



## AN EMPIRICAL STUDY ON THE AWARENESS ON MEDICAL NEGLIGENCE IN MEDICAL SECTORS

**A.J. MAGENDIRAVERMAN**, 4<sup>th</sup> year B.B.A. LL.B.(Hons), 131702080, SAVEETHA SCHOOL OF LAW, SAVEETHA INSTITUTE OF TECHNICAL AND MEDICAL SCIENCES, SAVEETHA UNIVERSITY, CHENNAI

**Dr. MURUGAN RAMU**, ASSOCIATE PROFESSOR, DEPARTMENT OF MANAGEMENT STUDIES, SAVEETHA SCHOOL OF LAW, SAVEETHA INSTITUTE OF TECHNICAL AND MEDICAL SCIENCES, SAVEETHA UNIVERSITY

---

**Abstract-** The mistakes made by doctors which can cost a lot to the patients in many ways. Patient suffers immensely due to the actions of the doctor. The medical profession is viewed as an honorable profession since it helps in preserving life. We accept life is undeniable. In this manner, a doctor figures in the plan of God as he stands to do his order. The Government enacted "National Medical Commission Act". Desires for a patient are two-overlap: doctors and emergency clinics are required to furnish medical treatment with all the information and expertise at their order and also they will do nothing to hurt the patient in any way either due to their carelessness, indiscretion, or wild mentality of their staff. Unlike in the case of doctrinal research where the research is conducted on the basis of facts and data already collected in the library, archives and other databases, collecting or gathering information by a first-hand study into the universe, it helps the empirical research to be carried on. There are a total of 250 samples collected with regard to this study. From the survey in Figure 1, it is found that most of the male and female think that maybe medical negligence can be used as an excuse in medical sectors. Hence, through these graphs we are able to understand that there is an awareness among the general public about the medical negligence in the medical sector but they are at a confused level about it.

**Keywords: Negligence, Doctors, Medical, Professional, Treatment.**

### I. INTRODUCTION

Mistakes by the doctor can result in multiple devastative outcomes for the patient. Patient suffers immensely due to the actions of the doctor. This kind of mistake is known as 'Negligence'. A doctor can be sued for providing low quality of treatment and care like an owner of the restaurant can be sued for providing low quality of food. Medical negligence is also called "Medical Malpractice" which is improper, negligent, or unskilled treatment of a patient by a nurse, pharmacist, dentist, physician or other health care professional. The concept of medical negligence was born long ago and it can be traced back to the Hammurabi Code, it is considered to be an extensive legal document from ancient Mesopotamia. The Hammurabi Code states that, doctor ought to lose out on their limbs for the actions that results in loss of eyes, limbs and legs of the patient

The government is maintaining a complete record of all medical professionals of Indian and foreign origin, who practice in hospitals or teaching and research assignments in Indian medical colleges. The important duty of the hospital and doctors is to obtain prior consent from the patients by following ways : (1) Express Consent may be in writing or in oral and both these categories of consents are of equal value but a written consent can be considered as superior because of its evidential value; (2) Implied consent may be implied by patient's conduct; (3) Implied consent understood without being stated is known as 'Tacit consent'; (4) Family members will give consent and it is called 'Surrogate consent'. Most of the time, courts held that consent given by family members with the written approval of 2 physicians sufficiently protects a patient's interest; (5) The consent given by the patient in advance is called 'Advance consent'; (6) proxy consent means the consent given by an authorized person. The Government enacted "National Medical Commission Act". In the current scenario, two sets of rules have been framed, which is "National Medical Commission Rules, 2019" which deals with Submission of List of Medical Professionals and "National Medical Commission Rules, 2019" which deals with the Manner of Nomination and Appointment of Members and also about their Salary, Allowances, Terms of Conditions of Service, Declaration of Assets, Professional and Commercial Engagements.

The main aim of the study is to find out whether there is an awareness among the general public about the medical negligence in medical sectors.

### **Objective**

1. To know whether the rate of medical negligence is decreasing or increasing day by day in medical sectors.
2. To measure the rate of medical negligence by male doctors over the female doctors.

