Hernia—Infection—Septicemia—Death—Negligence 793

Laparoscopic Cholecystectomy—No Qualified Assistant in the Surgical Team. After Cholecystectomy the Postoperative Care was not as per Standards. In the Absence of Surgeon, the Patient was Monitored by an Unqualified Person Named, Mr. J. Raj Dhami 793

Gallbladder was Separated from Gallbladder Fosa up to the Neck of Gallbladder—Neck of Gallbladder was Left Intentionally to Avoid any Injury to Vital Organ Lying Nearby 793

Bile Duct leak in Laproscopic Removal of Gallbladder 794

Incisional Hernia—No Negligence 795

GB Surgery—Brochospasm while Anesthesia Reversal—Death in ICU 795

About Recording of Surgical and Anesthesia Procedure 795

Squamous Cell Carcinoma of Prepuce/Penis- Amputation of Penis—Death after two years of Surgery—No Negligence 796

Laparoscopic Ventral Mesh Hernioplasty—Infection—Negligence 797

Surgery—Minor Surgery Extended to Major One 797

Surgery—Inherent Risks—Mishaps—Not Necessarily Because of Negligence 797

Appendectomy—Ovarian Cysts also Found and Punctured without Consent 797

Thyroidectomy—Laryngeal Nerves Damaged—One of Two Standard Methods Adopted—No Negligence 798

Lack of Informed Consent—Held Negligent when Patient Got Paralyzed after Laminectomy 798

VOLUME 2

44. Medicolegal Issues in Orthopedic Cases 803

History behind First Medicolegal Ortho Case 803

Reduction of Fracture without Anesthesia—Death from Shock—Held Negligent—Liable for Damages 803

Plastering—Gangrene Set in—Adequate Treatment Given—No Negligence 804

Lack of Postoperative Care—Excess Loss of Blood during Operation Causing Death—Negligence Held 804

Fracture of Femur—Compression Plating—No Negligence 804

Decompression of the Spinal Cord—Failure to Establish Negligence—Complaint Dismissed 804

Non-Union of Fracture and Shortening of Limb—Negligence Held 805

Polytrauma—ICU—Death—No Negligence 805

RTA—Polytrauma—ICU—Death—No Negligence 805

RTA—Fracture Condyle of Tibia—Amputation—No Negligence 805

No Nexus which Could be Attributed to Patient's Condition Prior to Surgery and Cardiac Arrest in Operation Theatre—Res Ipsa Loquitur 806

Accident—Delay in Treatment—Negligence 806

Unexpected Cardiac Arrest during Spinal Anaesthesia—

Arthroscopy—Death—No Negligence 807

Fracture Tibia—Several Operation—Amputation—Negligence 807

Tibia Fibula Fracture—Delay of Two Weeks in Taking X-ray 808

Close Reduction and Internal Fixation by Nailing on Both Fractured Legs on Different Occasions—No Negligence 808

Spinal Surgery—Paraplegia—Neurosurgeon did not See—Negligence 808

Fracture of Right Humerus—Plate and Screws Placed by Fortis Hospital in Medical Surgical Operation were Dislodged—Negligence 808

Both Legs Fractures—No Negligence 809

Fracture Both Bones of Leg—Amputation of Patient's Leg had to be Done Below Knee Joint—No Negligence 809

Dynamic Hip Screw (DHS) Fixation Gold Standard Treatment in Case of Trochanteric Fracture 809

Poly-trauma—Death 809

High Grade Osteosarcoma—Death—No Negligence 810

Osteosarcoma of Left Knee—No Negligence 810

TKR—Infection—Negligence 810

Right Hand Index Finger—Gangrene—Negligence 810

RTA—Wrist Bones—"Volar and Radical Displacement"—Negligence 811

Comminuted Subtrochanteric Fracture of Right Femur—Shortening—Negligence 811

Fracture in Shaft of Femur—Fat Embolism—Death—Negligence 812

Road Traffic Accident and Sustained Injuries—Head Injury and Fracture—Base of Skull and Fracture of Left Humerus—Coma—Death—No Negligence 812

Fracture Neck of Femur—No Negligence 812

Surgery on Wrist—Death—No Negligence 812

Doctor who had done the X-ray had not Noticed the Fracture and Dislocation of the Hip but Simply Issued Report Saying Pelvis is Normal—Negligence 813

Congenital Kyphoscoliosis (Spinal deformity)—Paraparesis—No Negligence 813

Accidental Injuries—Non-referral of the Patient to the Specialist or Higher Centre does not Amounts to Deficiency in Service 814

Case of Pathological Fracture Due to Giant Cell Tumour (GCT), but OP No. 3 Failed to Diagnose it—No Negligence 814

Fracture Lat, Condyle of Left Femur and Giant Cell Tumour—Negligence for Not Referring to Orthopedic Surgeon 815

Bilateral Total Knee Replacement—Medical Board Opinion not Taken in Account—infection—Death—Postmortem—Negligence 815

Bilateral Total Knee Replacement—Right Hemi-paresis—Death—Negligence 818

Missed Fracture Neck of Femur on X-ray—Negligence Proved—Res Ipsa Loquiter Applicable 818

Polytrauma—Death—Negligence 818

Bilateral TKR—Infection—Negligence 819

Fracture of Ankle Surgery—Two Methods of Surgery Prevalent—Adopting Anyone Method Permissible—No Negligence 820

Lack of Oxygen Supply during Operation—Held Negligent 820

Wrong Diagnosis—Malignancy Missed 821

Polytrauma—No Negligence 821

Spine Problem—Operated—Death—No Negligence 821

Serious RTA—Multiple External and Internal Injuries—Negligence 821

Fracture of Leg—Treatment Adopted not Standard—Negligence Held 822

Subluxated Elbow Joint—Myositis Ossificans is Cause and Effect—No Negligence 822

Diabetic Gangrene of Foot—Micro-Surgical Free Muscle Transfer to Salvage the Limb—No Expert Opinion to Suggest that Reconstruction Surgery not the Correct Method to Treat the Foot—No Negligence 822

Pain in Arm Joint—Amputation—No negligence 823

Fracture of Elbow—Treatment Given Standard—No Negligence 823

Prolapsed Inter-vertebral Disc (PID)—No Relief After Operation—No Negligence 824

Epidural Abscess—Back Problem Persisted—No Negligence 824

Fracture of Leg—Postoperative Infection and Shortening of Leg—Approved Method of Treatment Adopted—No Deficiency in Service or Negligence 824

Orthopedic—Amputation of Great Toe for Dead Tissue and an Iron Piece in Great Toe—Negligent 825

Fracture of Ankle—Mal-union After Surgery—Negligent Held 825

Fracture of Elbow—Deformity—Contributory Negligence—No Negligence on the Part of Doctor 825

Increase in Disability after Surgery—Case of Myopathy—No Negligence 826

Deaths during Postoperative Period—Hospital Held Negligent—Fracture of Left Neck of Femur Operated 826

Injury to Left Knee—Not Cured by First Operation—Second Operation Conducted by Another Surgeon—No Negligence of First Surgeon 826

Chronic Diabetic Patient—Treatment from Several Doctors, Both Allopathic and Homoeopathic—Amputation of Leg Ultimately—No Prima Facie Case, Complaint Dismissed in Limine 827

Plaster Too Tight—Negligence Not Established 827

Leaving Foreign Body Inside Wound—Mopping Gauze Piece Left Inside while Closing Operated Area in Orthopedic Operation—Development of Sinus Causing Pain and Pus Oozing Out—Negligence Held 828

Cosmetic Surgery—Physical Deformity—Orthopedic Operation—Negligence 828

Orthopedic—Accident Case—Anesthetist—Causing Death by Criminal Negligence 828

Fracture of Femur—Death on the Same Date of Operation—Case of Pulmonary Embolism Resulting in Cardiogenic Shock—No Negligence 829

Fracture of Ankle—Reasonable Care and Skill—No Negligence 829

Fracture of Arm—Allegation of Negligence in Treatment—Subsequent Operation by Another Doctor—No Negligence 829

Fracture Neck of Femur—Total Hip Replacement Surgery Done three years after Hemi-arthroplasty—Widening of Fracture due to Mishandling by Surgeon, Not Proved—No Deficiency in Service 829

Compound Comminuted Fracture of Left Elbow—Development of Volkman's Ischemic Contracture resulting in 70% deformity in left arm—No negligence 830

Fracture of Neck of Femur—Broken Bone Pieces Fixed Together by Two Steel Screws—Non-union of Bones as Screws

Collapsed—Second Surgery by Another Doctor, but Unsuccessful—No Negligence 830

Fractured Arm Plastered—Bones not Uniting—Plaster Broken by Complainant—Contributory Negligence of Complainant—No Negligence 830

Fracture of Humerus—Plastering of Arm Despite Development of Swelling—Taking X-rays and Re-Plastering the Arm over and again—Fractured Bones not Uniting—Opposite Party not Advising Surgical Treatment—Condition of Patient Deteriorated—Calling for immediate major surgery—Negligence held 830

Poor Postoperative Care—Fracture of Femur Symptoms of Gangrene Spreading Rapidly, but no Step Taken to Control—Vascular Surgery and Amputation of Leg—Negligence 831

Multiple Injury in Leg—Consolidation of Fractured Bones Took More Time than Usual—No Evidence Thereto—No Deficiency in Service or Negligence 831

Ankylosing Spondylitis—Deterioration of Condition of Patient Due to his Interruption of Treatment—No Negligence 832

Knee Surgery—No Remedy for Malady Offered—No Negligence 832

Fracture of Leg—Post-operative Infection and Shortening of Leg—Approved Method of Treatment Adopted—No Negligence 832

Repair of Fractured Femur by Fixing Metallic Plate—One Screw of the Plate having been Displaced, Second Operation Fixing New Screw—Exact Reason for Breakage Alleged Not Substantiated—No Negligence 833

Compound Comminuted Fracture of Patella—Fractures not United—Plasters Changed Twice, and Removal of Wire Advised in Case of Pain—Treatment in Consistence with Established Norms of Medical Practice—Patient not Following Further Treatment as Advised—Continued Pain—No Negligence 833

Treatment for Fractured Bones—Unqualified Doctor—Fractured Bones of Arm Found Exposed—Plastering of the Arm, and no Cure—Negligence Held 833

Careless Plastering of Patient Resulting in Gangrene after Sprain on One Foot—No Fracture of Bone or Ligament Involvement in X-ray 834

Head Injury—Death of Patient 834

Fracture of Thigh Bone—Got Operated—Insertion of Iron Rods and Application of Plaster on Thigh Bone—Re-operated by Other Doctor—No Negligence 835

Fracture of Neck Femur—OP inserting Screws one of which being of Oversize—Negligence 835

Surgery for Knee-joint—Post-traumatic Ankylosis—50% Permanent Physical Impairment of Left Limb—Negligence Held 836

ISO Certified Implant—No Negligence 836

Fracture of Neck of Femur Bone of one of the Legs—Patient having Chronic Diabetes—No Negligence 836

Fracture of Left Femur—Surgeon Opened the Thigh, Fracture Reduced and Plaster Cast put on—Non-uniting of Fracture within Normal Time—Negligence 837

Total Hip Replacement—One Leg Affected by Gangrene due to Thrombosis—No Steps Taken to Avoid—Failed to get Services of a Vascular Surgeon—Ultimate Amputation of the Leg—Deficiency in Service 838

Fracture Neck (Right), Femur—Partial Hip Replacement—Complainant Treated as per Established Procedure—No Negligence 838

Amputation of Leg—Allegation that Loss of Sensation Due to Tight Application of Plaster of Paris Causing Infection and Ultimate Amputation—No Negligence 839

Fracture of leg bone—Over-tight casting of plaster of paris (POP)—permanently disabled—Negligence held 839

Fracture of Left Femur—Surgery for fixation of Fracture with Plate and Screws—X-ray Normal—Indicating No Complications—No Negligence 840

