IN THE SUPREME COURT OF INDIA

APPELLATE JURISDICTION / LANDMARK PRECEDENT

Kusum Sharma v. Batra Hospital & Medical Research Centre

Registry Status : REPORTED PRECEDENT -- OFFICIAL RECORD

1. EXECUTIVE SUMMARY & KEY HIGHLIGHTS

In this landmark medical jurisprudence decision, the Supreme Court of India authoritatively established the boundaries of medical negligence under the Consumer Protection Act, 1986 and Indian tort law. Formulating the famous "11 Golden Principles," the Court reaffirmed the Bolam test, strictly distinguished between an actionable breach of duty and a bonafide clinical error of judgment, and held that doctors cannot be held liable simply because a surgical intervention proved unsuccessful or fatal. The Court issued strong directions protecting medical professionals against vexatious litigation to prevent the spread of defensive medicine.

* The 11 Golden Principles of Medical Negligence:Formulated comprehensive, binding guidelines defining the threshold of medical negligence, duty of care, and standard of competence in India.
* Error of Judgment vs. Negligence:Decisively held that a bonafide error of clinical judgment by a qualified doctor adopting an accepted school of medical thought does not constitute actionable negligence.
* Affirmation of the Bolam Test:Ruled that a doctor is not guilty of negligence if they acted in accordance with a practice accepted as proper by a responsible body of medical practitioners skilled in that art.
* No Implied Guarantee of Cure:Clarified that medicine is not an exact science and doctors do not guarantee a cure; adverse surgical outcomes or patient death do not automatically invoke res ipsa loquitur.
* Standard of Ordinary Reasonable Skill:Held that the law does not demand the very highest or extraordinary degree of skill, but only that of a reasonably competent practitioner exercising ordinary care.
* Insulation from Vexatious Litigation:Warned consumer fora against entertaining frivolous claims that create an atmosphere of defensive medicine and deter doctors from performing life-saving emergency surgeries.

2. FACTUAL MATRIX & IMPUGNED PROCEEDINGS

R.K. Sharma, a 50-year-old senior architect, developed persistent abdominal pain and was diagnosed at Batra Hospital with a large, potentially malignant adrenal tumour (pheochromocytoma / adrenal mass).

On 02.04.1990, Dr. P.K. Ghosh, a senior thoracic and cardiovascular surgeon, performed an exploratory laparotomy and adrenalectomy. Due to dense vascular adhesions and tumour infiltration into adjacent retroperitoneal structures, the left renal vein suffered injury, resulting in significant operative hemorrhage.

The surgeon secured hemostasis by applying vascular clamps and packing, successfully removed the tumour mass, and transferred the patient to the intensive care unit.

Post-operatively, the patient suffered renal insufficiency, received dialysis, and was subsequently transferred to AIIMS for specialized nephrology management, where he tragically passed away on 09.05.1990 due to multi-organ failure and sepsis.

The widow and children filed an original consumer complaint before the NCDRC claiming Rs. 45,00,000 compensation, alleging wrongful diagnosis, lack of surgical indication, and intra-operative negligence. The NCDRC dismissed the complaint following expert medical board testimony from AIIMS, prompting an appeal to the Supreme Court.

3. RATIO DECIDENDI (VERBATIM COURTROOM HOLDING)

The 11 Golden Principles Governing Medical Negligence (Paragraph 89):

On scrutiny of the leading cases of medical negligence both in our country and other countries, especially the United Kingdom, the following principles emerge:

* General Definition of Negligence:Negligence is the breach of a duty caused by omission to do something which a reasonable man guided by those considerations which ordinarily regulate the conduct of human affairs would do, or doing something which a prudent and reasonable man would not do.
* Medical Profession Requires Differentiated Treatment:Negligence in the context of the medical profession necessarily calls for a treatment with a difference.
* Standard of Reasonably Competent Practitioner:A medical practitioner would be liable only where his conduct fell below that of the standards of a reasonably competent practitioner in his field.
* Scope for Difference of Opinion:In the realm of diagnosis and treatment there is ample scope for genuine difference of opinion and one man clearly is not negligent merely because his conclusion differs from that of other professional men.
* High-Risk vs. Low-Risk Decisions:The medical professional is often called upon to adopt a procedure which involves higher element of risk, but which he honestly believes as providing greater chances of success for the patient rather than a procedure involving lesser risk but higher chances of failure. Which course is more appropriate to follow would depend on the facts and circumstances of each case.
* Immunity for Error of Judgment Under Accepted Practice:The medical practitioner is not liable for an error of judgment if he exercised ordinary care, was not negligent, and adopted a practice accepted by the medical profession.
* Reaffirmation of the Bolam Standard:A doctor is not guilty of negligence if he acted in accordance with a practice accepted as proper by a responsible body of medical men skilled in that particular art.
* Unfavourable Response / Failed Surgery Not Negligence:Simply because a patient has not favourably responded to a treatment given by a physician or a surgery has failed, the doctor cannot be held guilty of medical negligence.
* Ordinary Competence Required:The medical practitioner must have a reasonable degree of skill and knowledge and must exercise a reasonable degree of care. Neither the very highest nor a very low degree of care and competence judged in the light of the particular circumstances of each case is what the law requires.
* Error of Judgment Is Not Negligence:A medical practitioner with the best of intentions and skills can make an error of judgment. Such an error is not negligence.
* Statutory and Judicial Protection for Doctors:Medical professionals are entitled to get protection so long as they perform their duties with reasonable skill and competence and in the interest of the patients.

