



# MEDICO-LEGAL SOCIETY OF INDIA

Dear All members of medical fraternity,

I am writing this to draw attention of every doctor to some important issues related to handling of medico-legal litigation in various courts in the country with example of what has happened in last few days on various whatsapp groups and in other social media regarding appeal which was filed in National Consumer Disputes Redressal Commission (NCDRC) against decision of Telangana State Consumer Dispute Redressal Commission (TSCDRC) against anaesthesiologists, neurosurgeon and hospital.

A message was received at **7:47 pm on Wednesday, 7th June 2023** on the Medicos Legal Aid Group which is a general group of Medico Legal Society of INDIA (MLSI), Medico Legal Society of INDIA being a group for members only. The request came from an ENT surgeon from Mumbai who is a friend of the lawyer practising in the National Commission and Supreme Court. An anaesthesiologist and Orthopaedic Surgeon from Warangal in Telangana were found negligent by TCDRC as

- A. echocardiography was not done for a patient who was allegedly having shortness of breath,
- B. drugs causing bradycardia were given carelessly, and
- C. extra care was not taken for intubation as the patient had a short neck.

The ENT surgeon feared that if the national commission does not revert this order then all anaesthesiologists will be in difficulty as they have to give these drugs on a daily basis. He had given his mobile number so that anyone who could help would be able to contact him. The hearing was to be held on 9th June.

I called him immediately on getting this message and requested him to send the order of the Court and other documents like case paper and defence of the doctor in TCDRC. He sent me a copy of the TCDRC order immediately which I forwarded to both general and member's groups. Soon thereafter he sent a copy of a petition filed in NCDRC which was about a 260 page document which was also forwarded. I requested the

ENT surgeon to contact the advocate and request him to ask the doctors to contact us so that some more details could be found out and that they should send an email to [medicolegalsocietyofindia@gmail.com](mailto:medicolegalsocietyofindia@gmail.com) requesting expert opinion. I also requested him to ask the advocate to contact me as soon as possible so that any queries can be answered. However I did not receive any call from the doctor or avocate, neither we got communication from doctors.

The patient did not give any history of breathlessness, he was unable to walk and had hypertension. Glycopyrrolate was administered, but was not in the list of drugs given by the complainant wife of the patient. ECG was normal and there appeared to be no indication for Echocardiography. A senior intensivist from Raipur forwarded guidelines by the British Society of Echocardiology with another document which said that routine Echocardiography is not indicated. The senior anaesthesiologist extracted the consent from the 260 page document and demonstrated that that high risk consent was hand written and signed, counselling was done for risk of obesity, routine drugs were used and glycopyrrolate was administered to counter bradycardia. **Many members gave their inputs, most of which expressed willingness to help and suggested some points** which should be communicated to the advocate so that the Court is apprised of the facts in the case suppressed in the case. Discussion was going on till midnight. However we did not receive any communication from the advocate or the doctors.

**On Thursday, 8th June morning,** a senior anaesthesiologist from Pune expressed willingness to write defence for anaesthesiologist; but had a question, would it be acceptable and would it be possible to intervene? I requested her to compile the document as expert opinion which could be suitably edited as required to be submitted in the court. I called the ENT surgeon who had initiated the request for help and sent documents. He said that he had contacted the advocate asking him to ask his client to communicate with MLSI and he was surprised that we had not received any communication. He said he would talk to the lawyer again. I initiated the process of getting a covering letter for the expert opinion signed by the President and Treasurer of Medico Legal Society of India, who are very senior and most busy medical practitioners. After briefing

them, printing the draft on letterhead, and getting signatures I sent a scanned copy to the senior anaesthesiologist, and requested her to send her draft to me. She said she was working on it and would complete it ASAP. At 730 pm I called the ENT surgeon again and expressed my deep dissatisfaction for lack of communication from the advocate or the doctors. He was also unhappy that after sending the documents shared earlier by whatsapp with the advocate there was no communication from him. So I requested the mobile number of the advocate which he furnished immediately. I sent a message to the advocate at 748 pm. He called me at 8:30 pm informing me that he had requested the advocate from the State Forum who had referred the case for appeal in the National forum, but neither the advocate nor the clients called him. I said I understood his position as I knew how clinicians do not want the radiologists to open their mouth and prefer them to send only the report. I sent him the covering letter which he should forward to the doctors and request them to send an email to MLSI. None came till 11:30 pm when the senior anaesthesiologist sent her well researched draft with references. I attached it to the covering letter and sent it to the advocate at 11:50 pm or so. Subsequently he called me at 12 midnight. He asked me queries regarding each entry on the case paper of the patient. I explained to him each and every point.

I am happy that the advocate asked me several questions and got satisfied.

BP : 130/90 mm/Hg      Pulse Rate : 86 / min      Rhythm : Regular  
Volume : Normal      Respiratory Rate : 15 / min      Temperature : Normal  
Heart Sounds : S1, S2 heard      Murmurs : -- , Cardiac Enlargement -  
Liver / Spleen : Not Palpable      Lungs : Clinically Clear      ANS : NAD

The first and most important question he asked was in the document shared by MLSI, it was stated that echocardiography is indicated if there is abnormality in ECG or there is murmur. This patient had murmur so why echocardiography was not done. I was puzzled with the question and asked me where it is written that patient had murmur. He pointed to the page on which above was printed. **He read heart sounds s1 s2 heard murmur**

I told him that it is to be read like this

Heart sounds : s1, S2 heard

Murmurs : —

Then he realised his error which was purely due to ignorance of medical terms. I told him about glycopyrrolate which was given before induction and its importance and he said that he had noticed that the complainant had not mentioned glycopyrrolate. Like this we read out all 5 pages patiently and I requested him to take down complete terms like NAD = No abnormality detected and IPPV = Intermittent Positive Pressure Ventilation etc etc.

