

## Minutes of the meeting dt 06/06/2023

Online meeting of the Medico Legal Society of India was organized on Tuesday, 6th June 2023 between 8:50 pm to 10:00 pm. It was attended by

Dr. Mukesh Yadav

Dr. Jayant Navarange

Dr. Nitin Dhande

Dr. Shivkumar Kumbar

Dr. Pratibha Kane

Dr. Lalit Kumar

Dr. K N Rao

Dr. S G Kabra

Dr. T N Ravishankar

Dr. Rahul Agarwal

Dr. Hitesh

Dr. Rajeev Dubey

Dr. Rajeev Joshi

And 6 other members who joined after discussion started,

(Apologies that their names could not be recorded, as I had to write points being discussed while speakers were giving presentations. Please help to add to the list) The topic of the meeting was to develop a plan of action of MLSI for working with respect to Medical Negligence Suits against doctors. Please check various documents on the links below each speaker.

### **Following points were discussed during the meeting,**

**1. Briefing regarding Kerala High Court proceedings :** Dr Rajeev Joshi Presented analysis of data collected from Hospitals in Kerala. Dr KNRao said that the data has been collected and analysed meticulously but the number is very less. Dr Joshi agreed and said that he will request Hon'ble High Court to pass orders so that more data is collected during next week and analysis can be submitted subsequently. However, since any new effort has to start somewhere, pilot project should be started in the Kozhikode village.

**2. Dr S G Kabra :** Gave a presentation and described two cases in which complex medical issues were dealt with by the consumer forum as simple one. It should not have been decided without expert opinion. He has submitted various documents for study of the members of the association.

#### **Synopsis of Perverse Medical Negligence Judgments :**

[http://dataonweb.com/MLSI/uploads/Synopsis%20\\_%20Perverse%20medical%20negligence%20judgments\\_%20Bane%20of%20Practice%20of%20modern%20medicine%20\\_%20Dr%20S%20G%20Kabra.pdf](http://dataonweb.com/MLSI/uploads/Synopsis%20_%20Perverse%20medical%20negligence%20judgments_%20Bane%20of%20Practice%20of%20modern%20medicine%20_%20Dr%20S%20G%20Kabra.pdf)

**Medical Negligence :**

[http://dataonweb.com/MLSI/uploads/Mrdical%20negligence\\_Dr%20S%20G%20Kabra.pdf](http://dataonweb.com/MLSI/uploads/Mrdical%20negligence_Dr%20S%20G%20Kabra.pdf)

**Gutter Inspectors Report :**

<http://dataonweb.com/MLSI/uploads/Gutter%20Inspectors%20Report%20-%20Supreme%20Injuustice%20Dr%20S%20G%20Kabra.pdf>

**Details : Medical Negligence and Judicial Perception :**

[http://dataonweb.com/MLSI/uploads/Details%20-%20Medical%20Negligence%20Medical%20vs%20Judicial%20Perception\\_Dr%20S%20G.Kabra.pdf](http://dataonweb.com/MLSI/uploads/Details%20-%20Medical%20Negligence%20Medical%20vs%20Judicial%20Perception_Dr%20S%20G.Kabra.pdf)

**Decisions taken in good faith**

[http://dataonweb.com/MLSI/uploads/Decisions\\_taken\\_in\\_good\\_faith.pdf](http://dataonweb.com/MLSI/uploads/Decisions_taken_in_good_faith.pdf)

- 3. Dr. Narsimha Rao :** Described how the medical profession came under CPA and what is the need of bringing it under tribunal.

**Synopsis:**

<http://dataonweb.com/MLSI/uploads/KNRao-Article%20for%20IOA.pdf>

**Dissertation :**

<http://dataonweb.com/MLSI/uploads/Dr.KNRao-MLE-Dissertation.pdf>

- 4. Dr. T. N. Ravishankar :** Gave presentation on why medical tribunal is required and how it can be setup,

**Medical Tribunal : Brief Note**

[http://dataonweb.com/MLSI/uploads/MEDICAL\\_TRIBUNAL\\_DR\\_T\\_N\\_R.pdf](http://dataonweb.com/MLSI/uploads/MEDICAL_TRIBUNAL_DR_T_N_R.pdf)

**Medical Tribunal : Details**

[http://dataonweb.com/MLSI/uploads/MEDICAL%20TRIBUNAL%20COMPLETED%20%26%20SUBMITTED\\_TNRavishankar.pdf](http://dataonweb.com/MLSI/uploads/MEDICAL%20TRIBUNAL%20COMPLETED%20%26%20SUBMITTED_TNRavishankar.pdf)

**5. Discussion on plan of action :**

- a. Advocacy with associations of doctors : all present members agreed to contact their respective associations and that any action in this regard should be a united effort.
- b. Advocacy with the government : all present members agreed that the a document should be prepared with all necessary details and sent to authorities.

