

Assessing the Protection of Medical Consumers in India under the Consumer Protection Act, 2019

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Citation: Kumar, A. (2025). Assessing the Protection of Medical Consumers in India under the Consumer Protection Act, 2019. International Journal of Advanced Research in Commerce, Management & Social Science, 08(03(I)), 155–164. [https://doi.org/10.62823/ijarcms/8.3\(i\).7971](https://doi.org/10.62823/ijarcms/8.3(i).7971)

ABSTRACT

'Medical consumers' are those who avail medical services through a medical practitioner, or in the case of hospitalization, he gets the services in the name of a hospital through one or multiple doctors. In general, whenever a medical consumer approaches a doctor or a hospital, he expects reasonable care and attention in lieu of the standard prescribed fee/charges. But on multiple occasions, he is deprived of such services, and he is forced to take the legal remedy for the purpose of compensation. This paper highlights various consumer rights, challenges of medical consumers, and examines the legal remedies available to the consumers of medical services under the Consumer Protection Act, 2019 (CPA, 2019) [1], which repealed the Consumer Protection Act, 1986 (CPA, 1986) [2]. Since the CPA, 1986, was created, the market has changed significantly, becoming increasingly computerized and technology-oriented, necessitating the need for this new act. The purpose of this research paper is to educate the 'consumers of medical services' in the light of rising cases of medical negligence, medical mismanagement, unethical billing practices, and malpractice witnessed by the society and reported in the media. The paper will outline the key changes made in the new act along with other legislative declarations to protect medical consumers in India. An effort will be made to educate and provide a comprehensive overview of consumer rights vis-à-vis CPA 2019 and the legal framework to understand and safeguard the medical consumers with respect to unethical practices and to take necessary safeguards to address their grievances related to medical negligence, deficient service, and unfair trade practices.

Keywords: Medical Consumers, Medical Negligence, Medical Victims, Consumer Protection, Consumer Protection Act.

Introduction

In any welfare state the interest of all the citizens must be protected with respect to any of the services availed by them; however, it has been a matter of concern in the society that the corporatization of hospitals and their sole purpose of maximizing the profit at any cost has undermined the interest of the medical consumers, and as a result they are forced to encounter cases of overpricing and unfair trade practices. Multiple tests and investigations are advised by the health service providers to the medical consumers, which may not be required. The rising population, patient-overload, lax regulations and scarcity of good government health centers paved the way for the private enterprises to enter in the healthcare sector and cover the demand and supply gap while making reasonable profits, and unburdening the government hospitals. In return for the higher-price paid at a private healthcare centre, a

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medical consumer shall expect a better health service, transparency, and accountability, however the growing number of incidents report otherwise, the consumers have been reported witnessing complete dissatisfaction in the form of medical negligence, deficiency of service, and unfair trade practices.

The report published in Business Standard (2024, April 29), titled “*Over 5.2 mn medical malpractice cases filed in India annually*” discusses the revealing state of medical malpractice and negligence, faced by a medical consumer in India. This report highlights that “*medical malpractice incidences increased by 110%; litigation surged by 400% where only 46% of health care service providers follow ethical guidelines and 80% of medical error deaths are due to surgical mistakes [3]*”.

There has been an innate high regard for the doctors in the Indian society owing to the sanctity of their work which heals a patient, who may otherwise succumb to the ailment. It is in this regard that the doctors were often referred to as the ‘Second Gods’. However, the longstanding sanctity and prestige of their work has been fast eroding in the modern times, especially since the advancement of the changing healthcare landscape in the country. The modern medical consumer is more disillusioned and wary of the healthcare than ever before. It is not uncommon to hear about cases of poor treatment outcome, negligence and hence a growing suspicion among the common medical consumer who finds it hard to get a good healthcare, even for the premium price paid at a private hospital, compared to the much cheaper option available at a government hospital. The repeated accounts of medical negligence offences indicate systemic issues such as poor regulations, negligible accountability on part of medical professionals, lack of awareness among patients/consumers and the deep-rooted corruption in the modern medical fraternity. Resultantly, a medical consumer today even when armed with the best of private healthcare insurance, is seen and treated not as a patient, but as a source of constant revenue and a ‘milking-cow’.