Leg Fracture—Patient Subjected to Dynamic Compression Planting (DCP) and put under Plaster of Paris (POP) Cast—Despite Severe Pain and Swelling, POP Not Cut—Corrective Surgery in Another Hospital—Negligence Held 841

Bone Biopsy—Doctor Performed Bone Biopsy so Carelessly that the Biopsy Needle Pierced the Blood Vessels of Patient Causing Internal Bleeding Resulting in Ultimate Death—No Negligence 841

Fractured Femur of Minor Put in Plaster—Subsequent Infection and Amputation of Leg—No Negligence 841

Fracture Shaft Right Humerus in an Accident—Radial Nerve Paralysis on Right Hand—No Negligence 842

Fracture of Right Thigh Bone—Fixation of a Plate—No Negligence 842

Multiple Fractures—X-ray Clearly Suggesting Inevitability of Surgery—Negligence 842

Fracture Femur—Shortening of Leg 843

Contemplate before Refusing to Refer the Patient to Another Facility 843

Rest and Non-wait Bearing Advice Not Followed—No Negligence 843

THR—Opinion of One Doctor versus Several Experts—No Negligence 843

Incomplete Diagnosis is Negligence and is Equivalent to Misdiagnosis or Missed Diagnosis Defending in a Court that at least a part of the Diagnosis was Correct will not Rectify the Wrong 844

Fracture—Gangrene-amputation—State Commission Dismissed—National Commission Directed to Re-hear 844

Fracture Tibia Fibula, Compartment Syndrome—Leg Became Useless—Negligence 845

Not Doing X-ray Before Re-plastering—Negligence 846

Alleged Tight Plaster—Amputation—No Negligence 846

Failed to Prove Negligence—Death of Doctor 846

Replacement of Hip—Wrong Advice—Negligence 846

No Guarantee for Cure—No Negligence 846

Concealing Medical Facts—Negligence 846

Lost to Follow up—No Negligence 846

THR—10 Years Ago—No Negligence 846

Non-union for Six Months—No Negligence 846

Failure to Diagnose—Negligence 847

Leg Fracture—Amputation—No Negligence 847

Shoulder Dislocation—No Negligence 847

Orthopedic Surgeon, Anesthetist, Cardiologist—Death during Operation—Held Negligent 847

Giving of Tight Plaster for Fracture—Tibia by Orthopedic Surgeon and Delaying Diagnosis of Compartment Syndrome—Gangrene Amputation along with ARDS—Patient Saved—Res Ipsa Loquitur—Held Negligent 848

Koch's Spine after 6 Months has No Nexus with Laminectomy—No Negligence 850

Fractures on Elbow and Wrist of One Hand—Application of Plaster of Paris—Swelling and Pain in the Bandaged Hand—Plaster Removed and Hand Elevated—No Negligence 850

THR—Death—No Negligence 850

Medical Negligence Cannot be Attributed for the Presence of the Chronic Infection—No Negligence 851

Fracture of Left Leg—Bigger Size Screw—No Negligence 851

RTA—Hypoxic Encephalopathy—Fractures—Records Tempered—Negligence 852

Honest Error in Judgment 853

Departure from the Normal Methods of Orthopedics Constituted Negligence 853

Plaster Cast Causing Volkmann's Contracture—Held Negligent 853

Plaster Cast—Doctor Not Caring to see Patient—Gangrene—Held Negligent 853

Surgeon Vicariously Liable for Nurse—Anesthetist—A Young Man had an Operation for a Dislocated Shoulder—Death 853

Compartment Syndrome and Gangrene—Hospital Liable 853

Incompetent Surgeon—Hospital Liable 854

45. Medicolegal Issues during Emergency Rooms Treatment and Critical Case

858

Why Critical Care Doctors? 858

Training and Qualifications of Critical Care Doctors and Consultant Critical Care Intensivist Physician 858

Dual Model of Care for Critically Ill Patient 858

Who is a Consultant Critical Care Intensivist Physician? 858

Direction for ICU and Hospitals for Resource Optimization of Critical Care 859

Legal Responsibility of the Consultant Critical Care Intensivist Physician 859

Responsibility of the Consultant Critical Care Intensivist Physician 860

Conflicts between the Consultant Critical Care Intensivist Physician and Primary Consultant/Other Medical Teams be Avoided 860

Time Commitment to the ICU 860

Training Subordinates in Critical Care 860

Services Outside the ICU by Consultant Critical Care Intensivist Physician 860

Follow-up of Patients Outside the ICU 861

Maintaining Standards of Intensive Care Practice 861

Criminal and Civil Remedies were Time Consuming Compared to Consumer Remedies 861

Act of Omission or Commission has Potential for Litigation 861

Emergency Situations of Medicolegal Importance 861

What to do if Patient is Brought Dead by Mob 862

What to do if Patient is Brought Dead 862

What to do if Patient is Brought Dead who was Under Your Treatment for a Serious Disease? 862

How to Transport Sick and Serious Patient 862

About Consent, Dissent, Assent, Counseling, Forewarning 863

About Monitoring and Record Keeping 863

About Critically Ill Patients Where "Known Complication" Which cannot be Prevented 863

About Cases Related to Anaphylaxis 863

About Case Related to Improper Intravenous Administration in Emergency 863

Injection Kesol (Potassium Chloride) (IV)—Alleged Death of Four Babies—No Criminal Negligence 863

Cases of Injection Related Gangrene while Giving Emergency Treatment 864

Emergency Blood Transfusion 864

Law Related to Medical Emergencies 864

Obligation to Provide Emergency Healthcare 865

Implementation of Case Law on Medical Emergencies 865

Medico Legal Cases on Right to Emergency Care during Accidents 866

Critical Care Medicine Expert came only at a Later Stage and there is Absolutely Nothing to Show any Mismanagement on his Part in Circumcision Surgery 867

- Alleged Negligence is under Question in ICU 867
 Accident Patient in Coma—Critical Care—No Medical Negligence 868
 Accident—Leg Injury—Gangrene—Death—Long Term Goal Suggested at PGI Critical Care 868
 Long-term Goal Suggested at PGI Critical Care 868
 Alleged Haemo/Pneumothorax due to Central Venous Catheter—No Negligence 869
- 46. Medicolegal Issues in Ophthalmology 871**
- Diagnosis: History Taking Including Important Relevant Negative 871
 Cataract Operation—Diabetic Patient—Failure to Rule Out Diabetes before Cataract Surgery—Negligence held 871
 Law Demands Care Not Cure 871
 Operated for Cataract of Right Eye with IOL—Proper pre Op. Tests Done—Patient had DM Endophthalmitis—Vitrectomy—Vision Lost—No Negligence as Proper pre as well as Intra and Postoperative Care Given—No Negligence 871
 Child Operated at the Age of 10 months at AIIMS, Suppressed by Mother (Buphthalmos)—Patient Faulted for Suppressing History—Developed Postoperative Complications in Spite of Proper pre op., intra-op and post-op Care—Resulted in Removal of Eye—No Negligence 871
 Examination, Looking for Signs And Making Tentative Diagnosis By Process Of Logic 872
 GP Gave Ampicillin with Paracetamol and Chlorpheniramine Maleate for Fever—She Developed Red Eyes for which Referred to Eye Surgeon—Ophthalmologist Prescribed Local Eye Ointment—No Negligence as Ophthalmic Surgeon Detected Complication and Referred to Skin Specialist 872
 No one is Expected to Diagnose Unless Signs and Symptoms Lead to Diagnose 872
 Operation Based on Preoperative Investigations and Diagnosis is what is Expected by Law 872
 Doctor Advised for B-scan Before Cataract Operation—Conducted Operation without B-scan Report—Vision Lost due to Endophthalmitis Vitrectomy Done—Deficiency in Service Held 873
 Lasik Laser Procedure—Post Lasik Ectasia—No Negligence 873
 Blurred Vision and Later on Ectasia after Lasik Surgery—Negligence 874
 Known Complication of Posterior Capsular Rupture (PCR) was Correctly Managed by OP2 by Performing Anterior Vitrectomy with Anterior Chamber Intraocular Lens Implantation (ACIOL) 875
 Patient was Known to have Allergy to Local Anesthetics so Decided to do Cataract Surgery under GA—Did not Conduct Preoperative ECG and Blood Tests—Did not Show to Anesthetist Postoperatively Patient Died of excessive Anesthesia/Heart Attack Shortly after Surgery—Doctor Faulted for not Doing pre op Check up—PM not Done by Doctor—2.2 lakhs Awarded 875
 Retinal Hemorrhage and Retinal Oedema—Use of Avastin not Banned in India 876
 Radial Keratotomy not Banned 876
 Cataract Surgery and Implanted IOL (Intraocular Lens)—Postoperative Suprachoroidal Haemorrhage Blind 876
 Failure to Measure IOP before Cataract Surgery 876
 Follow Standard Treatment Schedules 877
 Retinopathy of Prematurity (ROP) 878
 Retinopathy of Prematurity (ROP)—ROP Happens if Oxygen more than 30%—43 Lakh Awarded 878
 No Screening for Retinopathy of Prematurity (ROP)—Negligence 878
 Retinopathy of Prematurity (ROP)—No Criminal Negligence 879
 LSCS—Premature Baby—Retinopathy of Prematurity (ROP)—Negligence 879
 ROP—No Screening Advised for Twins—Negligence 879
 Retinopathy of Prematurity (ROP)—Gramoneg not Responsible for Loss of Vision 879
 Screening of Retinopathy of Prematurity (ROP) not Advised—Negligence 880
- Not Advised Retinopathy of Prematurity (ROP)—Negligence Held 880
 Eye Trauma While On Work 881
 Accidental Instillation of Carbolic Acid in Eye—While Treating Marginal Ulcer of left Eye by Eye Washing, Some Carbolic Acid was Dropped in Eye by Mistake by Unqualified Nurse Assisting Doctor—Cornea Damaged—Vision Lost—Negligence 881
 Consent Cannot Substitute for Shortcoming on the Part of Equipment, Infrastructure and Skill 882
 Mere Holding out that I Did Not Operate or Did Not Receive Money is Not Going to Get you out of Consumer Court 882
 Mass Eye Camp Blindness 882
 Charity Eye Camp—Postoperative Eye Infection—Irreversible Eye Damage of 84 Patients 882
 Loss of Vision Due to Use of Expired Lens—Negligence 882
 Torik Implantable Collamer Lens (TICL)—Blurred Vision—Inflated Claim 883
 Cataract Operation—IOL Implant—Loss of Vision—Complainant Not Careful in Follow-up Treatment—Contributory Negligence 883
 ROP—No Criminal Negligence 883
 LSCS—Premature Baby—Retinopathy of Prematurity—Negligence 883
 Alleged Use of Steroid Eye Drops—Eye Sight Lost—No Negligence 884
 Negligence in Refraction—Refund of Charges Awarded 884
 Ophthalmology—Operation for Glaucoma—Loss of Eye-sight—No Negligence 884
 Cataract Operation—Loss of Vision—No Negligence 884
 Cataract Operation—IOL Implant—No Negligence 884
 Defective Drug—Irrisol Drops Causing Blindness to Number of Patients 885
 Cataract Operation—Evisceration—No Negligence 885
 Eye injury—Removal of Eye—Proper Care and Treatment Given—No Negligence 885
 Foreign Body in Eye—Contributory Negligence—No Deficiency in Service 885
 Postoperative Care—Lack of Proper Care and Treatment Following Eye Surgery—Principal of Boarding School and Ophthalmologist Held Negligent 885
 Cataract Operation—Damage to Eyesight Following Eye Surgery—Negligence Held 886
 Cataract Operation—Loss of Vision—Patient Not Fit for Surgery—Negligence Held—Compensation of Rs. 50,000 Awarded 886
 Ptosis Surgery—Deformity of one Eye—Superior Rectus (SR) Muscle Cut on Operation Resulting in Injuries to Cornea and Eyeball—Negligence 886
 Radial Keratotomy—Loss of Vision—Patients Below 21 years of Age Whose Myopia not Stable not Fit for Keratotomy—Operation of a Teenager—Negligence 886
 Cataract Extraction—Loss of Vision—No Evidence as to Negligence 886
 Operation for Glaucoma—Negligence Alleged and Treatment Taken Elsewhere—Held No Negligence on Ground of Contributory Negligence 887
 Ptosis Surgery—Deformity of One Eye—Superior Rectus (SR) Muscle Cut on Operation Resulting in Injuries to Cornea and Eyeball—Negligence 887
 Radial Keratotomy—Loss of Vision—Patients below 21 Years of Age whose Myopia not Stable Not Fit for Keratotomy—Operation of a Teenager—Negligence Held 887
 Cataract Extraction—Loss of Vision—No Negligence 887
 Ophthalmology—Cataract Operation—Loss of Vision—Implantation of Intraocular Lens (IOL)—Patient not Following follow-up Treatment—Procedure Followed by Doctor for Implantation not Shown to be Wrong by Production of any Expert Evidence—Held, No Negligence 888
 Cataract Extraction—Loss of Vision—Negligence in Not Removing thread Cord after Operation Alleged—Vision Impairment Attributable, to Wrong Surgery, Not Opined by Experts—No Negligence 888