## II. REVIEW OF LITERATURE

The medical profession is viewed as an honorable profession since it helps in preserving life (Vs et al. 2004). We all people accept that life is undeniable (Samanta and Samanta 2018; Snowdon 1990). In this manner, a doctor figures in the plan of God as he stands to do his order (Shenoy 2018). A patient for the most part moves toward a doctor/medical clinic dependent on his/its notoriety (Great Britain. National Audit Office 2001). Desires for a patient are two-overlap: doctors and emergency clinics are required to furnish medical treatment with all the information and expertise at their order (Nelson 1988) and also they will do nothing to hurt the patient in any way either due to their carelessness, indiscretion, or wild mentality of their staff (Ley and Sturgess 2018). In spite of the fact that a doctor may not be in a situation to spare his patient's life consistently (Jindal 2014), he is relied upon to utilize his extraordinary information and aptitude in the most proper way keeping in mind the interest of the patient who has endowed his life to him (Steinhauer, Holzschuh, and Böhler 2017). In this way, it is normal for a doctor to complete an essential investigation or looks for a report from the patient (Herring 2018). Moreover, except if it is a crisis, he obtains informed assent of the patient before proceeding with any significant treatment, careful activity, or even invasive investigation (Samanta and Samanta 2018). Disappointment of a doctor and medical clinic to release this commitment is basically a tortious liability (Oliphant and Wright 2013).

A tort is a civil wrong (right in rem) as against a contractual commitment (right in personam) – a break that pulls in legal intervention by method of awarding harms (Knaak and Parzeller 2014). A patient's right to get medical consideration from doctors and emergency clinics is basically a civil right (Bradford 1995). The relationship takes the state of a contract somewhat due to informed assent, installment of expense, and execution of medical procedure/providing treatment, and so on while retaining basic components of tort (Goold and Herring 2014). In the case "Jacob Mathew v. State of Punjab" the Supreme Court held that "A person who is entering into a certain profession is deemed to have knowledge regarding that profession and it is impliedly assuring that a reasonable amount of care shall be taken by the professional to profess his profession. Hence, the person can be held liable under negligence if he did not possess the required skills to profess or he failed to take an essential amount of care to profess the said profession" (Navarange 2012). Much of the work on clinical and medication errors is from the United States of America (Launer 2009). However, in a recently reported study from a typical British teaching hospital over a 4-week study period, 1.5% prescribing errors were identified and potentially serious errors occurred in 0.4% of cases (Samarkandi 2006). In my view, the majority of errors originated from prescribing decisions (Meng 2019). The IOM report, and the response of the United States government to it, advocated establishing a national focus in order to create leadership and research tools to enhance the knowledge base about patient safety (Bhasin 2012). It is important to see that some of the unnecessary costs of health care can be attributed to the motivation to earn supplementary incomes by administering unnecessary tests and investigations besides the additional costs of defensive medicine (Decker 2002).

## III. MATERIALS AND METHODS

Unlike in the case of doctrinal research where the research is conducted on the basis of facts and data already collected in the library, archives and other databases, the empirical research is carried out by collecting or gathering information by a first-hand study into the universe. Empirical research is also called data-based research and its conclusions are capable of being verified by observation and experiment. Empirical research is conducted with the help of what we call sociological methods and by inquiring into a social phenomenon.

Empirical research means an inquiry that attempts to discover and also attempts to verify the general rules allowing us to understand why human beings behave the way they do. Sociological methods like observation, interview, questionnaire and survey are used to discover the human conduct. With the help of SPSS software, the crosstab and chi-square test is used. The method which is used in this research is based on questionnaires which is very useful with the sample size being large. The SPSS software was helpful in collecting data which were analysed using it and the empirical study used the acquired processed data.

**Sampling Method:**

The method which has been used for the purpose of this study is the Convenient Sampling Method.

**Sample size:**

There are a total of 250 samples collected with regard to this study.