Finally I asked him why he was asking me and not the clients, his reply was stunning. He had never talked to the clients. They have never talked to him. All he has is the document filed in the NCDRC which he is supposed to argue. It is likely that the same thing may have happened with the advocate who appeared in the State Commission, and without any inputs he may have failed to get the judgement in favour of his clients.

I am writing this to you all to understand the importance of supporting the lawyer, and to what extent support is required. I have been giving such support to my lawyer friends, but if the accused doctor does not support his lawyer, the lawyer is bound to fail unless he has done some course in medico-legal issues.

This message in no way should be taken as demeaning the advocate/s as they do the job of representing their clients. Either our case paper should be so clear that they do not need to ask anything to anyone, which is beyond impossible. OR we should brief the lawyer so that he knows everything in the case from A to Z. Otherwise we should stand behind him in the courtroom, which I have been doing for years. Fact that we are busy in practice does not mean that we should not take ANY effort to educate our lawyer for OUR case. They have 10 cases simultaneously going on and on any day they may have 4-5 matters in different courts, and I have seen them running from one bench to another. All their assistants mostly do is to remain present in the bench where the next case of the advocate is likely to reach the bench and request the bench to keep the matter back till the advocate reaches. Facts of our case are best known to us. We should know them by page number of the petition / affidavit being filed by us..!!

**On Friday the 9th of June**, one of the Judges was absent so there was no hearing, and the case was adjourned for Monday. So we got more time and the senior anaesthesiologist drafted and

added several references to the document. Senior orthopaedic surgeon from Trichy also prepared a note regarding issues related to ratio-decidenti in the order and why MLSI would like implead in the matter. Together we prepared a strong medico-legal defence. The lawyer was extremely happy about the inputs given. Suggested few changes from his perspectives and on Monday at 8:00 am final document was given to him.

**On Monday, the 12th of June** when the case came up for hearing, as informed by the advocate he explained all the points to the court to the extent that the court was shocked to see the medical preparedness of the advocate. However the judges were not inclined to issue notices to other parties. He wrote to the advocate in the State Commission who referred the matter and sent a copy to me by whatsapp.

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Sir, they are very much against

- 1) Initially they were convinced but later they took a stand as the person passed away is an Advocate,
- 2) no record of ECG submitted
- 3) counsel we are telling you in the nice of words as you have strived tremendously to harp upon us but we are not inclined and we would pass a harsher order if you insist on getting dismissed.

So I requested for pass over and spoke to Sanjeev Reddy sir and am waiting in the court for our matter.

*Also this word was conveyed to me sir : “ counsel you can take every brief and contest the matter but it is your foremost duty to act as officer of court and you need to keep in mind to advice your clients to settle of the matter instead of contesting”*

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So just because the deceased patient was a lawyer by profession, the National Commission was not inclined to allow the appeal. They said the hospital can easily pay Rs. 10 Lacs. The advocate himself was shocked at this approach, but his client's brother said that the advocate should withdraw the matter as if there is harsher punishment, they will have to shell out more money with interest etc. Accordingly the appeal was withdrawn.

The advocate informed me that he would like to file a special leave petition (SLP) as he was forced to withdraw. Normal charges 95000 for this case 50000. MLSI or anyone can file an

SLP. For SLP 90 days from date of order of state commission. So we have a maximum of 1 month in hand to file SLP if we wish to.

SLP will have to be filed in the Supreme Court. He said he will inform the SC that he was forced to withdraw. Honestly I have doubts whether he will do that. Advocates generally do NOT openly talk about such issues in court as they want to be in the good books of everyone in the judiciary. Also I think the anaesthesiologist should be willing to be the applicant to the SLP. MLSI can join as a party to SLP and give independent counsel / one of us can argue in person. But if the advocate does not say that he was forced to withdraw, we will have a problem. SLP may also be forced to be withdrawn by the Supreme Court. If the SC passes a harsher order, who will pay? Can we ask anaesthesiologists association to a) be party to SLP b) raise funds for compensation if they want to proceed. Can MLSI do a fund-raising campaign so that if we go for SLP and we get a harsher order, MLSI can pay. I think we need to discuss these issues in an online meeting. However if such an approach of the judiciary goes without opposition, it will not only be problematic for anaesthesiologists, but the entire medical fraternity. Also doctors will start refusing to treat advocates as the next level of defensive medicine. Think about it.

**On 13th June 2023**, office bearers of MLSI and Indian Society for Anaesthesiologists and the affected anaesthesiologist and neurosurgeon from Warangal, Telangana attended an online meeting with Advocate in NCDRC. Various issues were discussed.

MLSI has decided to file an SLP in this case. Survey of adverse events due to medicines used in anaesthesia has been designed for such SLP. MLSI is requesting anaesthesiologists to respond by clicking on the link below to bring out larger picture.

**[Data collection form for Anaesthesia Drugs related adverse events](#)**

Those interested in contributing may please write a message to me on my whatsapp / email so that bank details can be shared. MLSI can issue 80G certificates. [Membership fee of MLSI is 12500/- form for which is available on this link.](#) All doctors from all specialties can become members; those who have a degree in law or those who have completed MLSI training program of Law and Medical Profession can be office bearers.

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