Cataract Operation—Loss of vision—Phaco Emulsification—Patient Abandoning Treatment Prescribed by OP, Consulted and Got Treatment from Several Eye Specialists without Approval of OP—No Evidence to Show that Treatment given by OP—Doctor was Faulty—No Negligence 888

Myopia—Operation of Both Eyes of Complainant Using Laser Technology—No Negligence 889

PRK—Advertisement—No Relief—Unfair Trade Practice 889

Complicated Myopic Cataract on Left Eye—Again Approaching OP for Removal of Cataract on Right Eye—No Negligence 890

Cataract Operation—Prior Pathological Tests Necessary Eye—Causing Retinal Detachment Resulting in Total Loss of Vision of that Eye—An Act of Gross Negligence 890

Loss of Vision—Doctor Using Tonometer in the Eyes of Patient—Patient having a History of old Viral Keratitis that causes Ulcer—No Expert Evidence Adduced to show Loss of Vision—No Negligence 891

Cataract Operation in Left Eye—IOL Implanted with Instruction to Observe Strict Sanitary Conditions—But Later Infection Developed Causing Permanent Loss of Vision and Removal of the Eye—When Infection Developed, Doctor Referring Patient to Higher Centre, Revealing his Vigilance about Condition of the Patient—No Negligence 891

Radial Keratotomy—Patient Undergoing Surgery for Both Eyes—Resulting in Blindness of One Eye and Serious Infection in the Other—Referred to Another Hospital—Both Eyes should not have been Operated at the Same Time—Surgery of Both the Eyes without Diagnosing—Negligence 892

Wrong Diagnosis and Improper Treatment—Two Days Later Loss of Vision of the Eye—In the Presence of a Foreign Body in the Eye OP should have Continued the Treatment—Negligence 892

Retinal Hemorrhage—Argon Laser Performed—Loss of Vision 893

Cataract—Posterior Lens Drop—Negligence Held 893

Cataract—Endophthalmitis—Negligence 893

Cataract-complication related to diabetes and asthma occurred either during or after operation—Held deficient 893

Cataract—Post-cataract Scleral Necrosis with Endophthalmitis 893

47. Medicolegal Aspects of Anesthesia 897

Medicolegal Aspects of Anesthesia 897

Unexpected Cardiac Arrest during Spinal Anaesthesia—Arthroscopy—Death—No Negligence 903

TL—Nitrous Oxide Instead of Oxygen Causing Death 903

LSCS—Spinal Anesthesia—Ependymoma—Paraparesis—No Negligence 903

Alleged Excess of Anesthesia—Death—“Died of Effects of Inborn Intestinal Pathology and Renal Disease”—No Negligence 903

Recurrent Laryngeal Nerve (RLN) Injury will not Cause Dislocation of Arytenoid—Same Resulted due to Faulty Insertion of Double Lumen Tube during Administration of Anaesthesia to the Patient 904

Anesthesia by Not a Qualified Anesthetist—Criminal Negligence 904

D&C—Anaesthetist not Called—Gangrene—Right Arm Amputated—Negligence 904

The Identity of the Alleged Anesthetist was not Disclosed—Consent—Informed Consent Required to be Taken by Hospital and Doctor before Conducting Surgery on Patient 904

LSCS—Twins—No Negligence of Anesthetist giving Spinal for LSCS—AFE—Death 905

Repair of Incisional Hernia under Spinal Anesthesia—Cardiac-respiratory Arrest—Kidney Failure—Death—No Negligence 905

Spinal Anesthesia—Bedridden for Several Months and Consequently Died—Complaint Dismissed against Anesthetist 906

TL—Anesthesia Given by not Specialized in Anesthesia—‘Xylocaine Shock’—PM Done—Death 906

Death due to Spinal Anesthesia—There is Nothing on Record to Show that there was a Monitor Attached to the Deceased to Monitor his ECG, BP, and Oxygen Level—Negligence 906

Doctor was not Specialized in the Administration of Anesthesia—Compensation of Rs. 6 lakh awarded by Consumer Court 907

Chemical Sympathectomy—Monoplegia—Negligence 907

A Doctor Cannot be Subjected to Travails of Criminal Prosecution on Vague Allegations of Medical Negligence during Administered Anesthesia to Facilitate Caesarian Delivery 907

GB Surgery—Brochospasm while Anesthesia Reversal—Death in ICU 908

Aspiration during Anesthesia—Fractured Wrist Joint Surgery—Table Death 909

Para-paraparesis after Spinal—No Negligence 909

48. Medicolegal Issues in ENT 912

Tonsillectomy—Death—No Criminal Negligence 912

Nose Injury—Injection Butrum did not Cause Drug Reaction—Deceased was a Drug Addict—Chronic Alcoholic—Postmortem Death due to Sudden Severe Heart Attack—No Negligence 913

ENT Surgeon Referred to General Surgeon who was Competent to Conduct the Thyroidectomy—No Negligence 913

Tissue Growth in Nose—Death—Documents not Supplied—Negligence 913

Stapedotomy Operation—PM—Subdural Hemorrhage Caused Death 913

Stapedectomy—No Negligence 913

Polytrauma—ICU Care—Tracheostomy—Negligence 914

Oozing Blood from Nose—Not Giving Name of Procedure—Hytxic Encephalopathy—Negligence 914

Not Obtaining Consent for Tracheostomy 914

ENT Surgeon Treated—A Serious Burn Injury—Anesthesia by Pediatrician—Negligence 915

Error of Judgment but Certainly but not a Case of Gross Medical Negligence 915

Not Informed Patient about Ophthalmic Complications and Performed FESS 915

FESS—Paraplegic + Upper Limb Power is Improving—No Locus Standi of Person Filing Consumer Case 916

ENT—Tracheotomy—Operation Done to Ease Breathing as Patient Experiencing Breathing Deficiency due to Lung Congestion—Performance of the Surgery without Informing the Complainant, Wife of the Patient—No Negligence or Deficiency in Service 916

Tonsillectomy—Improper Administration of Anesthesia—Cardiac Arrest Following Brain Damage due to Shortage of Oxygen Supply to Brain at the Time of Operation 916

Ear Operation—MRM—Partial Paralysis of Face Muscles with Facial Palsy/Disfigurement, Defect in Eye and Ear Due to Damage to Veins Leading to Eye Caused during Surgery Alleged 916

Postoperative Care 916

Septoplasty—Ribbon Gauze in the Nasal Cavity 917

Cosmetic Surgery—Corrective Surgery for Mending Inbuilt Defect of Nose and Permanent Scar on Lip—Emission of Foul Smell from Nose as Gauze Pack Left Inside Nose Cavity 917

Mastoid Surgery—Discharge of Non-foul Smelling Water from Ear with Decreased Hearing—Facial Paralysis Post-operation 917

Tonsillectomy—Post-anoxic Encephalopathy 917

Tonsillectomy—Cardiac Arrest before Surgery for Removal of Tonsil Commenced during Anesthesia Induction and Surgery Abandoned in Favour of Resuscitation of Cardiac Arrest 917

CSF Otorrhea—CT-Scan Not Done 917

Microlaryngeal Examination—Tracheostomy—Cause of Death was Stated to be Cardiorespiratory Failure Secondary to MI 917

