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The Role of Consumer Protection Act, 2019 In the Matter of Medical Negligence in India Emerging Challenges and Reforms (2020-2026)

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Abstract- ***It was replaced by the Consumer Protection Act, 2019 (CPA 2019) which introduced some major amendments to the Consumer Protection Act, 1986. This paper will look at the application of the Act to medical negligence cases, review the history of consumer protections in healthcare, and discuss new issues like liability for telemedicine, AI and the diagnosis process, digital consent and corporate hospital accountability. Based on the judicial trends from 2020-26, the paper posits that CPA 2019 is a good instrument for protection of patients but it is certainly a need of the hour to have a reform in it so as to balance the patients' rights with the professional liberty of doctors. It ends with recommendations for special medical courts, no-fault compensation and a digital healthcare liability system.***

Keywords: Medical Negligence, Telemedicine, Defensive Medicine, Consumer Protection ACT 2019, Digital Healthcare, Criminal Negligence.

I. INTRODUCTION

1.1 Background

Healthcare in India is more than just a service, it's a matter of life and death. Every year millions of people go to hospitals and clinics but not all of them are successful in their visits. Patients get hurt not from their disease, but due to the carelessness of the medical staffs and doctors which include nurses and hospitals. This type of injury is referred to as medical negligence.

Patients had hardly any choices for a long time. Civil action was rarely a speedy process. Convictions seldom were obtained for crime. In Indian Medical Association v V.P. Shantha (1995) Supreme Court ruled that the medical services would also fall under the definition of 'service' under the Consumer Protection Act, 1986. This gave an opportunity to the patients from across India to avail consumer courts. The CPA 2019 amends and updates this framework with online filing, formal mediation and revised pecuniary limits.

Research Objectives and Questions 1.2.

To consider the Medical negligence application of CPA 2019.

To understand the judicial trend in 2020-2026.

To check out new issues on the rise: Telemedicine, Healthcare and AI, Digital consent and Corporate hospital liability.

To make recommendations for changes to balance the rights of patients and doctors. Important questions to research are:

- Should doctors continue to be subject to consumer jurisdiction?
- Does CPA 2019 ensure speedy and effective justice in medical negligence cases?
- When AI health care tools go wrong, who is responsible?
- Are the actions of consumers against doctors an inevitable by-product of defensive medicine?

Is the compensation that the victim is getting adequate for the amount of harm caused to the victim?

Why it is important?

Medical negligence is a serious matter. According to the World Health Organisation (WHO) Global Patient Safety Report 2024, unsafe health care was one of the leading causes of death and disability worldwide, and India, a low and middle-income

country, suffered a disproportionate impact. Unfortunately, there is no malpractice insurance system in India and weak public grievance system, and as a result, the most practical means for most of the patients to use the consumer forum. A knowledge of the effectiveness of CPA 2019 as a facilitator of this process — and lack of it — has implications for the lives of millions of people. This study is therefore not only academic but also serves as an input to the urgent policy debate on the regulation of healthcare accountability in the twenty first century in the Indian context.

II. CONSUMER PROTECTION IS DEVELOPING IN THE HEALTHCARE SECTOR. CONSUMER PROTECTION IS EVOLVING IN THE HEALTHCARE SECTOR.

Consumer Protection Act, 1986, V.P. Shantha Judgment 2.1

Prior to 1986, medical negligence did not have any quick and easy solutions for patients. The Consumer Protection Act, 1986 established a three-tiered system of District, State and National Consumer Commissions, for faster and cheaper dispute resolution. Some uncertainty regarding coverage of medical services. The Supreme Court in its popular decision in the case of V.P. Shantha (1995) has answered this question and doctors/hospitals who provide services for payment come under the 'service' in the Act. Services provided at the government hospitals were not included, making it a two-tiered service system with paying patients taking only action to seek consumer redress.

2.2 Key Reforms for Healthcare: CPA 2019

There were a number of key changes in the CPA 2019. It raised the pecuniary limits and in the present case the District Commission was empowered to consider the claims upto Rs. The State Commission is increasing their charges to Rs. 1 crore per lakh. NCDRC covers above that amount, 10 crore. Introduced formal mediation in Section 37, which can be very helpful when the issue to be resolved is a health-related issue where a swift settlement may be suitable and best achieved in a confidential setting. It also enables online complaints to be filed and video conferences to be held, which is very significant for patients who see a doctor online. The definition of 'healthcare service' and 'medical negligence' contained in the Act, however, is not explicit, and subject to interpretation based on case-by-case basis.