**Independent Variable:**

Age

Gender

Educational Qualification

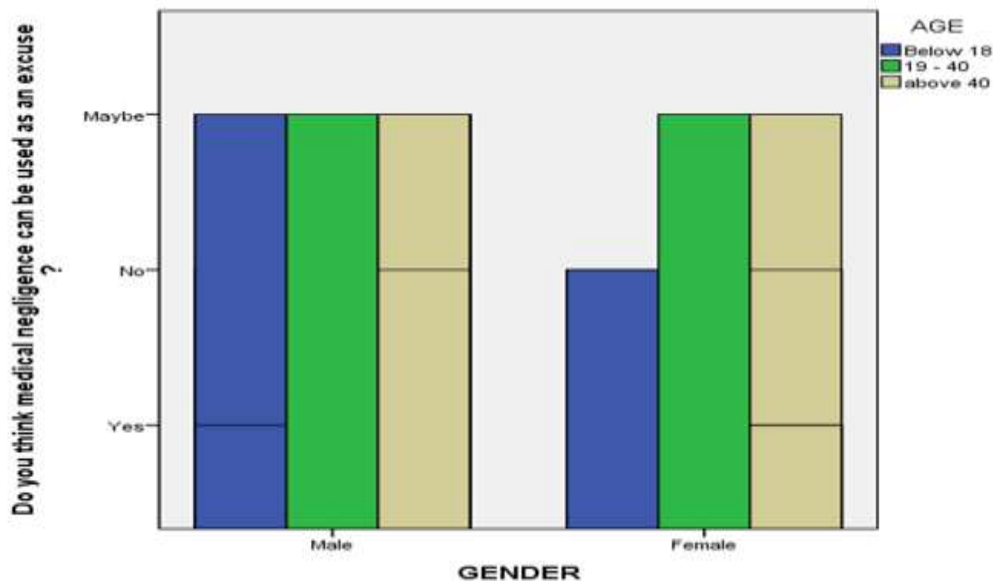
**Dependent Variable:**

Do you think medical negligence can be used as an excuse ?

Do you agree that the laws relating to medical negligence aren't strict enough?