Surgical Treatment Delayed due to Non-preservation of 1st Biopsy Sample 918

Adenoidal Hypertrophy—Death—Negligence 918

ENT Surgeon Employed BUMS Doctor as RMO to Treat Epistaxis 918

Standard Treatment Regimens/Plan Followed 918

Death due to Intraoperative Reaction to LA 919

Vision Lost after FESS 919	
Off Label Use, Higher and Longer Duration Use 919	
Anesthesia—Cardiorespiratory Arrest—Death—Held Negligent 919	
FESS—No Negligence 919	
FESS—Vision Lost—Negligence 919	
ENT—Tonsillectomy—Death—Causal Connection with Manner of Administration of Anesthetic—Held Negligent 919	
49. Medicolegal Issues Related to Dental Surgeon 922	
Fracture of the Jaw 922	
Inflated Claim 922	
Well-differentiated Squamous Cell Carcinoma—Not Treated Properly—Negligence 923	
BDS Cannot Treat Orthodontic Patients 923	
Consent for Different Tooth and Removed Different Tooth 923	
Root Canal Surgery—Barred by Limitation 923	
Defective Dentures—Refund Ordered 924	
Over-bleeding and Headache Following Tooth Extraction 924	
Defective Artificial Tooth of Denture—Replacement by Experienced Surgeon 924	
Detachment of Needle from Syringe and Slipping into Throat 924	
Defective Denture 925	
Ludwig's Angina after Dental Extraction 925	
Broken file is a Normal Phenomenon in Dental Treatment and Even Endodontist Break files while Doing Root Canal—No Negligence 925	
Shaky Dental Implant—Nerve Injury—Negligence Held 925	
No Criminal Negligence 926	
Needle Broken—Left in Jaw—Negligence Held 926	
Aspiration of Pus Method vs Incision and Drainage—No Negligence 926	
Uprooting Wrong Tooth—No Negligence 927	
Dental Treatment cannot Diminish Eyesight and Hearing—No Negligence 927	
Implants Causing Inferior Alveolar Nerve Paresthesia—Case Sent Back to State Commission for Cross-Examination of Opining Doctor 927	
Poor Quality Filling—Negligence Held 928	
Fixed a Denture of Two Front Teeth—one Tooth Came Out—Re-fixed—No Negligence 928	
Broken Piece of the Reamer is the only Cause for the Infection—Negligence 928	
Wrong Tooth Removed—No Negligence 928	
Implant—Damage to Right Jaw Bone and Nerves—No Negligence 929	
Artificial Denture—No Deficiency—Remanded to State Commission by NC 929	
Root Canal Treatment—Excessive Charges—No Negligence 929	
Wisdom Tooth Removal—Bleeding—No Negligence 929	
Root Piece of Wisdom Tooth Remained—Negligence Held 930	
Faulty Dental Treatment 930	
New Un-established Techniques 930	
Fracture of the Jaw 931	
Broken Tooth Went in to Throat—it was not Informed—Pneumonia—Died 931	
Removal of Wisdom Teeth—Permanent Injury to Lingual Nerve 932	
50. Medicolegal Issues in Cardiology and Cardiothoracic Surgery Cases 934	
Unconsented Central Venous Line—Haemathorax—Negligence 934	
Restrictive Cardiomyopathy—No Explanation for not Admitting to ICCU 934	
CABG—Postoperative Care—Sternum Suturing—Chest and Other Complications—Negligence 935	
Omit to Give Information about Pericardiectomy—Negligence 935	
Cardiac Patient Angiography—CABG—Death—Res Ipsa Loquitur Not Applied as Expert Opinion Favoured Doctors 935	
Angiography—Death—No Criminal Negligence 935	
Myocarditis or Heart Attack—Death—Negligence 936	
Coronary Angiography—Difference of Opinions—No Negligence 936	
Post CABG, the Patient had Wound Dehiscence—No Negligence 937	
Asymptomatic—Subsequent Deterioration due to Progression of Disease—CABG—Death—No Negligence 937	
Misdiagnosis of GERD for MI—Negligence 938	
Septal Myomectomy of LVOT and Mitral Valve Replacement Surgery—No Negligence 938	
CABG—Amputation of Leg—Negligence 938	
CABG—Anoxic Hypoxic Damage to Brain—Death—Negligence 938	
Cardiology Evaluation not Done by Patient—No Criminal Negligence 938	
Pacemaker—No Infection—No Negligence 939	
Coronary Angiography—Plasty with Ballooning Done—CABG not Done—No Negligence 939	
Angioplasty with Different Size Stent—Re-stenosis—CABG—No Negligence 939	
Coronary Artery Bypass Graft—Gangrene of Hand in Time, Ultimately Leading to Amputation of Finger 940	
MI and Actually Needed Emergency Cardiac Intervention Either by Angioplasty or By-pass Surgery. Admittedly, Angioplasty Procedure was Delayed for 3½ hours 940	
Congenital Heart Disease Operated—Later Developed Cerebral Malaria—Death—No Negligence 940	
Failed to Treat and Diagnose of Severe Coronary Artery Disease—Negligence 940	
Complaint is Partly Allowed against OP 1 and the same is Dismissed against OP 3. Following Directions are Issued to the OP No.1 to Pay Rs ten lakh only—Cathlab of the Hospital was not Functioning—No Negligence 941	
Angiography Done at other Hospital and Changed by 1st Hospital—Refund 941	
CABG—Death—No Negligence 941	
Fatal ICH was due to Long Standing Blood Thinners which Patient was Consuming or CAD—Neurological Decline after the Administration of 3rd Dose of Heparin in the Morning on 17.6.2009 and Moreover Failed to Hold Future 4th Heparin Dose Administration—Brain Haemorrhage that Caused his Stroke and death 941	
Wrong Diagnosis—Delayed Diagnosis—Time was Wasted in Diagnosing the Disease and Starting the Treatment Blockage of Iliac Arteries where as it was Takayasu Disease 942	
Unnecessary Angioplasty also Barred by Limitation 944	
Heart Valve Replacement—No Negligence 945	
Angiography Resulting into Dissection of Aorta—No Negligence 945	
Doctors are not Immune from Legal Proceedings 946	
Angioplasty Procedure was Conducted Died Shortly Thereafter of a Heart Attack—Negligence 946	
Allegation of Gauze Left in Body not Proved—No Negligence 946	
CBAG Allegation of Infection in Wound in Knee but Death due to Brainstem Hemorrhage 947	
Treatment Proper—No Negligence—Excessive Fee—Not a Consumer Dispute 947	
Operation for Mitral Stenosis—Patient Subsequently Developed Left Hemiparesis—Died—Doctor's Advice not Followed—No Negligence 948	
Heart Attack—Death—No Negligence—The Husband of 1st Complainant Suffered Heart Attack and was Admitted in the ICU—Died—No Negligence 948	
Post-CABG Chronic Osteomyelitis of Sternum—Negligence Held 949	

Operated for PDA—Paralysis of Left Vocal Cord—No Negligence 949

Deferment for Bypass Surgery—Patient Suffering from Multi-organ Complications—Non-performance of Surgery at Scheduled Time due to Poor General Health Condition—No Deficiency in Service 949

Implantation of Pacemaker—Post-implantation Infection—No Negligence 949

Cardiothoracic Surgery—Coma after Treatment—No Oral or Documentary Evidence Indicating Negligence in Performing Operation or in Postoperative Care—No Negligence 950

Patient 80 Years of Age—Cardiorespiratory Arrest—Death—Report of Board of Doctors Holding Death to be Natural—No Negligence 950

Wrong Diagnosis Alleged—Opposite Party-hospital Diagnosed Single Vessel Disease—Another Hospital Diagnosed Severe Triple Vessel Disease—No Negligence 951

Open Heart Surgery—Patient, Child of Complainant having a Complex and Rare Form of Congenital Cardiac Anomaly 951

Angioplasty—Patient Having Congenital Heart Problems said to be Curable by Balloon Dilatation as per Angiogram Report and no Heart Surgery 951

Coronary Artery By-pass Grafting—Patient not Regaining Consciousness after Surgery—Hypotension and Cardiac Arrest—No Negligence 952

Deceased, Diabetic—Acute Anterior Myocardial Infarction Thrombolysed at Another Hospital and Post-MI Period—Ventricular Dysrhythmias—Infection—No Negligence 952

Heart Attack—ECG, etc. Done and Thrombolysed with STK Injection Later Removed to a Heart Hospital wherein Coronary Angiography Performed and Subsequently PTCA (Angioplasty)—Put on Ventilator but Patient could not Survive and Died due to Cardiac Arrest—No Negligence 953

Myocardial Infarction—Standard Treatment—No Negligence 953

CABG—Improper Postoperative Care—Profuse Bleeding—Inability to Stop—Ultimate Death of Patient—Held Negligence per se 954

Sponge Left in Abdomen—Negligence Held 955

CABG—Delayed—Death—Negligence 955

Not Prescribing Anticoagulants—Suffered Another Heart Attack—Held No Negligence 956

51. Medicolegal Aspects of Radiology, Sinology, Cat, MRI 958

Newborn's Left One Arm and Kidney were Missing—Res Ipsa Loquitur—Negligence 958

Newborn Anomalies not Detected—1.25 Crore Awarded 959

Twin Pregnancy—USG Report Revealed Single Fetus—Monoamniotic Twins—Negligence 959

Delay in Arranging for USG 959

USG—Ureteric Stone Missed—No Negligence 959

Newborn's Left One Arm and Kidney were Missing and Even Lungs were not Completely Developed—Negligence 960

Achondroplasia—USG Done after 20 weeks—MTP not Possible—Negligence 960

No Evidence that Qualified Person Reported USG—Negligence 960

Single Child Reported on USG—Twin Delivered—One Child Died—Negligence 961

Wrong Diagnosis—USG—Liver Abscess Left Lobe—Not Found by Next Doctor on USG within 24 hours 961

Wrong Diagnosis on X-ray and USG 961

Failed to Study and Interpret Correctly the Report of MRI and Scan Images 961

Missed Diagnosis on Targeted Anomaly Scan 961

Opinion Based on Impression Recorded by the Machine—No Negligence 962

Wrong Report of CT Scan—Attending Doctor Should Not Entirely Depend on Reports—No Negligence 962

Res Ipsa Loquitur not Applied—Ultrasound is by Itself not 100% Sure Test 962

Level II USG Scan not Advised—Serious Congenital Malformation Missed—Negligence 963

Erroneous Report—Ultrasound Test of Abdomen—Report Stating that Gallbladder Contained Multiple Echogenic Shadows of Stones—No Stones Found on Surgery—Negligence Held 963

52. Medicolegal Aspects of Pathology and Medical Laboratory Practice 965

Registration and Licensing of a Pathologist 965

Lab Samples Taken by Hospitals, which are Expected to Work Round the Clock, Cannot Turn around and Say to Public at Large and Say that we Work during Fixed Hours. This Amounts to Negligence on part of Laboratories Attached to Large Private Hospitals 967

Variation of Platelet Count—No Negligence 967

Wrong Urine Pregnancy Report 967

Pathologist Cannot be Held Responsible for Negligence of Pediatrician 967

Non-diagnosis of Blood Cancer 967

Ante-natal Examination—VDRL—False-positive 967

Wrongly Reported as Cancer—Panhysterectomy—Negligence 968

Antenatal Wrong Diagnosis of not Suffering from Sickle Cell on DNA Test 968

Cancer Stage IV Missed 969

Pathological Laboratories—Different Readings of Bilirubin 969

Litigation Even after Refunding Blood Examination Charges 969

Wrong Pathology Report of Breast Cancer—Negligence 969

No Real Consent for Blood Transfusion—HIV to Mother and Child 970

Spinal surgery—Foot Drop—Stem Cell Therapy—Patient Worsened—Negligence 970

Missed Abortion Urine Test for Pregnancy may Show Negative 970

Wrong Report Carcinoma of Uterus 971

Wrong Blood Group 971

Dengue Neither Suspected Nor Diagnosed Till Laboratory Report Showed Dengue IGG Positive—Caused Delay—Death 971

Wrong Report of Small Cell Carcinoma of Lung 972

Haemophilia—HCV Positive Following FFP Transfusion—No Negligence 972

HIV Caused by Negligence Not Proved 972

Removed Both the Enlarged Spleen and the Gallbladder in Severe Sickle Cell Anemia—PM—Bleeding from Short Gastric Artery—No Criminal Negligence 972

Blood Transfusion—HIV Infection—Res Ipsa Loquitur—Death—Negligence 972

HIV Negative Given Positive Report 973

Retention and Ownership of Specimens and Reports 973

53. Medicolegal Issues Related to Blood Group, Blood Bank, Blood Transfusion and Transfusion Related Transmission of Infections 977

Important Medicolegal Aspects of Blood Transfusion 977

Reason Behind Regularizing Blood Transfusion Service 977

Wrong Blood Group Report 979

Different Blood Group Reports by Two Labs 980

Alleged Emergency Blood Transfusion with Different Blood Group 980

Alleged Wrong Blood Transfusion 980

Positive Blood Group Patient Transfused Negative Blood 980

Transfusion with Positive Blood in Negative Patient 980

Rare Blood Group Not Kept Ready before Operation 981

Delay in Blood Transfusion 981

Mismatched Transfusion 981

O-Rh Positive given B-Rh Positive Transfusion 982

Pregnancy—Blood Transfusion Reaction—Death—Negligence 982
 Wrong Blood Group—Kidney Transplantation Cancelled—Negligence 982
 Transfusion of Mismatch Blood—Patient Died—Negligence 983
 'Res Ipsa Loquitor' in Administering Mismatched or Contaminated Blood 983
 Gastric outlet Obstruction—Fungal Septicaemia due to Blood Transfusion—MODS—Death—Negligence 983
 Alleged HCV Positive Following FFP Transfusion—No Negligence 984
 Postmortem Report Says Blood Transfusion Reaction—Negligence 984
 Staff Nurse and Attending Medical Officer Equally Responsible for Failure to do Proper Verification before Starting Transfusion—Termination of Service Wrong 984
 Blood Group Goof-up—No Records—Deficiency of Service 984
 Pregnancy—Blood Transfusion Reaction—Death not Due to Abruptio Placentae—Negligence 985
 Bail not Granted for Alleged Spurious Plasma 985
 Transfusion Causing Complications 985
 Failure to do Cross-matching 985
 Held Liable for Administering Transfusion to Jehovah's Witness 986
 Non-transmission of Hepatitis B 986
 Transmission of Hepatitis 987
 Transmission of Hepatitis C 987
 Transmission of HIV due to Blood Transfusion 988
 Guidelines for Blood Storage Centers 989

54. Clinical Use of Forensic Medicine 993

Forensic Medicine Means What 993
 Position of Forensic Medicine 993
 Clinical Forensic Medicine 993
 Forensic Physician 993
 Forensic Techniques for Dead 993
 Living Forensic Medicine 993
 Nonfatal Traumatic Deaths 994
 How to Handle Medicolegal Cases 994
 Caution for not Doing Postmortem 995
 Whether in All Medicolegal Cases, Postmortem Should be Done or Not? 995
 Permission for Autopsy 995
 Precautions while Documentation 995
 Medicolegal Documents 995
 Precautions to be Taken in MLC 996
 Collection of Forensic Evidence: Legal Responsibility of the Doctor to Preserve Trace Evidence in Emergency 996
 Admissibility of Certificate of Medical Expert 997
 Value of Medical Witness 997
 Opinion of Doctor Must be Supported by Reasons 997
 Future of Clinical Forensic Medicine: Peri- and Postmortem Examinations of Samples 1004
 Consent for Clinical Peri- and Postmortem Examinations of Samples 1004
 Clinical Postmortem Biopsy, Imaging and Blood Tests 1004
 Postmortem Blood Examination 1004
 Use of Scientific Modalities in Postmortem Examination 1005