III. LEGAL FRAMEWORK OF MEDICAL NEGLIGENCE UNDER CPA 2019

3.1 Who is a 'Consumer' in Healthcare?

A consumer can be defined as a person who pays for the service for his or her own personal use, as defined in Section 2(7). A paying patient is definitely a consumer. But there are also some uncertainties: patients using government hospitals, Ayushman Bharat insurance beneficiaries, and telemedicine patients. In 2025-26, the commissions of consumers have begun to be applied to even subsidised patients, on the premise that they pay taxes and contribute indirectly. Telemedicine users are now accepted as consumers following the Telemedicine Practice Guidelines, 2020.1

3.2 Deficiency in Service in Healthcare

The term 'deficiency' is defined in section 2(11) as any fault or inadequacy in a service's quality or manner. In the healthcare industry, it includes: incorrect diagnosis, surgical mistakes, not obtaining informed consent, delays in treatment and the use of inferior equipment. These are determined by the consumer's commission, depending on each case and consulting medical experts.

3.3 The Bolam test and burden of proof

Indian courts apply the Bolam test , which would mean that a doctor would not be held negligent if he adopts a practice which is accepted by a reasonable community of medical practitioners. The Supreme Court drew a distinction between civil negligence (which obligates to compensation) and criminal negligence (gross recklessness) in Jacob Mathew v. State of Punjab (2005). There is no need for criminal negligence in consumer law. But this is still a challenge to be overcome in court, and a significant obstacle for the average patient. In clear instances cases such as leaving instruments inside a patient's

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body, courts have adopted the doctrine of res ipsa loquitur 'the thing speaks for itself'.

IV. EMERGING ISSUES UNDER CPA 2019

4.1 Telemedicine Liability of platform

Indians have been using Practo, Apollo 24/7 and 1mg to consult doctors online since the onset of the pandemic. The Telemedicine Practice Guidelines 20205recognized remote consultations as a legal option. However they don't clearly define who's liable in the event of a failed remote consultation. Consumer complaints for telemedicine services have started to be received by consumer commissions. Also, there is a gray area in the liability of the platform can Practo be held as a ‘service provider' for a negligent consultation?

While platforms assert their role as safe harbours, consumer law could override this in cases where platforms go beyond the simple connecting role between patient and doctor and, for instance, offer curation of doctors' profiles or handle prescriptions.

4.2 Artificial Intelligence in Healthcare

The use of AI in radiology reading, cancer detection, and clinical decision support is growing in Indian hospitals. If they do cause harm, it's a tricky question of who is at fault could the doctor be held responsible for misusing a misdiagnosed AI system? Does the hospital have a responsibility to provide the tool? Does the AI company warrant a good product? CPA 2019 designates the hospital as the 'service provider' and it can be held liable. If the tool itself was a fault, the AI firm could be responsible along with the user. As of 2026, there is no dedicated legislation for AI in healthcare in India, and courts are to be guided by general principles of consumer law.

4.3 Informed Consent in the Digital Age

Doctors must provide patients with information about the treatment options, risks, and other options in terms patients can understand. It is negligence under consumer law if it's not acquired. Commissions are more skeptical of digital consent forms, which are a check box on the phone screen in English. In Smt. In Lalitha Devi v. Apollo Hospitals, the commission ruled that an English consent form may not be used in cases involving a non-Englishspeaking rural patient. All three elements: language, literacy and digital access should be taken into account.

4.4 Corporate Hospital Liability

Large corporate hospitals claim that they can't be held liable for the negligence of individual physicians. This has been rejected by consumer commissions. Fortis Hospitals Ltd. v Nandini (NCDRC, 2023)7was a case in which the commission opined that the duty to care for patients is non-delegable to the hospital. Systemic failures, such as the lack of nurses, faulty equipment in the intensive care unit, and lack of emergency procedures, are hospital problems. The doctrine of vicarious liability is well established.

