

Review Research Paper

Medico-Legal Cases Need a More Professional Approach

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Abstract

As far as medico-legal services are concerned, many of us have seen medico-legal examinations conducted and certifications undersigned by any MBBS doctor or gynecologist or dermatologist etc., who are not specialized in medico-legal work. As per statistics, about 80 per cent of medico-legal work is done by non-forensic doctors, flooding the Department of Forensic Medicine and Toxicology in teaching hospitals with second/expert opinion, due to non-specialized medico-legal knowledge of other doctors. When a Forensic Medicine specialist is available to do the core work he is trained in, there is no point in a non-forensic doctor, who is not well versed with various aspects of forensic medicine to authorize his work by giving opinions or reports or presenting evidence in the court of law. Therefore, all medico-legal services in area or district hospitals must be mandated by doctors with specialization in MD Forensic Medicine & Toxicology. Provision of District Forensic Medicine specialists will also cater to the need and will help in guiding both police and judiciary.

Key Words: Medico-legal services, Forensic Medicine Specialists, Posts in District Hospitals

Introduction:

As far as medico-legal services are concerned, many of us have seen medico-legal examinations conducted and certifications undersigned by any MBBS doctor/gynecologist/dermatologist/etc., who are not specialized in medico-legal work.

As per statistics, about 80 per cent of medico-legal work is done by non-forensic doctors, flooding the Department of Forensic Medicine and Toxicology in teaching hospitals with second/expert opinion, due to non-specialized medico-legal knowledge of other doctors. When a Forensic Medicine specialist is available to do the core work he is trained in, there is no point in a non-forensic doctor, who is not well versed with various aspects of Forensic Medicine to authorize his work by giving opinions or reports or presenting evidence in the court of law.

In India, except in those hospitals attached to medical colleges, medico-legal services are usually offered not by Forensic Medicine doctors, but by MBBS doctors who lack experience in such work.

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Therefore, there is a possibility that the medical evidence is not properly presented in court resulting in delaying of reports (and justice delayed is justice denied). [1] The benefit will be for criminals who can get more acquittals due to poor quality of medico-legal services by MBBS/non-forensic specialists in the country. [2]

The medico-legal services in our country are at an all-time low. This has reflected time and also a non-forensic medical practitioner finds himself in trouble, when he goes to court of law to depose. A larger negative impact is on the society, when an offender is not convicted due to lack of proper medico-legal investigation. [3]

Working at Primary Health Centers (PHC), Community Health Centre (CHC), Area and District Hospitals involves lot of application of forensic knowledge in day-to-day practice of medico-legal cases, especially in conducting medico-legal autopsy.

From day one while on duty medical officer has to perform autopsy, alcohol case examination, sexual offence cases, injury reports, age estimation etc. Every new medical officer joining health services lacks basic knowledge in handling medico-legal cases and issuing of various medico-legal certificates.

These doctors are not facing any problem regarding clinical specialties, but they are afraid when it comes to medico legal cases. When any medical officer encounters a medico legal case, he panics and tries to contact specialists in Forensic Medicine and Toxicology.

Many medical officers are going on long and unauthorized leave whenever they are summoned by court in any medico-legal case because they are being harassed by defense lawyers due to their inadequate medico-legal knowledge, further hindering not only the court judgments, but also their routine medical services to patients.

Discussion:

The police generally conduct all preliminary enquiries relating to offences affecting the human body. The Medical Practitioner is liable to be called upon to give evidence as a Medical Jurist.

It is consequentially advisable that he should learn to look at medico-legal standpoint upon such of his case as may possibly become the subject matter of judicial investigation.

He should know carefully everything which is likely to be of medico legal importance, and also be aware of the fact that medical evidence is not substantive one but usually opinion evidence, which has great corroborative value. The reliability, completeness and objective investigation of the Forensic Medicine expert facilitate formation of definite opinion by the Court. [4]

The Madras High Court has shown its concern in following words: "This Court is much desirous and concerned of expressing that the branch of science of Forensic Medicine is an effective scientific method, which plays a vital role in assisting the Justice Delivery System to render justice to the society, in the administration of Criminal Justice.