4. OBITER DICTA & JUDICIAL OBSERVATIONS

The Supreme Court made compelling observations regarding the socio-legal impact of medical malpractice claims on the healthcare ecosystem:

The Court cautioned that if doctors are held liable on hindsight analysis or if every surgical complication is presumed to be negligence, the medical fraternity will resort to 'defensive medicine.' Doctors would refuse to take calculated risks to save critical, moribund patients and would instead subject patients to unnecessary, costly battery of diagnostic tests to create legal alibis rather than administering swift clinical care.

Unlike engineering or mathematics, human biology is fraught with unpredictable physiological idiosyncrasies. Two patients with identical pathology can respond in radically different manners to the same surgical procedure or drug. The law cannot hold a surgeon to a standard of strict liability or an implied guarantee of cure.

Judges and consumer forum members lack clinical medical expertise. Consumer fora must not substitute their lay impressions for established medical science and should consistently rely upon independent expert medical boards constituted by reputed teaching hospitals (such as AIIMS or PGI) before drawing adverse inferences against treating physicians.

5. POINTS OF LAW FRAMED & ANSWERED

Legal Issue Framed	Supreme Court's Holding
What is the legal standard to establish medical negligence under the Consumer Protection Act?	The claimant must prove that the medical practitioner lacked the requisite skill or fell below the standard of an ordinary, reasonably competent practitioner in that field, causing direct injury.

Is an error of clinical judgment during high-risk surgery actionable as medical negligence?	No. An error of clinical judgment honestly made while following an accepted school of medical thought with reasonable care does not constitute negligence.
Does the doctrine of res ipsa loquitur apply automatically whenever a patient dies on the operating table?	No. Res ipsa loquitur applies only where negligence is patent and obvious to a layperson (e.g. leaving a surgical sponge inside); it does not apply to complex surgical complications or recognized clinical risks.
Can a doctor be held liable merely because another specialist would have adopted a different course of treatment?	No. The law recognizes that there is ample room for genuine difference of medical opinion; adopting one recognized course over another is not negligence.

6. STATUTORY FRAMEWORK & MODERN LEGISLATIVE ALIGNMENT

Precedent Reference / Former Statute	Modern Act (BNSS / BNS / BSA / CPA)	Doctrinal & Procedural Analysis
Section 2(1)(o), Consumer Protection Act, 1986	Section 2(42), Consumer Protection Act, 2019	Defines "service"; medical services rendered for consideration by private doctors/hospitals remain covered under CPA 2019 despite regulatory controversies.
Section 14(1)(d), Consumer Protection Act, 1986	Section 39(1)(d), Consumer Protection Act, 2019	Empowers Consumer Commissions to award compensation for injury or loss suffered by consumers due to negligence of service providers.
Section 304A, Indian Penal Code, 1860	Section 106(1) Proviso, Bharatiya Nyaya Sanhita, 2023 (BNS)	Criminal negligence standard: BNS Section 106(1) specifically incorporates a reduced punishment proviso (imprisonment up to 2 years) for registered medical practitioners acting in professional capacity.
Section 45, Indian Evidence Act, 1872	Section 39, Bharatiya Sakshya Adhiniyam, 2023 (BSA)	Governs admissibility of expert medical opinions and board evaluations, which Kusum Sharma established as pivotal in medical negligence litigation.

7. SUBSEQUENT JUDICIAL TREATMENT & LINEAGE

* Maharaja Agrasen Hospital v. Master Rishabh Sharma (2020) 6 SCC 501:Applied Kusum Sharma principles to paediatric retrolental fibroplasia, distinguishing negligence from unpreventable medical outcomes.
* Harish Kumar Khurana v. Joginder Singh (2021) 10 SCC 291:Reaffirmed that hospital and doctor cannot be held liable without positive medical evidence of deviation from standard clinical protocol.
* M.A. Biviji v. Sunita (2024) 2 SCC 242:Quashed an adverse NCDRC negligence finding against a surgeon for post-tracheostomy subglottic stenosis, reaffirming the 11 golden principles of Kusum Sharma.
* Neeraj Sud v. Jaswinder Singh (2024) 4 SCC 344:Held that failure of cataract surgery does not ipso facto establish medical negligence in the absence of expert board indictment.

8. PRACTICAL LITIGATION PLAYBOOK & STRATEGIC CHECKLIST

* Procure Complete Certified Medical Records:Secure certified, unaltered copies of OT notes, anaesthesia charts, doctor orders, nursing notes, and diagnostic scans immediately upon adverse incident.
* Secure Independent Medical Board Opinion:Obtain an objective evaluation from a medical board of a government teaching hospital demonstrating standard protocol violations.
* Demonstrate Procedural Non-Compliance:Prove specific breach of clinical guidelines issued by ICMR, National Medical Commission (NMC), or international clinical bodies.

* Prove Lack of Informed Consent:Establish that the surgeon failed to inform the patient of known, high-incidence surgical complications or viable non-surgical alternatives.
* Document Comprehensive Informed Consent:Produce signed, detailed informed consent forms evidencing that the patient was apprised of specific surgical hazards and mortality risks.
* Establish Contemporaneous Standard Care:Present complete operative notes showing adherence to recognized textbooks, surgical guidelines, and clinical protocols.
* Demand Expert Medical Board Referral:Invoke Section 38(2)(c) CPA 2019 / Section 13(1)(c) CPA 1986 early to refer the case to an independent tertiary hospital board.
* Assert Bolam Defense on Choice of Treatment:Demonstrate that the chosen surgical or therapeutic modality is endorsed by a recognized body of specialist medical literature.