55. Medicolegal Issues in Psychiatry 1007

Drug Reaction—Development of Agranulocytosis—No Negligence 1007
 Psychiatric Problems—Drowsy due to Medicines—Death—No Negligence 1008
 PIL Filed to Implement Mental Healthcare Act, 2017, Section 45 to Establish the State Mental Health Authority within 9 Months 1008
 Laminectomy—Not Treated Properly as Suggested to Approach a Psychiatrist 1008

Acute Aortic Dissections—Psychiatrist Identified Patient is Habitual User of Pentazocine and Midazolam for 5–6 years 1009
 Not Referring to a Psychiatrist is not Negligence 1009
 Not Referring to a Psychiatrist is Negligence 1009
 Physically Challenged Referred to a Psychiatrist—No Negligence 1010
 Not Referring to a Psychiatrist—Vegetative State—Negligence 1010
 Electroconvulsive Therapy—Relaxant Drugs not Administered, and Patient not Restrained by Manual Control—Patient Sustained Fractures—Two Recognized Schools of Thought on Method of Treatment—Doctor Following one School—No Negligent 1011
 Patient Committed Suicide as Nurse not Looking after Properly—Hospital Liable 1012
 Psychiatrist—Electro-shock Treatment—Discharge of Patient Thereafter—Heavy Sedatives Given—Patient Burned Himself—Failure to Warn about Drug and Discharge Amount to Negligence 1012

56. Medicolegal Issues Related to Plastic Surgery, Reconstructive Surgery and Dermatology 1014

Newborn Suffered Thermal Burns—Disability—Contributory Negligence 1014
 Ulcer on Heel—Lack of Information—Leaving Patient without Adequate Arrangements—Negligence Held—Compensation of Rs. 1 lakh Awarded 1014
 Acid Attack Victim—Hospital and Plastic Surgeon have to Treat the Patient Free of Charge 1015
 Guidelines for Compensation 1015
 Compensate Acid Attack Victim 1016
 Plastic Surgery of Nose by L-shaped Graft not done—Negligence 1016
 Plastic Surgeon—Lipolysis—Causing Perforative Peritonitis Resulting in Multiple Abdominal Hernia—Ex-gratia Payment by OP doctor—No Bar to Agitate Complaint before Appropriate Consumer Forum 1016
 Plastic Surgery of Bed Sore—MOF—Death—Negligence 1017
 Nasal Surgery—Patient Died—PM Report Points Negligence—Supreme Court said No Negligence 1017
 Venous Malformation of Chin—Microvascular Plastic Surgery—No Negligence 1017
 Fat Embolism after Liposuction and Abdominoplasty—No Negligence 1018
 Wrong Route of Injection—Dry Gangrene—Negligence of Nurse and Doctors—No Negligence in Plastic Surgery 1018
 Medicolegal Issues in Dermatology 1018
 Psoriasis Vulgaris—Administration of Drugs—First, Dermatologist Administering the Drug MTX (Methotrexate) having Resulted in Adverse Effects 1018
 Wrong Treatment—Complainant Developing Pain on his Right Middle Finger—Administration of Local Anaesthesia by Opposite Parties at the Finger Tip Resulting in Gangrene 1019
 No Informed Consent Taken—Intra-lesional Injection of Kenacort on Keloid on Nose—Loss of Eye Sight—Rs. 9 Lakhs Awarded 1019
 Wrong Diagnosis and Wrong Treatment—Red Rashes on Body and became beyond Control—Delay and Wrong Referral of Patient to Physician instead of Skin Specialist—Order to Pay Compensation of Rs. 10 lakh which was Reduced to 1 lakh by Supreme Court 1019

57. Medicolegal Issues Related to Neuromedical and Neurosurgery Cases 1021

Gauze Piece Left Behind in Spinal Surgical Wound, which Caused Chronic Sinus and Delayed Healing—Negligence 1021
 LSCS—Spinal Anesthesia—Ependymoma—Paraparesis—No Negligence 1021
 VP Shunt—Meningitis—No Negligence 1022
 Brain Cancer—No Negligence 1022

De Angelis Protocol not Followed in High Grade Glioma of Brain 1022

Endoscopic Thoracic Sympathectomy (ETS) is Banned but no Damage—No Negligence 1022

Informed Consent to be Obtained from the Family of High Risk Patient 1022

Neuro-physician—Violent Convulsions—Negligence Held for not Attending to Patient Despite Serious Condition—Compensation of Rs. 3 lac Awarded against the Hospital and Rs. 50,000 against the Neuro-physician 1023

Epilepsy—LAMA—Next Hospital—Death—Negligence 1023

Neurology—Polyradiculoneuropathy—Cardiac Arrest—Patient in ICCU not Intubated in Time as Instructed—Oxygen Tube Coming out, Not Noticed—Negligence Held—Hospital Held to Pay Rs. 2 lac as Compensation 1023

Neurology—Improper Treatment—Death of Complainant's Mother Aged 63 Years—Admitted in Hospital as a Case of Coma with Right Hemiplegia Caused by Intra-cerebral Hemorrhage with Chronic Hepatitis with Cirrhosis Liver—No Negligence 1024

Delayed Diagnosis of Medulloblastoma by Qualified DM Neurologist—Negligence 1024

CT Scan of Brain—Stent Put—Death—No Negligence Nor Hiring of Services for Consideration 1025

Neurosurgery—Non-functioning of Limbs—Operated in 1991—Symptoms Recurred in 1998—No Negligence 1025

Neurofibroma Lump on Body—Operation—Biopsy Revealing Cancer—Subsequent Death of Patient—Operation Done after Proper Clinical Diagnosis, on the Basis of Standard Surgical Practice—No Negligence 1026

Neurosurgery—Removal of Brain Tumor—Allegation of Wrong Diagnosis and Improper Introduction of Shunt—No Negligence 1026

Neurosurgery—Wrong Treatment—Fracture of Skull in Accident—Patient in Coma Admitted in Government Hospital—No Negligence 1027

Neurosurgery—Anterior Cervical Discectomy C4–C5 with Removal of Osteophyte and Cervical Fusion—Patient Contacting Pseudomonas Infection—No Negligence 1028

Neurosurgery—Skull of Patient Cut and Removed for Clipping Aneurysm with Clippers—Abandonment of Same due to Unavailability of Drill—Consent does not Cover Infrastructure Problems 1028

Neurosurgeon Operated and Biopsy from Hypertrophied Inferior Rectus Muscle of Eye 1028

Who should Operate TCS with Spina Bifida—Neuro-Surgeon or Orthopaedic Surgeon? Anyone can Operate 1029

Neurosurgery—Consent—Duty to Warn of Risk of Surgery—No Negligence 1029

Section V: Qualifications, Skill, Experience, Cross Pathy, Cross Speciality 1033–1084

58. Cross Pathy and Cross Specialty Practice in Medicine: Is it Quackery? 1035

Quackery 1035

Medical Practice and Crosspathy 1036

Cross Pathy Practice 1036

May a Homoeopath Prescribe Allopathic Drugs? 1036

May an Ayurvedic Doctor Prescribe Allopathic Drugs? 1037

Acute Pancreatitis—ALD (Alcoholic Liver Disease)—B/L Pleural Effusions Ascites ICU Care by Ayurvedic Doctors—Crosspathy Practice not Allowed—Death 1039

May Allopathic Doctor Prescribe Ayurvedic Drugs? 1039

Recognition of a Medical Degree 1039

Practicing Different Systems of Medicine 1040

Homeopaths Practicing Allopathy is Declared to be Quackery by Supreme Court 1041

BAMS, is Empowered to Administer Any Allopathic Medicine—Wrong Diagnosis and Wrong Treatment of Malaria—Patient had Japanese Encephalitis—Res ipsa Loquitur 1041

Use of Allopathic Medicine by a Homeopathy Doctor is per se a Medical Negligence 1041

No Blanket Permission can be Issued to Police to Arrest or to Prosecute So-called Quacks Identified by the Respondent Indian Medical Association 1041

Bachelor of Electropathy are Allowed to Practise Electropathy or Electrotherapy Undertook Delivery—Death of Baby 1042

Quack BIMS Doctor gave IV Mixed with Gentamycin—Deafness 1042

A Quack Conducting Surgery and Causing Death of Woman Child—Accused Convicted and Sentenced to One Year Simple Imprisonment 1043

BAMS Undertaking the Treatment of Chest Pain—The Treating Doctor has also Rendered Himself Liable to be Termed as a 'Quack' 1043

Quack Doctor—Homopathic Doctor Allegedly Gave Injection for Piles 1043

Legal Position Related to Nurses and Midwife 1043

Legal Position Related to Physiotherapist 1043

What is Certificate for Medical Practice? 1043

Legal Position Related to Quacks 1044

Is Cross Specialty Allopathic Practice Wrong? 1045

Who is Eligible for FMGE Exam? 1045

Confusion about Unrecognized Doctors Passing MD Degree from Russia, Ukraine and other European Countries without Passing Indian FMGE Exam or Equivalent Examination 1045

Can Specialist and Superspecialist Demit their Degrees to Medical Council and Practice as Plain Simple MBBS 1045

Confusion about Clinical and Non-clinical PG Degrees 1046

Allowing Backdoor Practice of Allopathic Medicine by Ayush Doctors not Quackery? 1046

Judicial Concerns in Medical Cross Practice 1046

Government and Crosspathy 1046

59. Medicolegal Issues in Homeopathy 1048

Homeopathy is a Recognized System—It is not a Fake Medical Science in India 1048

All Systems of Medicine are Similar—Yet One Cannot Cross the Pathy 1048

Right to Practice in Allopathic System 1048

National Commission for Homoeopathy (NCH) 1049

National Commission for Homoeopathy Replaces Homeopathy Central Council 1049

Prescriptions by Homoeopathy Practitioners 1049

Homoeopathy Practitioners are not Allowed to Practice Allopathic Medicine 1049

Why Homoeopathic is Labeled Quack even Though it is a Recognized System—It is not a Fake Medical Science in India 1049

Homeopath Giving Allopathic Drugs 1049

Criminal Cases against Homoeopathy Practitioners 1050

Consumer Cases against Homoeopathy Practitioners 1050

Homeopath Giving Injections Developed Abscess and Gangrene 1051

Homoeopathic Doctor Administering Glucose, Saline and Other Injections 1051

Homoeopathic Doctor Administering Septran Tablets 1051

LCEH Permitted to Practice Allopathy 1052

Homeopath—Injection in the Gluteal Region—Amputation of Left Leg and one of the Testis 1052

60. Medicolegal Issues in Ayurved, Unani, Siddha 1054

AYUSH 1054

National Commission for Indian System of Medicine Act, 2020 1054

Legalizes Ayurvedic Doctors Graduated from NCIM 2021 and Previous CCIM Approved Institutes to Practice Allopathy 1055

Ayurved OPDs Mandatory 1055

BAMS Graduate can Practice Modern Medicine Along with Traditional Ayurveda in India 1056