In the era of commercialization, the patients, i.e., the ‘medical consumers,’ are required to remain aware about their rights and responsibilities, and their awareness about CPA, 2019, will help them to understand the remedies available to them so that they may seek required compensation from the medical professionals who are nothing but ‘service providers.’

Research Methodology

The present article is primarily analyzing the provisions of CPA 2019, while using newspaper articles and other secondary data. The article is based upon ‘doctrinal and analytical research methodology’ and is socio-legal in nature. It tries to educate the society and highlights the practical challenges of medical consumers and help them to find solutions for society at large.

Objectives of the Study

- To define the concept of consumers of medical services.
- To understand the concept of medical negligence.
- To understand a few landmark judgments that pave the way for medical consumers to approach consumer courts for settlement of their grievances.
- To educate the consumers on their rights to a fair, transparent, and standard treatment by the healthcare service provider.
- To equip the medical consumers with necessary knowledge so that they may identify the wrongdoings done by the health service providers, which will help them safeguard their own life and the lives of their loved ones.

Literature Review

There is a dearth of literature in the domain of medical negligence. There are very few articles available that directly deal with CPA 2019, consumer rights, consumer responsibility, and difficulties faced by consumers of medical services. Only a few authors have covered the topic and have shared insights on some important aspects of CPA 2019 and the protection of medical victims. Samal et al. (2020) examined the need for the Consumer Protection Act for medical consumers. It is observed that this act is required to entertain the complaints of patients and to take action against the medical professionals committing negligence through the award of compensation in case the negligence is proved [4]. Further in a study on medical negligence in India, Khamari (2020) analyzed the medical cases and finds that ‘700 individual die in Asian countries everyday due to Medical Negligence’ further the study pointed out that ‘according to World Health Organization, Medical Error is the 10th killer in the world’ [5]. Kowsalya (2023) explained the medical negligence laws and remedies in India and highlighted that

'medical negligence is the most crucial offence throughout the world'. The study concluded that "People are losing faith in the medical profession due to some serious negligence cases and a good compassionate behavior, a proper record maintenance and a valid consent is required on the part of health service provider [6]". Further, Yadav (2024), analyzed the deaths of patients due to criminal medical negligence in India by using NCRB Report from 2017 to 2022, and finds that awareness of consumers increases the number of reporting of such cases [7].

Discussions and Analysis

Important Definitions Relevant to Medical Consumers [under CPA, 2019]

- **Consumer:** According to Sec. 2(7) (ii) of CPA, 2019, "consumer" means any person who "hires or avails of any service for a consideration which has been paid or promised or partly paid and partly promised, or under any system of deferred payment and includes any beneficiary of such service other than the person who hires or avails of the services for consideration paid or promised, or partly paid and partly promised, or under any system of deferred payment, when such services are availed of with the approval of the first mentioned person, but does not include a person who avails of such service for any commercial purpose."
- **Service:** According to Sec. 2(42) of CPA, 2019, "service" means "service of any description which is made available to potential users and includes, but not limited to, the provision of facilities in connection with banking, financing, insurance, transport, processing, supply of electrical or other energy, telecom, boarding or lodging or both, housing construction, entertainment, amusement or the purveying of news or other information, but does not include the rendering of any service free of charge or under a contract of personal service".
- **Deficiency:** According to Sec. 2(11) of CPA 2019, "deficiency" means "any fault, imperfection, shortcoming or inadequacy in the quality, nature and manner of performance which is required to be maintained by or under any law for the time being in force or has been undertaken to be performed by a person in pursuance of a contract or otherwise in relation to any service and includes -
 - any act of negligence or omission or commission by such person which causes loss or injury to the consumer; and
 - deliberate withholding of relevant information by such person to the consumer."
- **Complainant:** According to Sec. 2(5), in case of medical consumers, **complainant** may be "one or more consumers, where there are numerous consumers having the same interest; or in case of death of a consumer, his legal heir or legal representative; or in case of a consumer being a minor, his parent or legal guardian"