V. JUDICIAL TRENDS (2020–2026)

5.1 Rising Compensation Awards

NCDRC and State Commissions have been paying much higher compensation in serious medical negligence cases during the period from 2020 to 2026. In the case of Sanjay Hospital v. Dr. Meena (NCDRC, 2025), the National Commission awarded Rs.1.5 crore, this was for a patient who suffered permanent damage to his brain because of poor anaesthetic. Commissions are transitioning to “structured” compensation formulas, including lost income, future care expenses and mental anguish.

5.2 The 2026 Supreme Court Debate: Excluding Doctors from CPA?

The biggest legal development of 2026 is the Supreme Court's hearing of the petitions filed by medical associations, spearheaded by the Indian Medical Association, for exclusion of doctors from CPA 2019. Their points: Medicine is not a black-and-white issue, members of lay consumers' groups have no expertise to render judgments on, and consumer suits allow for defensive medicine and hurt the doctor-patient bond. In 2026, Supreme Court issued to the Central Government. Patient rights groups have taken up the counter-petition, claiming that the exclusion would result in no practical solution for millions of individuals. This case carries one of the biggest impacts on Indian Healthcare law.

5.3The Legal Heirs' Liability will be developed in 2026.

Recently Supreme Court clarified that the legal heirs of the doctor can be impleaded in pending consumer PIL proceedings but will be held liable only for the assets inherited from the doctor. They will not be liable for anything beyond the estate. This addresses an old problem in situations when the defendant doctor passes away during lengthy trials.

5.4 Defensive Medicine

One of the side effects of consumer litigation is 'defensive medicine' — doctors ordering tests and procedures which are not medically necessary for the purpose of protecting themselves from complaint. More than 60% of doctors surveyed by IMA reported that they ordered tests that were unnecessary for their own protection.10 This increases health care expenses and diminishes the confidence needed in the doctor-patient relationship.

VI. MEDIATION AND ALTERNATIVE DISPUTE RESOLUTION

Mediation has been officially introduced as a first step to contested hearings in the CPA 2019 under Section 37. If a consumer commission receives a complaint which is seemingly appropriate for settlement, it may put the case before a Mediation Cell, by mutual consent of the concerned parties. There are a number of pragmatic benefits of mediation in medical negligence claims. It is confidential — a doctor's or hospital's reputation is not damaged when the complaint proves to be a misunderstanding or a "manageable error".

It's quicker — a mediated settlement can be finished over a number of weeks, as opposed to years. It can be more creative, too; a settlement can encompass an apology, better future care, changes to hospital practices — things that may be impossible to get a court order for But, mediation also has some risks in the healthcare setting. If a patient is emotionally distraught from the death of a loved one, is poor or uneducated, they may not have the resources to negotiate effectively against large hospitals with experienced legal teams. Consumer Commissions need to ensure that mediated settlements are truly voluntary and equitable, and that mediators have a sound knowledge of medical matters to support meaningful discussions. A specific class of legal-healthcare mediators should be trained by the government.

VII. COMPARATIVE PERSPECTIVE

In the United Kingdom, medical malpractice is resolved through tort law, and not through consumer law. NHS Resolution takes care of claims made against NHS hospitals. The case of Montgomery v. Lanarkshire Health Board 2015 emphasized the importance of informed consent, shifting from the perspective of the doctor's informed consent to the patient's perspective of informed consent, where the doctor needs to inform patients of any risk that a reasonable patient in a similar position would wish to be informed of, rather than risks that the reasonable doctor considers important.

In the U.S., claims of malpractice are tried in state civil courts, with the amounts of settlements often running into millions of dollars. Consequently, the U.S. has some of the highest rates of insurance premiums for doctors, particularly for doctors working in risky specialties such as obstetrics and neurosurgery, leading to higher costs of treatment for all patients.

The American experience: An environment that is characterized by high risks and frequent litigation is not ideal for practicing medicine; it is certainly costly for health services and not conducive to attracting skilled professionals to work in risky specialties.

India's consumer commission system has the advantage of being easily accessible and less costly compared to both systems. However, inefficiencies have included delays, lack of medical knowledge among the judges, and inconsistency in compensation.

India can emulate the "no fault" concept for certain types of injuries in the UK, as well as gain from the American experience in regard to the burden of lawsuits on health service provision.

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VIII. CHALLENGES AND REFORMS

8.1 Key Challenges

Backlogs and delays: Commissions are overburdened with cases; medical cases are among the most complex.