BAMS is Not Empowered to Administer any Allopathic Medicine 1056	Recognized Medical Postgraduate Qualifications Granted by Medical Institutions Outside India not Included in the Second Schedule 1073
Ayurvedic Doctor Competent to Prescribe Allopathic Medicines 1056	SMC or NMC-2019 Unrecognized Allopathic Degrees—May Land you in Unnecessary Prosecution 1073
Aggressive Advertisement and Promotion of Ayurvedic Preparations and Panchakarma 1057	Position of so called Honorary Degree 1074
Are Ayurvedic and Modern Medicine Courses Equivalent? 1057	Position of College of Physicians and Surgeon, Bombay Degree and Diploma 1074
Placement of Ayurvedic Doctors 1058	Gynaecologist without Registration is as Good as Quack—2nd Opposite Party—Hospital which Employed and Engaged her as Gynaecologist without Registration—Negligence 1075
Ayurvedic Doctor—No Indication of Wrong Injection 1058	Clinical Establishment Act (CEA) will go in Negligence of Establishment and Medical Council in Negligence of Physician Passing Foreign Medical Graduate Examination 1075
Ayurvedic Doctor—No Relief after Treatment—Recovery After Treatment from Somewhere Else—No Negligence 1059	PG Diploma in Clinical Cardiology Obtained by Petitioner from National Open University not Recognized as PG Medical Qualification—It is not Included in Schedule of WB Medical Council—Found that Petitioner not Entitled to Interpret Data of ECG 1075
Ayurveda Doctor Negligent Causing Death 1059	
Ayurvedic Doctor—Prescription of Allopathic Medicine—Negligence Held—Complainant 1059	
Ayurveda—Not Competent to Administer Allopathic Injections—Wrong Administration of IV Drug—Amputation of Three Fingers—Negligence Held 1059	
Ayurvedic Doctor—Hazardous Drugs—Prescription 1059	
Ayurvedic—Allopathic Injection—Death—Negligence 1060	
AP—Ayurvedic Doctors Treating Diabetic Wound—No Negligence 1060	
Assam—Ayurvedic Doctor Handling Postpartum Hemorrhage and Acute Inversion of Uterus 1060	
Punjab—Normal Delivery—PPH—Negligence not Held on Appeal 1061	
BAMS Graduate can Practice Modern Medicine along with Traditional Ayurveda 1061	
Punjab—BAMS did not do LSCS—Only Prescribed Medicines—No Negligence 1061	
Kshar Sutra Treatment—No Negligence 1061	
Government Doctor Charged Money—Thumb Amputated without Consent—Deficiency in Service 1062	
Maharashtra—Digital Evacuation in MTP—Negligence 1062	
Death due to Injection—Negligence 1063	
Fits Cured—Advertisement—Unfair Trade Practice—Uttarakhand 1063	
MTP Allowed by Ayurvedic Doctor in Punjab 1063	
Ayurvedic Doctor Not Allowed Allopathy in UP 1063	
SJS—Not due to Ayurvedic Treatment 1064	
Deafness Caused by Gentamicin—Negligence 1064	
MD Doctor Employed BAMS Doctor as RMO—Negligence 1064	
Administered Injection Voveran in Deltoid—Paralysis—Negligence 1064	
Ayurvedic Doctor—Dealt with Delivery and Referred—No Negligence 1065	
Injection Causing Penetrating Injury Resulting in Interruption of Blood Supply Leading to Gas Gangrene—Negligence 1065	
ENT Surgeon Employed BUMS Doctor as RMO to Treat Epistaxis 1065	
Delivery Handled Negligently by Ayurvedic—Newborn Died 1065	
Unani Physician Who Gave Injection with Allopathic Medicines—Gangrene—Amputation 1065	
Tamil Nadu Ayurvedic Doctors Allowed to Prescribe Allopathic Medicines 1066	
Before 1967—Right to Practice as Vaidyas—Degree of 'Vaidya Visharad' or 'Ayurved Ratna' from Hindi Sahitya Sammelan Prayag Held 1066	
Tamil Nadu Allows Unani to Practice Allopathy 1067	
Tamil Nadu Allows Siddha to Practice Allopathy 1067	
Injection Given by Ayurvedic Doctor—Death of Child—Negligence 1067	
Homeopathic/Ayurvedic not Allowed Allopathy 1068	
UP Does Not Allow Ayurvedic Doctors to Prescribe Allopathy 1068	
Ayurvedic Doctor can Practice Obs. Gyn 1069	
61. Allopathic Medicine Undergraduate Postgraduate Qualifications Granted by Medical Institutions Inside or Outside India may not be Registerable with State Medical Council and NMC-2019 1072	
Position of Paid Foreign Undergraduate Degrees 1072	
Position of Paid Foreign Post Graduate Degrees 1073	
	62. Medicolegal Issues Related to Quacks 1077
	Who is a Quack? 1077
	Why Quackery is Flourishing 1077
	Decided Cases on Quack, Electropathy or Homeo Electropathy and Alternative Medicine Doctors 1077
	Quack Administered Injection 1077
	'MD Alternative Medicine' is a Quack 1077
	A Quack Prescribing Allopathic Medicines as Ayurvedic Medicines—Pay Compensation of Rs. 15 Lakhs 1078
	Quack Cancer Specialist 1078
	Injection Making Patient Unconscious by Quack 1078
	Quack Compounder Gave Injections 1079
	Electropathy or Homeoelectropathy/Electrohomeopathy is Quackery 1080
	Homeopaths Practicing Allopathy is Declared to be Quackery by Supreme Court 1080
	BAMS is Empowered to Administer any Allopathic Medicine—Wrong Diagnosis and Wrong Treatment of Malaria—Patient had Japanese Encephalitis—Res ipsa Loquitur 1080
	Use of Allopathic Medicine by a Homeopathy Doctor is per se a Medical Negligence 1080
	No Blanket Permission can be Issued to Police to Arrest or to Prosecute so-called Quacks Identified by the Respondent Indian Medical Association 1081
	Bachelor of Electropathy are Allowed to Practise Electropathy or Electrotherapy Undertook Delivery—Death of Baby 1081
	Quack BIMS Doctor Gave IV Mixed with Gentamycin—Deafness 1082
	A Quack Conducting Surgery and Causing Death of Woman Child—Accused Convicted and Sentenced to one year SI 1082
	BAMS Undertaking the Treatment of Chest Pain—The Treating Doctor has also Rendered Himself Liable to be Termed as a "Quack" 1082
	Quack Doctor—Homopathic Doctor Allegedly Gave Injection for Piles 1082
	Section VI: Issues Related to Child Rights, Mortuary, Small Nursing Homes, and Medical Research 1085–1124
	63. Safeguarding Children: A Challenge to Doctors 1087
	Safeguarding Children 1087
	POCSO Act 1088
	Definition of Child Abuse 1089
	Potential Signs of Child Abuse 1089
	Responding to Signs of Child Abuse 1090
	Responsibilities of a Mandated Notifier 1090
	Contacting Child Protection Legal Agencies 1090
	How to Make a Report 1090

Doctor's Ongoing Role when Making a Report 1090
 Legal Perspectives In Safe Guarding Children: Issues to be Tackled 1091
 Rights of the Children? 1091
 United Nations (UN) Declaration of Rights of the Child 1092
 Future Outlook for Children's Rights 1092
 Children's Rights and Our Five Year Plans 1092
 International Agencies 1092
 Child's Rights and Integrated Child Development Scheme 1092
 Children's Rights and Universal Policy for Children 1093
 Children's Rights and National Health Policy 1093
 Constitutional Rights of Children and Responsibilities of the State for Children Born in Prisons, Brought up in Orphanages 1093
 Constitutional Rights 1093
 Constitutional Rights and Right of an Unborn Child: Abortion Law, is it against Children's Rights? 1094
 The Guiding Principles of the NPAC 2005 1096
 Sections of the Act Deal with Child Abuse 1097

64. Medicolegal Issues Related to Mortuary 1099

Mortuary Requirement 1099
 Chemical and Articles 1101
 Engineering and Special Services 1102
 Future of Mortuary Lies in Using Scientific Modalities in Postmortem Examination 1102

65. How to get the Registration for Small Hospitals and Nursing Homes in India? 1103

Minimum Standards for Private Hospitals/Nursing Homes not Covered under CEA 2010 1103
 Change of User from Residential to Nursing Home 1104
 Functional Programme for a Nursing Home 1104
 Maintenance of Medical Records 1106
 Human Power Requirements 1106
 Minimal Functional and Space Requirements 1108

66. Medicolegal Aspects of Institutional Committee for Medical Research 1114

Why Research in Humans? 1114
 Safety of Human Beings 1114
 Why Should Research be Conducted on Human Beings? 1114
 Legal Provisions for Clinical Trials 1114
 Why Indian People are Considered Vulnerable Subjects? 1114
 What is the Role of Institutional Committee (IEC)? 1115
 Scrutiny of proposal by Institutional Committee (IEC)? 1115
 Is Research Needed? 1115
 How does the IEC evaluate research proposals? 1115
 Insurance of Research Project 1116

67. Medicolegal Issues and Adoption, Foster Care, Remand Homes, Borstals and Non Main Stream Children 1117

Adoption 1117
 Approach to Juvenile Delinquents 1121
 Legal Protection to Juvenile Delinquents 1122
 The Children Act, 1960 1122
 Juvenile Justice Act, 1986 Amended up to 2011 1122
 New Procedure for JJ Act, 2020 1123
 The Protection Of Children From Sexual Offences Act, 2012 1124

Part VII: Issues Related to Advertising, Soliciting, Touts, Consumer Organizations and Indemnity Insurance 1125–1158

68. Medicolegal Aspects of Advertising by Doctors in Print, Electronic Media and Issues Related to Telemedicine 1127

NMC 2019 and SMC will Catch Small Fish and Never Large Fishes 1127
 DMC Sees Code Violation in Doctors' Advertisement 1130

National Consumer Disputes Redressal Commission in Ajay Gautam vs Amritsar Eyes Clinic and Others 1130
 Telemedicine 1132
 Laws Related to Uses, Regulation of Digital Health Care in India 1133
 Emerging Areas of Information Technologies in Healthcare—Bane or Boon? 1134
 Laws and Legal Issues in Health Care IT? 1134
 Information Technology in Healthcare Schemes 1134
 Ayushman Bharat Digital Mission 1135
 ABDM's Building Blocks 1135
 Future Digital Health Technologies? 1136
 Clauses of Secrecy and Privacy of Health Data and its Disclosure, Patient Confidentiality, Data Exchanges in Agreements? 1137
 Role of DISHA and SeHA/NeHA 1137
 The Role of Digital Machine Learning in Digital Health? 1138
 How is Training Digital Data Licensed? 1138
 What are the Key Barrier(s) Holding Back Widespread Clinical Adoption of Digital Health Solutions? 1138
 Post Covid-19 Physician's Life 1139

69. NMC and SMC Norms to Prohibit Doctors from Attending Conferences Financed by Pharma Companies 1143

NMC Approved MCI—Thinking 1143
 Latest Developments in Pharma Industry 1143
 Ideal Conduct of a Doctor 1144
 Why NMC approved MCI and Government is not Able to Stop the Menace but with Section 294 R of Income Tax Act it will Stop 1145
 Why Pharma Companies Woo Doctors 1146

70. Medicolegal Issues Related to Consumer Organizations 1147

Health as a Human Right 1147
 United Nations and Health 1147
 Promotion of Patient's Rights 1148
 Law and Medical Ethics 1148
 National Medical Council 2019 Approved Medical Council of India Regulations 1148
 Rights of the Patients 1148
 Confidentiality and Privacy 1149
 State Medical Councils 1149

71. Medical Indemnity Insurance and Risk Management in Critical Care and Establishment 1151

Asset Protection and Indemnity 1151
 Professional Indemnity Insurance and Errors and Omissions Insurance Policy for Medical Establishments 1151
 Introduction to Indemnity 1152
 What Indemnity Policy Covers? 1152
 To Whom Indemnity Policy is Issued 1152
 Critical Care Doctors Insurance 1153
 Professional Negligence Errors and Omissions Insurance Policy for Medical Establishments or Errors and Omissions Insurance Policy for Medical Establishments 1155
 Striking Differences of Service Offered to Medical Professionals by Private Insurance Companies as Compared to Government Insurance Companies 1155