According to Sec. 2(6), complaint means "any allegation in writing, made by a complainant for obtaining any relief provided by or under this Act, that:

 - an unfair contract or unfair trade practice or a restrictive trade practice has been adopted by any service provider.
 - the services hired or availed of by him suffer from any deficiency."
- **Defect and Deficiency:** Section 2(10) and 2(11) of CPA 2019, deals with **Defect** and Deficiency, in the case of a medical consumer, defect implies, "fault, imperfection or shortcoming in the quality, quantity, potency, purity or standard" of the drugs or devices. In the case of health care services, not only a deficiency in direct medical services are experienced but multiple times the hospital and medical professionals also withheld important medical records of the patients to cover up the medical malpractices and mismanagements. Section 2(11) defines deficiency in such case as "any fault, imperfection, shortcoming or inadequacy in the quality, nature and manner of performance which is required to be maintained by or under any law for the time being in force" and includes—
 - any act of negligence or omission or commission by such person which causes loss or injury to the consumer; and
 - deliberate withholding of relevant information by such person to the consumer"
- **Misleading Advertisement:** Section 2(28) of the CPA, 2019, deals with misleading advertisement. It is important to note that nowadays, doctors and corporate hospitals have

started advertising themselves through print media, mass media and social media, and they often make claims with respect to their treatment of disease, services and some speciality, and many times the medical consumers feel cheated. According to Section 2(28), misleading advertisement will include *"an advertisement, which falsely describes such service; or gives a false guarantee to, or is likely to mislead the consumers as to the nature, substance, quantity or quality of such service; or conveys an express or implied representation which, if made by the service provider thereof, would constitute an unfair trade practice; or deliberately conceals important information"*

- **Unfair Trade Practice** "Section 2(47) of CPA, 2019," deals with unfair trade practices in a comprehensive manner. A thorough reading of the section gives clear guidance to the medical consumers that use of any unrequired surgery, process, test, etc., along with use of substandard medicines, procedures, hidden charges, etc., will fall under the unfair trade practices.

Judicial Interpretations

It is important to note that **Section 2(42)** of the CPA, 2019, defines 'services' and uses the names of multiple professions, such as *"banking, financing, insurance, transport, processing, supply of electrical or other energy, telecom, boarding or lodging or both, housing construction", etc.*, but it nowhere defines anything related to hospitals or healthcare services rendered by medical professionals within its ambit. However, the definition of service used in the act becomes very broad when we find the following expression at the beginning of the definition:

"Service means service of any description which is made available to potential users and includes, but not limited to....."

It is important to note that when the CPA, 1986, was passed and implemented, there was confusion about whether health care services fall under the ambit of the Consumer Protection Act or not, and then a writ petition under Article 32 of the Constitution of India was filed, and after adjudication of this matter, the public at large got confidence in bringing the matter to the consumer courts. This landmark judgement of the Supreme Court in *Indian Medical Association vs. VP Shantha* clearly brought the medical profession under the purview of the Consumer Protection Act, 1986, vide Section 2(1)(o), of the act, and to date there is no contrary judgement of the Hon. Supreme Court prohibiting the society from bringing the matter of medical negligence and mismanagement to the consumer courts.

The judgement rendered in *Indian Medical Association vs. VP Shantha*, Supreme Court, also clarified the services provided by the government hospitals, and in a situation when a medical consumer gets the amount reimbursed by the insurance companies, the court held that, *"Service rendered at a Government hospital/health centre/dispensary where no charge whatsoever is made from any person availing the services and all patients (rich and poor) are given free service - is outside the purview of the expression 'service' as defined in Section 2(1) (o) of the Act. The payment of a token amount for registration purpose only at the hospital/nursing home would not alter the position."* The court further held that *"Free service would also be 'service' and the recipient a 'consumer' under the Act"*. In the cases pertaining to those consumers availing the service through an insurance policy for medical care, the court held that, *"Service rendered by a medical practitioner or hospital/nursing home cannot be regarded as service rendered free of charge, if the person availing the service has taken an insurance policy for medical care whereunder the charges for consultation, diagnosis and medical treatment are borne by the insurance company and such service would fall within the ambit of 'service' as defined in Section 2(1) (o) of the Act. [8]"*