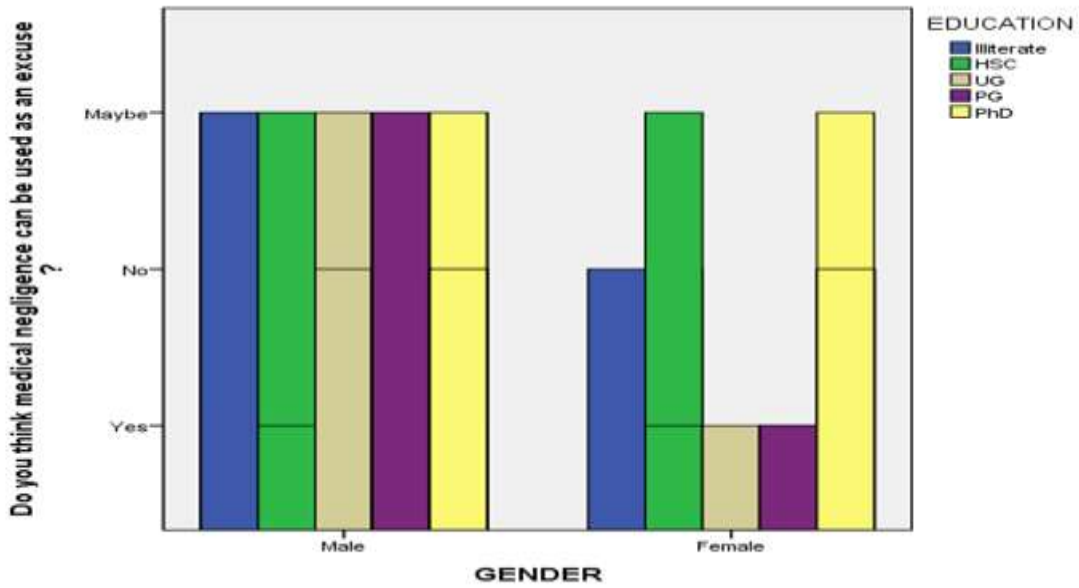
IV. RESULT & ANALYSIS

**FIGURE 1 :**



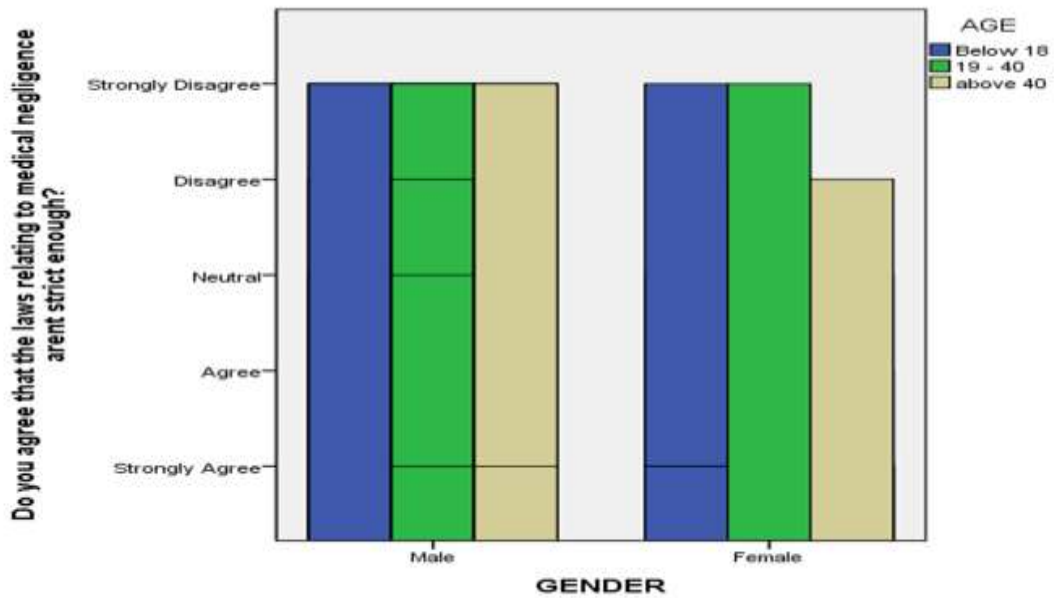
**Legend :** Figure 1 shows that Gender distribution with regard to the Age and opinion on medical negligence as an excuse in medical sectors.

**FIGURE 2 :**



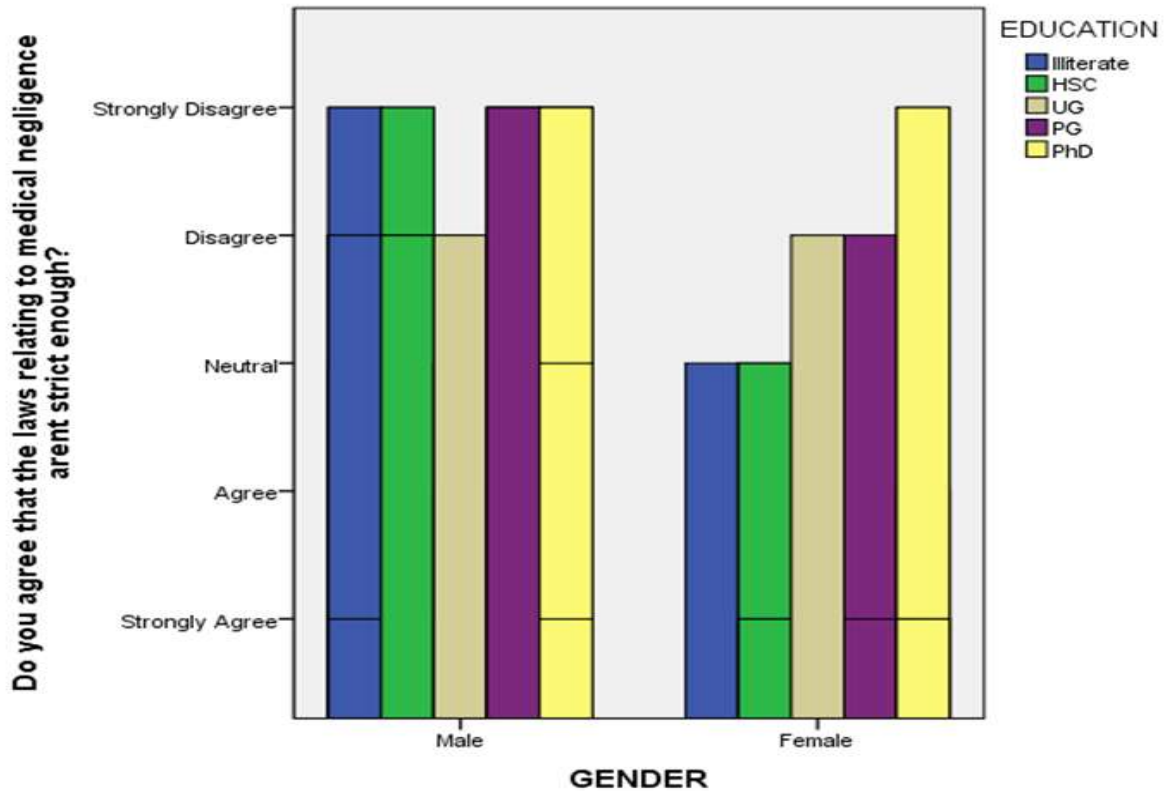
**Legend :** Figure 2 shows that Gender distribution with regard to the Education and opinion on medical negligence as an excuse in medical sectors.