Section VIII: Police Procedures, Media Reporting, Conflict of Interest 1159–1232

72. Police Cases and Procedures for Doctors 1161

Quick Facts on Relevant Sections of IPC and Cr PC where Medical Professionals are likely to be Arrested by Police under Criminal Law 1161
 Quick Facts on Interrogation and Recording of Statements 1162
 Quick Facts on Legal Advice During Police Investigation 1162

Quick Facts about Searches and Seizures 1163	
Definition of Criminal Conspiracy 1163	
Punishment of Criminal Conspiracy 1163	
Adulteration of Drugs 1164	
Voluntarily Causing Hurt to Extort Property, or to Constrain to an Illegal Act 1164	
Causing Hurt by Means of Poison, etc. with Intent to Commit an Offence 1165	
Causing Hurt by Act Endangering Life or Personal Safety of Others 1165	
Causing Grievous Hurt by Act Endangering Life or Personal Safety of Others 1165	
Quick Facts on Relevant Sections of CrPc 1165	
73. Medicolegal Issues of Mishap Reporting by Media 1168	
Medical Negligence Blamed by Media 1168	
Power of Media 1168	
Media Trial 1168	
Role of Media as Pillar of Democracy 1168	
Yellow Journalism 1169	
74. Medicolegal Issues Related to Conflict of Interest [COI] 1172	
UN Convention against Corruption 2003 Says to Prevent Conflict of Interest [COI] 1172	
Conflict of Interest [COI] 1172	
COI without Impropriety 1172	
COI in Medicine 1172	
Spectrum of COI Related to Profession 1173	
COI in Medical Research in Pharma 1173	
Conflict of Interest in Medical Research, Education, and Practice 1174	
COI in Clinical Medicine 1174	
Types of COI 1175	
Removal of COI 1176	
Disclosure of COI 1176	
NGO's against COI 1177	
Legislations for COI 1177	
MCI Regulations for COI 1177	
Case laws on COI 1178	
COI in 2016 Govt Dilutes Clause on Transfer of High Court Judges Waiving Conflict of Interest Clause 1179	
75. Medicolegal Issues Related To Emotions during Practice! Is it Okay to Cry in Front of your Patients? 1181	
Patient Opinion Emotional Crying of Doctors 1181	
Large Corporate Hospitals and DPR 1181	
Loss of Human Touch 1181	
Care with Empathy 1182	
What is Human Healing? 1182	
Doctor's Oaths 1182	
Unrealistic Expectations 1182	
Commercialization of Society 1183	
What Does the Doctor–Patient Relationship Mean? 1183	
Degradation of Doctor–Patient Relationship 1184	
Increased Specialization and Lack of Primary Care Doctors 1184	
Why Many Doctors Have Lost Emotions in India 1184	
Opinion Poll of Patient 1185	
Avoid Extrapolating Anxiety 1186	
76. Treating Patient of Foreign Nationality 1187	
How Common is the Situation in Practice 1187	
What will be the Immediate Steps if the Patient of Foreign Nationality is Brought to You? 1187	
Medicolegal Problems of Treating Patients Who are Foreign Nationals 1187	
Legal Provisions for Foreigners Coming with Exclusive Purpose of Taking Medical Treatment with Medical Visa 1188	
Medical Visa—What are the Laws Applicable for Foreign Patients? 1188	
Medical Visa—Legal Procedures 1188	
Patient from Pakistan and Bangladesh 1189	
Attendants of Patient from Pakistan and Bangladesh 1189	
Registration of Visa Procedures 1189	
Regulations Applicable to Foreigners in India 1192	
77. Compulsory No Fault Insurance 1195	
How Common is the Situation in Practice 1195	
What are the Legal Provisions in that Particular Situation for Patients/Doctors? 1195	
What are the Legal Provisions in World? 1196	
No-Fault Professional Indemnity 1196	
Main Shortcoming of Existing Law 1196	
Why Litigations are Tiring Both for Patients and Doctors 1197	
Proposal of “No fault” Medical Compensation Law 1198	
Insurance is a Win-Win Strategy for Both Patients and Doctors 1198	
The “Egg Shell Skull” Rule 1200	
Legislating “No-fault” Medical Accident Claim Tribunal: Bane or Boon? 1200	
What is Medical No-Fault Insurance? 1201	
Existing ‘No-fault’ Laws 1202	
Extent of Coverage under No-fault systems 1202	
Compulsory No-Fault Insurance 1203	
78. Practice of Defensive Medicine 1205	
Profession of Medicine is Highly Regulated 1205	
Doctor is Target of Government Regulation 1205	
Defensive Medicine is Bad for Patients 1206	
Law Imposes Standards External to the Medical Profession 1206	
Over-Diagnosis and Rare Types of Diseases Diagnosis 1207	
Tuberculosis was Given Treatment for Cancer— Radiation Stopped—Complainant Deserves to be Compensated for Mental Agony 1207	
Abuse of res ipsa loquitur 1207	
Imaginary Dictates of Law 1208	
Dictates like Disallowing Use of Pre-printed Consent Forms which are Stayed by Supreme Court 1208	
Legislative and Judicial Efforts 1209	
Bad Apples Model of the Profession 1209	
Rules that May have been Right become Wrong when the Knowledge Base in Medicine Shifts 1209	
Education about Legal Standards 1209	
The Myth of the Chilling Effect: Doctors Operating within Bounds of Accepted Medical Practice Have Nothing to Fear 1209	
The Good Samaritan Immunity 1210	
79. Doctors can Prevent Medical Negligence Allegation by Resisting Criticizing [Jousting] Other Doctors 1213	
Definition of Doctor Jousting [Criticizing] 1213	
The Critic also has to Face Hassles 1213	
Jousting is Done by any Doctor at his Own Clinic or Hospital in Front of Patient Party or Other Colleagues 1214	
80. My Lords Cannot Go Wrong 1216	
Martin F D'souza Case 1216	
Supreme Court Overruled National Commission Order 1217	
For Criminal Cases only Medical Board Opinion Required 1220	
Supreme Court Reversed the National Commission Judgement 1222	
Shivram Case on Sterilization 1225	
Jacob Mathew Case 1225	

National Consumer Disputes Redressal Commission in a Case where Abdominal Aortic Aneurysms Patient Died due to Non-availability of Operation Theatres—*Res Ipsa Loquitur*—Negligence 1227

Supreme Court of India: Medical Negligence—Non-availability of Operation Theatres when Patient was taken for Surgery not Medical Negligence on Part of Hospital 1228

Section IX: Legal Issues of Day to Day Practical Importance in Medical Practice 1233–1352

81. Are Doctors Money Sharks 1235

Doctors Start Earning After Age of 35 1235
Doctors are Not Good at Running Business 1235
Are Doctors Money Sharks? 1235
Why are Private Hospitals so Expensive? 1236
Accountability, Autonomy, Ethics of Individual Doctor and Corporate Economics 1236
Doctors are Underpaid in India 1236

82. Doctors are also Average Humans Since Passing Standard for Medical Examinations are 50%, then why Expect 100% from Them 1238

Glamour of Nobel Profession is Plummeting 1238
Who is Responsible to Set Standards of Medical Education? 1238
Doctors are not Indestructible 1240
Learning Atmosphere for Doctors 1240
Suicide Rates in Doctors 1240
Always Remember—*Baldwa's Dictum* 1240

83. A Study of Medical Guidelines—Are They Bane or Boon, Legally 1241

Guidelines of IAP National Neonatology Forum for Screening of ROP 1241
Surgical, Anesthesia and HIV Testing Guidelines 1241
Ordering Portion 1242
Guidelines for Diagnosis and Management of Idiopathic Pulmonary Fibrosis (IPF), Issued by American Thoracic Society (ATS) 1243
IAP Guidelines for Intramuscular Injections 1246
Hysterectomy Guidelines 1247
WHO guidelines on Dengue 1248
Guidelines in the Management of TEN 1249
Trauma Centre as Guideline 1249
Guidelines for Transfusing Blood 1250
Guideline for Exact Diagnosis, Treatment Procedure 1250
International Guidelines for Neonatal Resuscitation, 2000 1250
Potential Limitations and Harms of Guidelines 1250
Role of Guidelines in Court 1251

84. Why Only Bolam's Law is Correct Law to Apply as Standard for Medical Negligence 1253

Urban Rural Divide 1253
Hardly Miniscule of MBBS Doctors Practice in Rural Areas 1253
When Passing Standards for MBBS, MD, MS, MCh, DM Examinations in India is 50% then why Patients, Judiciary, Police and Media Expects 100% Cure? 1254
Baldwa's Dictum 1254
Why Only Bolam's Law is Correct Law to Apply as Standard for Medical Negligence 1254
Does "Bolam" About Standard of Treatment or Extended to Diagnosis and Medical Advice as Well? 1254
Western or Newer Changed British Law is Not Applicable so far In India 1254

85. How are Doctors Going to Explain Allegations of Delay in Providing Treatment to a Patient 1261

There was Delay 1261
Medical Negligence—Non-availability of Operation Theatres when Patient was Taken for Surgery not Medical Negligence on Part of Hospital 1262

When 5–10 Minutes Delay is Considered Delay 1262

12 Hours Delay is Not Considered Delay on the Other Hand 1263

What are Other Trifles Pleaded in Cases of Negligence? 1263

Doctors Need Sucked in Litigation for Getting in the Mess of Allegations and Counter Allegation Which are far away from Medical Science 1263

Medical Profession was Dropped Being Under the Purview of the Consumer Protection Act 2019 Legislation but CPA 2019 Never Said Medical Profession Excluded from CPA 2019 1263

Public Treated the Act as Something of a Windfall Both CPA 1986 and 2019 1263

Mud-Slinging by Police, Media and Legal Machinery has Pushed Down the Image of the Medical Profession Leading to Defensive Medicine 1264

Can a Lay Person Understand Medical Negligence Case without Expert Witnesses? 1264

86. Why Doctors are Held Responsible for Complications, Side Effects, Delay in Cure, Disability and Death Even after Giving Proper Medical Care as Required by Law 1269

Nature of Medical Complications 1269
Appearance of Medical Complication 1269
All Complications Happen Naturally 1270
Toxic Epidermal Necrolysis (TEN) 1272
Steven-Johnson Syndrome (SJS) not Treated Properly 1272
Other Co-Morbidities are Advancing Age, Hypo-thyroidism, Tobacco, Alcohol and Drug Abuse, etc. 1273
Known Complication of Surgery 1274
Acuteness in Emergency and Higher the Complication 1274
Higher the Acuteness in an Emergency and the Higher the Complication 1276

87. Legally Saints Become Sinner for Non-Referral for Retinopathy of Prematurity—ROP 1278

Difference between Legal and Medical Paradigms 1278
Increase in Premature Births and their Survival 1278
Do all Premature Babies Become Blind? 1279
Legally Saints Become Sinner with Non-Referral of Premature for Retinopathy of Prematurity 1280
ROP—No Screening Advised for Twins—Negligence 1280
Retinopathy of Prematurity (ROP)—ROP Happens if Oxygen More Than 30%—43 Lakhs 1280
No Screening for Retinopathy of Prematurity (ROP)—Negligence 1280
LSCS—Premature Baby—Retinopathy of prematurity (ROP)—Negligence 1280
Screening of Retinopathy of Prematurity (ROP) Not Advised—Negligence 1281
Not Advised Retinopathy of Prematurity (ROP)—Negligence Held 1281
Doctor is not Criminally Negligent for Non-Referral for Retinopathy of Prematurity (ROP) 1281
Retinopathy of Prematurity (ROP)—Gramoneg not Responsible for Loss of Vision 1281

88. How to Plead Law of Cause of Action—Limitation—Facta Probanda as Well as Facta Probandia 1283

Causation 1283
What is Causa Causans 1283
Events in Tandem Assuming Cause and Effect Relationship but in Reality They are Not 1283
Events Occurring Concurrently Cause and Effect Relationship but in Reality they are Not 1283
Cause and Effect Relationship 1283
What is a Cause of Action? 1284
Medical Causation 1284
Reasonable Cause of Action 1286
Difference between a Claim and Cause of Action 1286