The Hon'ble Supreme Court, in its landmark judgment, **Jacob Mathew vs State of Punjab & Anr (2005)**, has beautifully defined medical negligence, the duties of medical professionals and has also given a message to the recipients of medical services which may guide them in deciding whether a particular matter falls under 'Medical Negligence' or not, as under:

"Negligence by professionals in the law of negligence, professionals such as lawyers, doctors, architects and others are included in the category of persons professing some special skill or skilled persons generally. Any task which is required to be performed with a special skill would generally be admitted or undertaken to be performed only if the person possesses the requisite skill for performing that task. Any reasonable man entering into a profession which requires a particular level of learning to be called a professional of that branch, impliedly assures the person dealing with him that the skill which

he professes to possess shall be exercised and exercised with reasonable degree of care and caution. He does not assure his client of the result. A lawyer does not tell his client that the client shall win the case in all circumstances. A physician would not assure the patient of full recovery in every case. A surgeon cannot and does not guarantee that the result of surgery would invariably be beneficial, much less to the extent of 100% for the person operated on. The only assurance which such a professional can give or can be understood to have given by implication is that he is possessed of the requisite skill in that branch of profession which he is practising and while undertaking the performance of the task entrusted to him he would be exercising his skill with reasonable competence. This is all what the person approaching the professional can expect. Judged by this standard, a professional may be held liable for negligence on one of two findings:

- *Either he was not possessed of the requisite skill which he professed to have possessed, or,*
- *He did not exercise, with reasonable competence in the given case, the skill which he did possess [9]."*

The rising number of litigations in the consumer courts with respect to medical negligence and the matters reported on day-to-day basis in the newspapers, clearly highlights the severity of the issue and calls for an urgent need to address the issue. In this context, a news reported by LiveLaw. (2025, July 25), is very pertinent in which while denying any relief to a doctor who is accused of medical negligence, Allahabad HC gave a critical remark that the "*Pvt hospitals treat patients as ATMs to extract money [10]*."

Consumer Rights

Section 2(9) of the CPA, 2019, deals with consumers rights. The rights given under this Act try to educate the consumers so that they may remain aware and exercise their wisdom in case of any deficiency in medical services. It is to be noted that these rights are equally applicable for goods as well as services; hence, the same applies to the consumers of medical services. These rights include "*right to safety, right to information, right to choose, right to be heard, right to seek redressal and right to consumer awareness.*"

A consumer pays the price to the providers of services with an expectation that the services for which he is paying will be safe for his life and property; he also expects that he will get proper information about the quantity, quality, purity, etc. of these services. He remains assured that he will get a fair option to choose the goods or services as per his requirement. In case of problems or grievances, he expects that he will be heard, and in case of dissatisfaction, he will be in a position to seek redressal through the legal mechanisms. Further, in the Indian context, ignorance is considered to be the biggest cause of consumer exploitation, and hence the consumer has been provided the right of education. Further to note that these rights are also listed on the website of the Department of Consumer Affairs [11].

In India, public health is a state subject, and the public at large expects fair and dignified treatment from the health service providers, but to date, in the absence of clear, transparent and strict regulations, the public availing these services, especially from corporate hospitals, are left to the mercy of these hospitals, and they are often made a subject of exploitation. Recognising the importance of fair treatment to medical consumers, the National Human Rights Commission of India (NHRC) prepared a comprehensive draft of consumer rights declaring that "*Patients' rights are human rights!*" and they must be protected. This '*Charter of Patients Rights*' prepared by NHRC lists out 16 rights for the patients [12]. The Ministry of Health and Family Welfare shared the '*Charter of Patients Rights*' recommended by NHRC in 2019 with all the States and Union Territories (UTs) with an expectation that the same will be displayed by public and private health care facilities as well as on the respective websites [13]. The following 17 patient rights are listed on the website of the NHRC with descriptions of the rights and associated duty bearers:

- **Right to information:** The patient must be provided all the information with respect to the disease, expected treatment, diagnosis, medicines to be administered, cost involved, etc.
- **Right to records and reports:** The health service provider must provide all the documents during the course of treatment and also at the time of the discharge or death of the patient.
- **Right to emergency medical Care:** If a patient approaches any hospital in case of any emergency, then he must be provided immediate medical attention without asking for any payment or advance.