All efforts should be done to convince them that what we are suggesting is in the interest of patients first, then in the interest of state, and in the interest of judiciary in addition to protecting the interest of doctors.

- c. Legal action to be taken : At the level of the High Court / Supreme Court of India : It was decided that Dr Rajeev Joshi will make a list of all points discussed and assign responsibility for creation of excel sheets for gathering of data on one topic and writing a brief note on another topic. Accordingly topics are assigned as under, if anyone wants to suggest any additional

classification of problems please reply to this message. If anyone feels that time for activity can not be spent or for any other reason whatsoever, please let me know so that it can be assigned to someone else.

**01. Dr. Pratibha Kane :**

- a. Drugs not available at the time of incident, available later and used against doctor
- b. Time taken for cases from lower court to supreme court / district forum to national forum and then to SC and reasons thereof.

**02. Dr. Shivkumar Kumbhar :**

- a. Guidelines not available at the time of incident, available later and used against doctor
- b. Grievance redressal cell at each hospital / local IMA / Medico Legal Society of INDIA

**03. Dr. S G Kabra :**

- a. Complex medical cases treated as simple cases which should not have been decided by CF
- b. Rising costs of healthcare due to increasing cost of consumables and compensations awarded

**04. Dr. T N Ravishankar :**

- a. Delay in decision leading to inadequate compensation because of delay
- b. Rising cost of healthcare due to defensive medicine

**05. Dr. K. N. Rao :**

- a. Expert committees having members from specialty of medicine other than that of accused doctor
- b. Narrative for patient-state-judiciary-doctors benefitting from change

**06. Dr. Mukesh Yadav :**

- a. Issues related to Educational Tribunal (why necessary and what happened)
- b. Research done with relation to various types of cases against doctors.

**07. Dr. Jayant Navarange :**

- a. Expert committee opinion not accepted by Consumer forum.
- b. Disadvantages of medical tribunal which should be avoided in proposed new system

**08. Dr. Lalit Kumar :**

- a. WB CEA 2010 having tribunal and WB CEA 2017 having medical commission
- b. Technicalities related to formation of medical tribunal from government perspective

**09. Dr. Rajeev Joshi :**

- a. Differences in Expert committees of various states

- b. Issues related to expert committees in various judgments (bolam and bolitho etc)

**10. Dr. Rajeev Dubey**

- a. Issues related to telemedicine and CPA
- b. Issues related to digital medicine and CPA

***This exercise is to be completed in the next two weeks before the meeting scheduled on 20th June. All are requested to submit their documents on 19th June.***

**Dr Rajeev Joshi will enlist all such classes** of judgments of consumer fora and civil / criminal courts as and when communicated to him and assign responsibility of creation of excel sheets and subsequently data collection form to individual members. Once they are ready we will take the next step of collection of data and its analysis.

**6. Dr. M. C. Gupta's proposal for Maharashtra CEA amendment / suggestions**

**invited** : Dr Pratibha Kane proposed that we should request Prof MCG for suggesting amendment in section 12(2) of Mah CEA Act, Dr Mukesh Yadav Seconded and everyone agreed. Dr Rajeev Joshi said that Parmanand Katara Judgment only asks doctors to stabilise patients but does not say what stabilisation means. Save life judgement asks doctors not to ask consent from good samaritans but does not say who will pay for treatment. There have been cases against doctors for not following these judgments, but there are no cases against anyone when Jacob Mathew and Lalita kumari were blatantly flouted. Therefore we should say that patients should be stabilised by private hospitals and send to government hospitals for further care. He will write to Dr M C

Gupta accordingly.

**7. Dr. Lalit Kumar's proposal for felicitation of a senior doctor on doctors day** : Dr.

Lalit Kumar proposed that a senior doctor and medico legal expert should be felicitated by MLSI on 1st July, the doctors day. Everyone agreed. Dr Rajeev Joshi will seek approval of the managing committee before taking it forward.

**8. Dr. Rahul Agarwal suggested** that we should communicate with various professional associations of doctors and conduct medico-legal sessions in which we can describe the proposed plan. The suggestion was well taken by all members. Dr. Rajeev Joshi requested Dr Rahul to connect MLSI with all the associations he is associated with.

**Dr. Rajeev Joshi**