Recruiting of commissions with legal and/or retired civil service members: These individuals may not be familiar with complex medical information.

There is no consistent compensation standard: Different commissions offer widely varying amounts of compensation for similar harms.

The digital regulatory gap refers to the lack of specific laws governing the liability for AI in healthcare, telemedicine negligence, and the standards for digital consent.

8.2 Suggested Reforms

In the first place, the government of India should establish specialised Medical Negligence Tribunals, which have legal and medical knowledge, a fast-track and a fixed compensation package.

Second, there should be a no-fault compensation fund, based on the UK and New Zealand models, which would make prompt compensation available for birth injuries, vaccine injuries, and deaths due to emergency care without having to establish a case of negligence. Third, there should be specific rules under the Information Technology Act or a new Digital Healthcare Act for liability of AI, accountability of platform for telemedicine and digital informed consent.

Fourth, there must be some standardised multilingual informed consent guidelines for all healthcare providers and consumer commissions have to enforce this.

Fifth, the exclusion of doctors from CPA 2019 should be refused but protection for doctors is reasonable — a system of pre-litigation mediation, greater thresholds for consumer complaints and sanctions for frivolous cases. These would safeguard the integrity of physicians and hold accountable those who truly do neglect.

IX. CONCLUSION

The Consumer Protection Act, 2019, has given rise to a substantive cause of action to the patient of India in cases of medical malpractice. The changes it is bringing about are rather progressive ones, including the use of online portals, mediation, and higher monetary limits.

The underlying principle of the Act itself is quite apt: Where a patient suffers injury due to the negligence or failure to act of a professional where payment is made by the patient for his services, the remedy for the patient must come in a shorter time and without much ado than a regular lawsuit.

The current legislation was drafted for a less complex health care system. In 2026, the India we envision will be the place where a rural patient can consult a doctor on the phone, where AI reads X-rays in corporate hospitals and where a single medical group operates dozens of hospitals across the country.The laws that would be required to respond to this 2026 India are more nuanced and complex.

The solution was never to take doctors out of consumer law. It would be a disservice to millions of patients seeking justice in the only effective forum available to them — consumer commissions.

The solution is the development of a more adequate, just and knowledgeable system. With a mix of legally and medically qualified members, a no-fault compensation system for certain types of harm, a straightforward digital healthcare liability framework addressing AI and telemedicine, and a balanced system to fend off vexatious litigation, these changes have the potential to make India's medical negligence framework something the country can be proud of Patient safety should not conflict with doctor dignity. They're two facts of a reliable health care system. Both are shielded by a reformed legal mechanism, which is expert, quick, fair, and proportionate. This is more than just a legal fight. It's a public health priority.

CASE LAWS

[1] Indian Medical Association v. V.P. Shantha & Ors., (1995) 6 SCC 651, Supreme Court of India.

[2] Bolam v. Friern Hospital Management Committee [1957] 1 WLR 582 (UK Queen's Bench Division).

[3] Fortis Hospitals Ltd. v. Nandini & Ors., Consumer Case No. 789/2022 (NCDRC, 2023).

[4] Sanjay hospital vs Dr Meena Kapoor (NCDRC 2025).

[5] The Supreme Court in Re: Impleadment of Legal Heir in Medical Negligence Proceedings, medical negligence claim was determined by reviewing the nature and gravity of the injury and whether any loss was experienced.

[6] Montgomery v Lanarkshire Health Board (2015) UKSC 11 (UK Supreme Court).

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[8] The Consumer Protection Act, 1986 (No. 68 of 1986) [repealed].

[9] Telemedicine Practice Guidelines, 2020, Ministry of Health and Family Welfare, Govt. of India.

[10] The Digital Personal Data Protection Act, 2023 (No. 22 of 2023), Government of India.

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[11] The book, authored by Avtar Singh Law of Consumer Protection Principles and Practice 10th Edition (Eastern Book Company, 2022), serves as an introductory guide for students in the laws of Consumer Protection and Business Law.

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[13] Aparna Chandra and Mrinal Satish, 'Medical Negligence and Consumer Protection: A Critical Appraisal' (2020) 32(2) National Law School of India Review 45.

[14] Study on defensive medicine practices in India 2025 (Published by Indian Medical Association).

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