- **Right to informed consent:** The patient must be informed properly before conducting any risky procedure, e.g., operation, chemotherapy, etc. The doctors involved in the treatment must ensure that the patients are explained about the treatment and procedure and the inherent risk in that process.
- **Right to confidentiality, human dignity and privacy:** It is the right of the patient that his treatment, disease, health condition, etc. must be kept confidential and should not be disclosed by the medical service provider. If a female patient is examined by a male doctor, then the hospital must provide a female attendant, and the dignity of the patient must be safeguarded.
- **Right to a second opinion:** The patient as well as the carer must be free to get a second opinion, and this should not affect the already continuing treatment.
- **Right to transparency in rates and care according to prescribed rates wherever relevant:** The patient as well as the carer must get all the information with respect to the cost of the medicines and other facilities, and this information must be supplied at a prominent place in the hospital. If the hospital is providing the medicines, then the charges must not be more than the prevailing charges in the market. The patient must be given freedom to purchase medicine, equipment, devices, etc. from a place of his choice.
- **Right to non-discrimination:** The patients must not be discriminated against on any ground, be it caste, creed, region, religion, sexual orientation of the patient, etc. The hospital must train and orient its staff not to discriminate against the patients and to treat everyone equally.
- **Right to safety and quality care according to standards:** The patients must be given proper safety, security, cleanness, proper environment, etc. The hospital premises must be clean and infection-free. It must be ensured by the hospital that the patients are treated with due skill and care with professionalism by adhering to the medical guidelines and protocols. In case of any deficiency on the part of the hospital, the patient and the carers have a right to redressal.
- **Right to choose alternative treatment options if available:** It is the right of the patient and the carers to decide alternative treatment options, and this must be respected by the health service provider. Even the hospital management should provide information about such options to the patient so that the patient can take an informed decision.
- **Right to choose source for obtaining medicines or tests:** The patient and the carer have the right to decide about the place from where they will procure the medicine. They can decide for any laboratory tests at any registered diagnostic centre/laboratory. The hospital must provide this information to the patient: that they are free to decide about the medicine and the laboratory tests on their own, and this is not going to affect the treatment provided by the hospital.
- **Right to proper referral and transfer, which is free from perverse commercial influences:** At the time of transferring a patient through referral to another hospital, the patient and the carer must get a proper explanation about such referral. At the same time, such referral must be free from any monetary considerations, such as kickbacks, commissions, incentives, etc.
- **Right to protection for patients involved in clinical trials:** A patient involved in a clinical trial has the right to protect himself, and he must be assured that all the clinical trials comply with the protocols and statutory provisions. Such trials must be done after obtaining informed consent and after providing all the relevant information to the patient concerned, and he must be given the right to decline or accept the trial. This trial must be kept confidential, and any adverse impact on the patient must be monitored, and in such cases, he has the right of compensation; in case of death, the dependents should be compensated. There must be a mechanism for insurance coverage, and the trial participant must be assured about the best treatment in this process.
- **Right to protection of participants involved in biomedical and health research:** A patient taking part in biomedical research based upon informed consent has a right to due protection, and he must be ensured that the "National Ethical Guidelines for Biomedical and Health Research Involving Human Participants, 2017" are followed. During the process, research participants right to dignity, privacy and confidentiality should be maintained. Research participants who suffer any harm must be compensated.