**FIGURE 3 :**



**Legend :** Figure 3 shows that Gender distribution with regard to the Age and opinion on laws relating to medical negligence aren't strict enough.

**FIGURE 4 :**



**Legend :** Figure 4 shows that Gender distribution with regard to the Education and opinion on laws relating to medical negligence aren't strict enough.

In Figure 1, male who are below the age of 18 and female who are above the age of 40 answered Yes; male who are above the age of 40, female who are below the age of 18 and above the age of 40 answered No; male in all age group and female who are 19 to 40 and above the age of 40 answered Maybe for the opinion on medical negligence as an excuse in medical sectors.

In Figure 2, male who have HSC and female who have HSC, UG, PG qualification answered Yes; male who have UG, PhD and female who are illiterate and having PhD qualification answered No; male in all educational qualification and female who have HSC, PhD qualification answered Maybe for the opinion on medical negligence as an excuse in medical sectors.

In Figure 3, male who are 19 to 40, above 40 and female who are below the age of 18 answered Strongly Agree; male who are 19 to 40 answered Neutral; male who are 19 to 40 and female who are above the age of 40 answered Disagree; male in all age group and female who are below the age of 18, 19 to 40 answered Strongly Disagree for the opinion on laws on medical negligence aren't strict enough.

In Figure 4, male who are illiterate, having PhD and female who have HSC, PG, PhD qualification answered Strongly Agree; male who have PhD and female who are illiterate and having HSC qualification answered Neutral; male who are illiterate, having HSC, UG and female who have UG, PG qualification answered

Disagree; male in all educational qualifications except UG and female who have PhD qualification answered Strongly Disagree for the opinion on laws on medical negligence aren't strict enough.

## V. DISCUSSION

From the survey in Figure 1, it is found that most of the male and female think that maybe medical negligence can be used as an excuse in medical sectors.

From observing Figure 2, it is discovered that all male groups and some female groups think that medical negligence can be used as an excuse in medical sectors.

From the survey in Figure 3, it is found that most of the male agrees and female disagrees that medical negligence laws aren't strict enough.

From observing Figure 4, it is discovered that most of the male groups and some female groups strongly agree that medical negligence laws aren't strict enough.

## VI. CONCLUSION

It isn't expressed that doctors are negligent or flippant however while playing out the obligation which requires a great deal of persistence and care, frequently numerous professionals come up short or breaches their duty towards the patient. Medicine which is perhaps the noblest calling requires setting a domain which can profit the victims of different diseases. Numerous doctors even the authority once in a while neglects little things to be dealt with while rehearsing which may bring about harms to the patients that could have been dodged or once in a while even the demise of the patients. Graph one speaks about Gender distribution with regard to the Age and opinion on medical negligence as an excuse in medical sectors; Graph two speaks about Gender distribution with regard to the Education and opinion on medical negligence as an excuse in medical sectors; Graph three speaks about Gender distribution with regard to the Age and opinion on laws relating to medical negligence aren't strict enough; Graph four speaks about Gender distribution with regard to the Education and opinion on laws relating to medical negligence aren't strict enough. Hence, through these four graphs, we are able to understand that there is an awareness among the general public about the medical negligence in the medical sector but they are at a confused level about it.