Law of Limitation and Condonation of Delay 1287	
Facta Probanda should be Supported by Facta Probandia to Prove Cause of Action 1287	
How to Plead before Consumer Commission 1289	
89. Avoid Compensation Culture and Do not Demoralize and Demonize Doctors 1294	
Indian Culture 1294	
Who is Responsible? 1294	
Trends in USA 1294	
Trends in India 1294	
Leave a Mop and be Sure to be Prosecuted—Saints with a Past; Soon become Sinners Future 1295	
What is the Nature of Emergency? 1295	
Cardiac Arrest—Full Effort for Resuscitation—Survived—MR—CP 1297	
Severe Life-threatening Dehydration—Child Saved—Gangrene—Amputation—Settled Out of Court 1297	
Res Ipsa Loquitur 1297	
DJ Stent Removal—When to Come—Res Ipsa Loquitur 1297	
Mop or Instrument Left—Res Ipsa Loquitur Applied—Can't Win though Doctors Saved Life of Patient in Following Cases where Doctors Faulted 1297	
Mop Left in Abdomen—No Chance of Winning but, Pleaded Limitation which is 2 years 1297	
Make a Premature Baby Survive, Patient Party is Thankless for Survival of Premature Babies 1298	
Trends of Budding Doctors Opting for Allopathic Medicine 1298	
What Would Happen with These Trends? 1299	
90. When Politicians and Media and Police Get Aligned in an Alleged Case of Medical Negligence 1301	
What was an Alleged Case of Medical Negligence was Labeled as Murder 1301	
Social Ramifications are Grave in Future 1301	
Violence against Doctors and Arrest of Doctors 1301	
91. How to Make Erring Police Officials, Politicians and Media Legally Accountable 1304	
National Medical Commission Guidelines 1304	
National Medical Commission—Ethics and Medical Registration Board have Given Guidelines 1304	
Judicial Remedy 1305	
92. Medicolegal Aspects of Brought Dead Cases 1308	
What to do for Brought Dead/Dead-on-arrival (DOA) 1308	
What is the Procedure to be Followed in Such Cases that are Brought Dead (DOA)? 1308	
93. When can PCPNDT Team Visit Imaging Centre 1310	
Public Information 1310	
Verification of Records by Inspecting Authority 1311	
Maintenance and Preservation of Records 1312	
For How Long are the Records to be Kept? 1312	
Provision for Appeal 1313	
94. Role of Medical Fraternity under POCSO 2012 1314	
Controversies in POCSO Act, 2012 1314	
Child Marriage Restraint Act 2006 and POCSO 2012 1315	
The Prohibition of Child Marriage Act, 2006 1315	
Indian Penal Code, 1860 1315	
POCSO Act 1315	
POCSO over Indian Penal Code 1316	
95. Controversies Related to Informed Consent 1317	
Should we Abandon Medical Consent? 1317	
What is Medical Informed Consent? 1317	
The Bolam's Standard—First Standard 1317	
The Bolam's Standard Criticism 1318	
The Canterbury Standard—Second Standard 1318	
The Canterbury Standard—Criticism 1318	
Subjective Materiality Disclosure Rule—Third Standard 1318	
Even Legal Luminaries are not Satisfied with These Standards 1318	
Rational Autonomy and Decision-making Capacity 1318	
Confused Expectations of Legal Machinery 1319	
Variables Influencing Capacity: The Sliding Scale of Capacity and its Consequences 1319	
Introducing the Concepts of Overwhelm and Informational Overload 1320	
What Incapacitates the Patient is Facing is the Information Itself 1321	
Refusal of Consent for Medical Treatment vs Law of Necessity 1321	
96. Poster for Display for Stopping Violence 1322	
97. How to Limit Discretionary Power of Consumer Courts 1323	
Legal Presidents Sound Chances of Winning Medical Negligence Case on Merits is Almost Nil 1323	
What is the Variety of Cases for "No Win" 1323	
Alleged Medical Negligence Trial by Consumer Protection Act is Mixture of Other Statutes and Supreme Court Presidents 1323	
Res judicata 1324	
Res Judice 1324	
Barred by Limitation 1324	
Discovery Rule 1324	
Continuous Cause of Action 1324	
Contributory Negligence 1324	
Vicarious Liability of Hospital or Other Medical Doctor 1324	
Case Law on Independence of the Judiciary 1325	
Statutory Law and President Laws are Binding of Lower Judiciary 1325	
Where and How to Use Judicial Impropriety, Willful Judicial Impropriety, Legal Hierarchy and Others in Defending Res Judicata, Res Ipsa Loquitur, Laches, Continuing Cause of Action and Interest on Compensation in Consumer Cases 1325	
How to Plead Judicial Impropriety 1325	
How to Plead Judicial Impropriety by Quoting Leading Cases 1325	
Judicial Notice 1325	
Under Section 74 Read With Section 79 Indian Evidence Act 1872 1325	
Judgments and Precedents Binding as per the Case 1325	
General Principle of Res Judicata 1325	
Criminal Plus Civil Cases 1326	
Legislative Mandate 1326	
Decision Delivered by a Bench of Larger Strength is Binding 1326	
Limitation Act of Section 29 Excludes CPA 2019 as Section 69 Provides Limitation 1326	
Continuous Cause of Action and Rule of Discovery and Laches in Alleged Medical Negligence Cases 1326	
Supreme Court two judge bench in VN Shrikhande vs Anita Sena Fernandes (SC) 1326	
Claim for negligence, Section 14A of the Limitation Act 1980 (and see especially Hawards vs Fawcetts [2006] 1 WLR 68217) 1327	
Supreme Court Does Not Favour Res Ipsa Loquitur to be Applied in all Table Death Cases 1327	
How Government Doctors Should Resist Application of CPA 1327	
Three Judge Bench of Supreme Court Electronic Records are Permissible 1328	
Three Judge Bench Disability are in Many Respects Even More Tragic than Cases of Death 1329	
98. Only Building Positive Image of Medical Professionals in Society can Save Doctors 1330	
Can Individual Doctor's Efforts Make Image Positive in Society? 1330	
What is the Power of Social Media? 1330	

Why Social Media is Toxic to Medical Professionals? 1330	Why Compensation Takes into Account only Few Factors like Patient Age, Disability, Death and Inflation only 1346
Why Digital Media is a Big Part of Medical Professional's Life? 1331	What is Reserve Power to Fight Diseases in Human Beings? 1346
Has Social Media Ruined Image of Medical Professionals in Society? 1331	Who can be said to have Overall 100% "Reserve Power" to Heal 1346
How to Make it Positive 1331	Nine Negative Factors Weakening Reserve Power must be Pleaded Separately as and where it is Applicable 1346
Invoking Positive Image Depiction via Digital Media About Doctors 1331	How Use of Negative Factor Pleaded Might Impact to Calculation of Compensation 1347
What is Difference Between Digital Media and Social Media? 1331	Courts Take Following Factor to Grant Compensation and None of Above Negative Factors 1347
What Role Should Digital Social Media Play in Society? 1331	Calculation of Compensation as on Date 1347
How Media Affect Change in Society Nowadays? 1331	Age old "multiplier method" 1347
What is the Different Media Issue that Affects Society? 1331	Sanity Shall Prevail to Rein Fancy, Puffed up Compensation Claims to Get Media Attention 1348
How Social Media is Destroying Medical Professional Image in Society? 1332	
How Social Media Controls Lives of Medical Professionals? 1332	
What do you Mean by Digital Campaign? 1332	
How to Build Medical Profession Brand Online? 1332	
What is a Media Campaign? 1332	
How Digital Campaigns do Works? 1332	
99. Is Restitutio in Integrum is Outdated and too Harsh a Law for Medical Negligence Claims Compensation? 1333	102. What to Communicate and What not with Patients 1349
Restitutio in Integrum is a Flawed Roman Law—A Fairytale of Yesteryears 1333	Communication Skills in Patient Care Overrated 1349
Restitutio in Integrum—Is it Not Outdated Fairy Tale 1333	As if Communication is Panacea of all Medicolegal Ills 1349
Is Restitutio in integrum just Proper and Suitable in 21st Millennium? 1333	What is Brandolini's Law? 1349
Three Judge Bench Disabilities are in Many Respects Even More Tragic than Cases of Death 1334	Is it True that Ignorance Breeds Confidence about Communication Skills amongst Doctors? 1350
Cases where Restitutio in Integrum Applied Giving same Message 1334	Is Myth True About Ignorance of Communication Skills with Respect to Doctors? 1350
Make a Patient Survive with Dire Emergency and Get Trapped in Restitutio in Integrum 1335	Ignorance and the Dunning–Kruger Effect 1350
In 21st Century Restitutio in Integrum is Worse than Eye for Eye and Tooth for Tooth Archaic Law 1335	What we Ought not to Communicate with Patient Party 1350
How One Award Future Damages—Is Judicial Machinery a Bunch of Astrologers 1335	Do not be Afraid to Communicate with Patient Party 1350
If Wishes were Horses Everyone will Ride to Get Wishes Fulfilled 1335	Myths about Poor Communication Skills of Doctor 1351
Restitutio in integrum is a flawed roman law is unequal and has bias for victim only 1336	But at the Same Time, we do not Know as Much as we Think we do 1351
Multiplier Method of Calculating Compensation is Logical and Current Coin Followed One more Judgments than Restitutio in Integrum Principle 1336	
Restitutio in Integrum under Tort is Unjust Law in 21st Century 1337	
Restitutio in Integrum Under Contract 1337	
100. How to Amend IPC 304 and 320 and Other Sections for Doctors? A Scheme for Amending IPC (Same Scheme for Modification) 1339	Section X: Appendices 1353–1568
Criminal Law (Amendment) Bill, 2022 1339	Appendix 1: Consumer Protection Act 2019 1355
Amendments to the Indian Penal Code 1340	Appendix 2: The National Medical Commission Act, 2019 1382
Amendments to the Code of Criminal Procedure, 1973 1343	Appendix 3: Code of Medical Ethics Regulations 1407
Amendment of Indian Evidence Act, 1872 1344	Appendix 4: NMC Approved Telemedicine 1417
	Appendix 5: NMC Letter for Criminal Negligence Act, 2021 1435
	Appendix 6: MTP Act, 2021 1437
	Appendix 7: MTP Rules, 2021 1439
	Appendix 8: The Clinical Establishments (Registration and Regulation) Act, 2010 1443
	Appendix 9: Clinical Establishments (Central Government) Rules, 2012 1454
	Appendix 10: PC-PNDT Act, 1994 1459
	Appendix 11: Six Months Training Rule for USG 1476
	Appendix 12: Violations under the PC and PNDT Act and the Penalties 1478
	Appendix 13: POCSO Act, 2012 1479
	Appendix 14: Protection of Children from Sexual Offences Rules, 2020 1492
	Appendix 15: Transplantation of Human Organs (Amendment) Act, 2011 1499
	Appendix 16: Biomedical Waste (Management Handling) Rule, 1998 1506
	Appendix 17: National Commission for Indian System of Medicine Act, 2020 1522
	Appendix 18: National Commission for Homoeopathy Act, 2020 1546
	Appendix 19: Guidelines on Aesthetic Surgery and Hair Transplant Procedures 1569
	Appendix 20: Recommendations of the Committee on Stem Cell Use in ASD 1571
	Index 1569
101. Negative Factors which may be Pleaded to Reduce Compensation Awarded by Court of Law 1345	
Paradox in Calculating Compensation for Healthy Deaths vs Morbid Patient Deaths 1345	
Court Themselves Agree that it is Difficult to Calculate Compensation for Medical Negligence Cases 1345	
Problem of Precedent Decisions Becoming Law is Perpetuating Compensation Issue 1345	
Compensation Calculation is in Vicious Circle of Uncertainty Based on Assumption, Presumption 1346	