- **Right to take discharge of patient or receive body of deceased from hospital:** During the course of treatment, it is the right of the patient to take discharge, and he cannot be detained on any grounds, such as a dispute in the payment of the due bill. In case of death, the caretakers have the right to receive the dead body, and the same cannot be denied on procedural grounds, including nonpayment/dispute regarding payment, etc.
- **Right to patient education:** Patients must be educated about major facts with respect to the disease, their medical condition, etc. The healthcare service provider should provide such education in a simple and understandable manner to the patient according to standard procedure in the language the patients understand.
- **Right to be heard and seek redressal:** There must be an internal redressal mechanism facility for patients and their carers to give feedback, comments, and complaints about the health care facility to the doctor or hospital. There must be a proper redressal mechanism for the patients and the carers constituted by the government, and the redressal mechanism must be fair and prompt.

Types of Medical Negligence

Medical negligence may be of multiple types; primarily, when a patient consults a doctor, he expects that he will be given due attention, and after a thorough medical process, the cause of his illness will be found, and accordingly, his treatment will be continued, but it has been observed that due to carelessness or lack of proper qualification of the medical professional, he starts treatment by doing an **incorrect diagnosis**. Multiple times a medical professional considers it undermining to transfer the patient to some other doctor if he is not in a position to carry on the treatment, and this further aggravates the problem. Any surgery is generally considered a matter of complication by the patients, and they expect the highest level of care and expertise in the process, but multiple times it has been reported that after conducting the operation, the professionals leave some of the items, such as cotton, scissors, mops, etc., inside the body of the patient, which becomes fatal for the patient, and hence **surgical negligence** is one of the most common causes of medical negligence. While prescribing the medicines, the doctors must prescribe the medicines and their doses carefully; the same medicine may be given through tablets, syrup, or injections, while the dose also differs according to the age and the health condition of the patient. The **prescription negligence** is found quite often when, due to the wrong prescription of the medicines or its dosage, the patient suffers; in this regard, the case of *Dr. Kunal Shaa vs Dr. Sukumar Mukherjee and Ors.*¹⁴ is quite prominent. **Negligence in the treatment of pregnant ladies and birth injuries** of the babies are among the most frequently reported cases of medical negligence. It must be noted that pregnancy is not a disease, and in most of the cases generally uncomplicated pregnancy is reported. Also, it is a known fact that the hospitals and medical professionals mostly prefer the surgical way of delivery to meet their pecuniary interests. **Negligence in the use of anaesthesia** during surgery is also one of the prominent causes of negligence. Multiple times, the administration of wrong dosage of anaesthesia or unnecessary use of anaesthesia on the patients, creates serious complications that may lead to life-threatening condition.

Challenges Encountered by Medical Consumers in Seeking Legal Redressal

Fighting a legal battle after suffering physical, emotional, and psychological trauma by a patient or the family members after the demise of a patient could be a huge challenge. The first and foremost difficulty arises in understanding the medical terminology and the literature available. This difficulty multiplies when no other medical professional comes forward to provide a 'written medical opinion', even for commercial gains. It is often seen that, the prescriptions provided by the medical professionals and hospitals remain unclear or vague, thus making them difficult to understand or comprehend the matter. Sometimes, it becomes difficult to initiate a legal battle when one or the other family member refrains from supporting the litigation initiative because they surrender to the negligence while deeming it as 'an act of God'. Even those who identify and comprehend the negligent acts of the medical professionals at fault, get discouraged by of high litigation costs, the unfair and unprofessional attitude of lawyers, the long pendency of matters in the courts, etc. It is also important to note that generally all the medical records are prepared by the doctors and the hospital staff and they are not handed over to the patients or their families in the stipulated time. It is commonly seen that the medical records are withheld by the hospitals for weeks and months, and even when they are handed over, they are found to be highly manipulated or forged, to omit or cover for all the manipulations, mismanagements and points of negligence.

Even after all the hurdles as discussed before, if a case reaches the litigation stage, it is often seen that when a matter is referred to a government hospital or the state medical councils for their expert-opinion, the accused doctors/hospitals are accorded a preferential treatment owing to the camaraderie or fraternity-hood, which makes it even more difficult for an aggrieved medical consumer get a fair opinion in his favour.