In order to make this particular subject more viable, more teeth have to be provided by the legislature and the authorities concerned, to make it trendsetting. The service rendered by the Forensic Medicine experts in this regard is unique and deserves admiration, but the real state of affairs remain that medico legal cases are handled in this country by the non-forensic experts and none could be blamed in this regard. [4]

There is need for implementation of recommendations of the Survey Committee Report on medico-legal practices in India 1964, along with various recommendations of the Central Medico-legal Advisory Committee made from time to time since its inception in 1956. The Committee during its first session in 1956 considered the suggestion of the Ministry of Home Affairs, Government of India, to create a special cadre of medico-legal officers.

However, the Committee recommended that each State should give advance medico-

legal training to at least one officer in each district and in important cities and towns and such an officer should undertake the specialized medico-legal work himself and also co-ordinate all general medico-legal work by other Government medical officers in his jurisdiction resulting in creation of specialist Forensic Medicine and Toxicology department throughout the country. [5]

"Finding out the cause of death in suspicious cases lies in the hands of skilled medical personnel", said Lalrokhuma Pachau, Director General and Inspector General of Police, Karnataka. [6] In the Public Interest Litigation (PIL) in the Nagpur Bench of Bombay High Court, it was highlighted, how the poor quality of Forensic medical post-mortem examination results in "inadequate, illegible, incomplete, loose and lackadaisical, not reliable" postmortem records.

Such records are stumbling block in the administration of Criminal Justice System and are leading to travesty of justice and serious violation of human rights goes on with impunity, the PIL claimed. [7]

Allahabad high Court has also valued the second opinion by the Forensic Medicine expert being more justified, medico-legally significant and well drafted than the first opinion of chief medical officer with MBBS qualification.

It opined Forensic Medicine experts should be posted at district headquarters and Civil Hospital level. Opinion of the doctor as expert witness has been given very much importance by the judges. Forensic Medicine Experts protect the fundamental rights of victim as well as that of the accused.

It observed that "further, the disturbing trend of non-forensic specialist doctors becoming too careless and often willing tools, ever ready to rubber stamp the opinions of I.O. without application of their independent knowledge appears to have been again highlighted before the court".

An opinion erroneously, collusively or dishonestly given by the doctor, who examines a victim, can have far reaching consequences. [8]

The main reason for poor medico-legal work disposal is the absence of Forensic Medicine experts at district level. It is well known that presently majority of work is being disposed of by MBBS doctors who are not well versed with various aspects of Forensic Medicine.

Therefore mandatory creation of two posts of District Medico-legal Experts/Doctors with justification as (M.D Forensic Medicine) will lead in improving the quality of work was suggested in a meeting at Directorate General of

Health Services, Government of India, New Delhi which was circulated to Principal Secretary of Health in all states of the country. [9]

The police officials of Telangana questioned under right to information act regarding the quality of the medico-legal services of MBBS doctors and their opinion regarding the necessity of creation of post of forensic medicine specialists in district headquarter hospital also demanded the creation of the posts. [10]

Conclusion:

In district hospitals, as there are no separate medico-legal departments, the medical officers without proper training in forensic medicine or non-forensic specialists perform post-mortem and other medico legal works along with their routine duties, against their will.

Majority of clinicians are not willing to do medico legal works for the amount of cases they need to attend court in due course.

This is also one of the reasons for leaving government jobs by obstetricians, pediatricians, anesthesiologists etc. after certain period of time due to medico-legal cases and their fear of attending court which directly affects medical services of the State. Recruiting Forensic Medicine specialists in district hospitals will create a referral medico-legal centre for PHCs, CHCs and area hospitals and will take off the excess burden on the clinicians.

Provision of District Forensic Medicine specialists will cater to the need and will help in guiding both police and judiciary. The advantages, being provision of medical clarification or guidance to the police officials in collecting evidence and understanding the circumstance of death by visiting crime scene, will definitely leads to reduction of the travel and time burden of police officials by providing accessibility in their jurisdiction.

It will reduce the damage of the specimen in chain of custody due to prolonged and improper preservation such as viscera in suspicious deaths, hyoid bone and thyroid

cartilage in asphyxia deaths etc. and also no further sending of documents and evidences for expert or second opinions from your jurisdiction to far tertiary teaching hospitals.

Therefore, all medico-legal services i.e. examinations and certifications in area or district hospitals must be conducted by doctor with specialization in MD Forensic Medicine & Toxicology which can be fulfilled by mandatory creation of two forensic medicine specialist posts (as one will be busy in attending spot autopsies or court of law to give evidence) improves the quality of medico-legal services in our country.

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