## REFERENCE

1. Bhasin, Purendra. 2012. "Medical Negligence in Ophthalmology." *Textbook on Medicolegal Issues: Related to Various Medical Specialties*. [https://doi.org/10.5005/jp/books/11663\\_22](https://doi.org/10.5005/jp/books/11663_22).
2. Bradford, W. D. 1995. "Solo versus Group Practice in the Medical Profession: The Influence of Malpractice Risk." *Health Economics* 4 (2): 95–112.
3. Decker, Ann E. 2002. "Medical Legal Principles: Medical Negligence." *Anesthesiology Review*. <https://doi.org/10.1016/b978-0-443-06601-6.50241-3>.
4. Goold, Imogen, and Jonathan Herring. 2014. "Medical Negligence." *Great Debates in Medical Law and Ethics*. [https://doi.org/10.1007/978-1-137-32747-5\\_4](https://doi.org/10.1007/978-1-137-32747-5_4).
5. Great Britain. National Audit Office. 2001. *Handling Clinical Negligence Claims in England*.
6. Herring, Jonathan. 2018. "3. Medical Negligence." *Medical Law and Ethics*. <https://doi.org/10.1093/he/9780198810605.003.0003>.
7. Jindal, Rajinder Paul. 2014. "The Truth about Medical Negligence." *Indian Journal of Medical Ethics*. <https://doi.org/10.20529/ijme.2014.012>.
8. Knaak, Jan-Paul, and Markus Parzeller. 2014. "Court Decisions on Medical Malpractice." *International Journal of Legal Medicine* 128 (6): 1049–57.
9. Launer, J. 2009. "Death by Negligence." *Postgraduate Medical Journal*. <https://doi.org/10.1136/pgmj.2008.077966>.

10. Ley, Nigel Spencer, and Jane Sturgess. 2018. "Medical Negligence and Complaints." *A Medic's Guide to Essential Legal Matters*. <https://doi.org/10.1093/med/9780198749851.003.0004>.
11. Meng, Cheong Peng. 2019. *Medical Negligence in Hong Kong and How to Avoid It: An Introductory Guide*. Hong Kong University Press.
12. Navarange, J. R. 2012. "Medical Negligence." *Textbook on Medicolegal Issues: Related to Various Medical Specialties*. [https://doi.org/10.5005/jp/books/11663\\_9](https://doi.org/10.5005/jp/books/11663_9).
13. Nelson, L. J., 3rd. 1988. "Medical Malpractice and the Transformation in Health Care Delivery." *Specialty Law Digest. Health Care* 10 (2): 7–50.
14. Oliphant, Ken, and Richard W. Wright. 2013. *Medical Malpractice and Compensation in Global Perspective*. Walter de Gruyter.
15. Samanta, Jo, and Ash Samanta. 2018. "2. Medical Negligence." *Law Trove*. <https://doi.org/10.1093/he/9780198815204.003.0002>.
16. Samarkandi, Abdulhamid. 2006. "Status of Medical Liability Claims in Saudi Arabia." *Annals of Saudi Medicine* 26 (2): 87–91.
17. Shenoy, Gopinath. 2018. "Medical Negligence and Medical Law." *Recent Advances in Forensic Medicine and Toxicology (Volume 2)*. [https://doi.org/10.5005/jp/books/14137\\_2](https://doi.org/10.5005/jp/books/14137_2).
18. Snowdon, John. 1990. "Medical Negligence Litigation. Medical Assessment of Claims." *Medical Journal of Australia*. <https://doi.org/10.5694/j.1326-5377.1990.tb124482.x>.
19. Steinhauer, Heiko, Joachim Holzschuh, and Thomas Böhler. 2017. "[Malpractice Claims Against Pediatricians - Analysis of Expert Testimonies from the Medical Service of Health Insurance Companies Between 2000 and 2014]." *KlinischePadiatrie* 229 (6): 342–49.
20. Vs, Ashok, V. S. Ashok, Gunaseelan Rajan, and Soben Peter. 2004. "Medical and Dental Negligence." *Medical Law for the Dental Surgeon*. [https://doi.org/10.5005/jp/books/10517\\_5](https://doi.org/10.5005/jp/books/10517_5).