Scope of Consumer Protection Act

It is important for all medical consumers to note that not all adverse outcomes of the medical service or treatment rendered by a healthcare service provider, should be mistaken for an act negligence and before approaching the commission, the consumer must have in his possession all the required papers, documents, bills, prescriptions, reports, etc. Moreover, sine the burden of proof to prove negligence in the case, lies with the complainant, the medical consumer/complainant, along with all the aforesaid medical records, should also gather all possible evidence and medical literatures which may be help him in proving the negligence in the case.

It is a well-accepted fact that as and when a patient approaches a healthcare service provider, he places his trust on the service provider and therefore surrenders his health and body to the expertise of the professional. And in so doing, the rightful expectation of any patient/medical consumer is that he shall receive a standard and fair treatment. However, if at a later stage, the patient/legal representative finds that the reasonable care, as per the standard protocol, was not provided to him due to deficiency and mismanagement of the service provider and that the patient was subjected to complications which resulted in damage or injury or turned fatal for life, then it may be considered as a case of medical negligence.

Such a victim of medical negligence, may take the legal remedies for compensation by approaching the appropriate consumer court. It is important to note that Article 21 of the constitution declares that 'Right to Life' is the fundamental right of each and every human being, and hence this right of the medical consumer must be protected.

A consumer of medical services may approach a district, state, or national commission under CPA, 2019, based on the specific geographical or pecuniary jurisdiction. It is important to note that the jurisdiction of the commission for filing the litigation in the district, state, or national commission is decided as per the 'actual amount spent' by the consumer and not as per the 'compensation claimed' by the consumer. Moreover, that this act also covers e-commerce and services rendered through electronic networks, and hence, as per Sec. 2(16) of the CPA, 2019, 'telemedicine services' provided by healthcare service providers are also covered.

When an aggrieved medical consumer approaches a consumer court, the court examines the documentary proofs and other evidence produced by the complainant/medical consumer in support of the allegations made in the case to ascertain whether a case qualifies to be admitted or not. The court may also hear preliminary arguments and after being convinced with the merits of the case, it then orders for issuance of notice to the accused/concerned parties. As per the courts discretion and depending on the merits of each case, opportunity to respond to notices, filing of replies and rejoinders by the parties are accorded by the Court. During the court proceedings in medical negligence cases, in almost all the cases, the matter is referred to some government hospital or medical commission, for their observation and report in the form of expert-opinion. After getting the court order and the relevant records, the hospitals/state commission constitute a committee or panel of doctors, to arrive at a conclusion and prepare its report/opinion. Should the court deem fit, the report/opinion so provided by a medical committee, may play a key role in the adjudication of the case, in cases which may be too technical for the court to decide or if the facts of the case don't speak for themselves. The principle of '*res-ipsa-loquitur*' should always stressed upon, especially in cases where the facts/merits of the case speak too strongly for themselves, in other words, for cases where the negligence is so gross or obvious in nature, that it requires no further proof for confirmation. However, it is important to note that on numerous occasions, the complainants/medical victims allege that the committee refrain from giving an honest and impartial reports, and generally they favour the doctors, and the hospitals involved.

It is also important to note that the healthcare sector constitutes a major part of the entire economy. The sector consists of manufacturers and suppliers of medicine and medical equipment, government and private hospitals and doctors, etc. In a country like India, a significant section of the society depends upon corporate hospitals which are profit-driven and operate for the primary purpose of earning profit at any cost, and hence, they often end up resorting to unethical practices which not only

undermine the interest of consumers but instead exploits them. It is for this reason that there is an urgent need of a special body of Consumer Commission to take care of the complaints of the medical consumers without any bias. It becomes more pressing and desirable with the growing realisation of the fact that the judges and the courts cannot be expected to be experts in the field of medicine, and so they are ultimately bound to act upon the findings of the committees of doctors, for want of better cogent arguments.

The following table highlights the meaning, jurisdiction, and appeal process at district, state, and national commissions under CPA 2019:

District Commission	State Commission	National Commission
Meaning		
Means a District Consumer Disputes Redressal Commission established under sub-section (1) of Sec. 28.	Means the National Consumer Disputes Redressal Commission established under sub-section (1) of Sec. 53.	Means a State Consumer Disputes Redressal Commission established under sub-section (1) of Sec. 42.
Jurisdiction		
According to Sec. 34(1) of CPA, 2019, District Commission shall have jurisdiction to entertain complaints where the value of the goods or services paid as consideration does not exceed one crore rupees .	According to Sec. 47(1)(a)(i) of CPA, 2019, State Commission shall have jurisdiction to entertain complaints where the value of the goods or services paid as consideration, exceeds rupees one crore, but does not exceed rupees ten crore .	According to Sec. 58(1)(a)(i) of CPA, 2019, National Commission shall have jurisdiction to entertain complaints where the value of the goods or services paid as consideration exceeds rupees ten crores .
Appeal		
Any person aggrieved by an order passed by the District Commission may prefer an appeal against such order before the State Commission on the grounds of facts and/or law within a period of 45 days from the date of the order, in such form and manner as may be prescribed.	Any person, aggrieved by an order made by the State Commission may prefer an appeal against such order before the NCDRC within a period of 30 days from the date of the order.	Any person, aggrieved by an order made by the National Commission in exercise of its powers may prefer an appeal against such order before the Supreme Court within a period of 30 days from the date of the order.

Conclusion & Suggestions

Among all the professionals, medical professionals are generally given a high regard in the Indian society, and their services are generally termed as 'Seva'. But in the recent past, the soaring number of cases of medical negligence is a grim indication of the fact that the doctors and healthcare providers at large, have started seeing the patient as a consumer with deep pockets, who can be incessantly exploited for profits in blatant disregard of the standard medical protocol, the law and above all, the health of the patients. On the other hand, the psyche of Indian society of treating doctors as 'Second Gods', still cripples the modern consumers/patients from demanding adequate and rightful services and care.

When a healthcare service provider fails to perform his 'duty' and 'deficiency in his duty' is observed, which directly results into the 'damage' of the patient's or their family's physical, mental, financial or emotional health, it is considered that 'medical negligence' has taken place. Although the consumer courts are meant for the purpose of compensating for the 'damage', the emotional cost and the trauma left-behind, can never be quantified, neither recovered. As human life is priceless and therefore no amount can compensate the loss of the same. Therefore, it is always expected of the medical professionals and the hospitals that they understand their moral obligation and perform their duty with morality and ethics. Medical professionals must consider their profession as the highest profession among all, as it directly deals with human life. They must inculcate and uphold the empathetical behaviour, remember the purpose and importance of their profession; however, if they remain blinded by chasing profits and commercial gains, it will be difficult to minimise the unfortunate cases of medical malpractice, mismanagement and negligence.

It is in the interest of all members of society that the value of human life is held supreme, so as to mitigate the society's fast-eroding faith from the health service providers. It can only be restored when there is a strict regulation on the acts of doctors and hospitals. There is an urgent need to create a special body under the consumer courts to settle the rising cases of reported medical negligence. Timely and just resolution of such cases, will create an indirect pressure on the healthcare-service providers, and as a result, the society will start getting 'fair and just healthcare services' with better transparency and accountability. The society also needs to be educated about CPA 2019, and other leading court orders so that they may realise that they have every right to demand the standard services for which they are paying their hard-earned money. Further, before approaching the court, one must also understand that the human body is a complex mechanism and every failure in the treatment of a patient, should not be considered as a case of medical negligence. And therefore, they must gather adequate knowledge and information about the disease and the standard medical protocols and they must have in their possession all the medical prescriptions, lab reports, etc, before approaching a Court. They must know that in the court the 'burden of proof' generally lies with the complainant. Knowledge, alertness, perseverance and confidence are highly needed while fighting the cases of medical malpractice and mismanagement, and hence it is the duty of the educated class to remain vigilant and spread awareness in the society.

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