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Mrs. Malini Ramchandra Kamat

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RESEARCH METHODOLOGY

MEDICAL NEGLIGENCE

CONTENTS

Chapter I

INTRODUCTION

Meaning of Research

In simple words, Research is an inquiry or search for facts or truth. Investigation of every kind which is based on original sources of knowledge may be said as research.

According to Encyclopaedia Britannica ”Research is an act searching into matter closely and carefully , inquiry directly to the discovery of truth and in particular trained scientific investigation of the principles and facts of any subject based on original and first hand study of authorities or experiments.

According to Manheim ‘Research is the careful diligent and exhaustive investigation of a specific subject matter which has its aim as the advancement of mankind’s knowledge.

According to Redman and Mary ‘Research is a systematised efforts to gain knowledge.

Legal Research

The Systematic investigation of problems and matters concerned with law such as codes acts is Legal Research.

Socio Legal Research

Law is not for laws sake. Law is an instrument of social control. It originates and functions in a society and for society and for society the need for new law, a change in existing law and the difficulties that surrounding its implementation cannot be studied in a better manner without the Sociological inquiry.

Law is an important variable in any social investigation Researchers cannot do anything in sociological research if they do not know atleast the basics of law, legal system and law institutions. Similarly a legal researcher cannot do Justice to the legal inquiry if he does not know about the mechanics of social research methods.

Objective of Research

The obvious purpose of the research is to discover the answers to question through the application of scientific procedures. The main aim of the research is to found out the truth which has hidden & which has not been discovered not yet.

Medical negligence may be defined as want of reasonable degree of care and skill or wilful negligence, on the part of Medical practitioner in the treatment of a patient with whom a relationship of professional attendant is established, so as to lead his bodily injury or to the loss of his life.

Medical negligence occurs when a patient is not treated properly and an injury is caused to a patient due to the negligence of a doctor or a medical staff member. Medical negligence can take place anywhere i.e. in an emergency room, at the dentist, on a routine check up. Medical negligence cannot be ignored because even a small mistake on doctor's part can result in a lifetime pain for the patient. When it comes to medical negligence, two cases are never same. Doctors should be very careful during treatment as a minor mistake can cause a lot of pain and trauma for the patient.

Medical negligence is of different types but there are a few cases in which you will find a lot of negligence on doctor's part. There are certain medical procedures in which you will find frequent negligence. Misdiagnosis is one of the major reasons of medical negligence. This is the first medical procedure after the admittance in hospital and the whole treatment depends on what is diagnosed.

At times, the disease or problem is not diagnosed on time or is not diagnosed properly due to which the patient has to suffer. If the patient suffers because of misdiagnosis, the doctor can be held responsible for medical negligence. Delay in diagnosis is again a major type of medical negligence. If a doctor or medical staff fails to diagnose the reason of injury, it can be very dangerous for the patient. In most of cancer or heart attack cases, doctors are unable to diagnose the issue on time due to which a lot of critical issues can occur for the patient.

You will also find a lot of medical negligence in emergency rooms. Since, the doctors have a lot to do in less time, they can end up neglecting some of the patients. The chances of mistakes being made are higher because of the rush.

Anaesthesia errors are again very common type in medical-negligence. Improper usage of anaesthesia can cause a lot of physical issues to the patient which may lead to death as well. Doctors are supposed to be very careful while using anaesthesia. The proper usage of anaesthesia is crucial. Surgical errors are also pretty common in medical-negligence cases. One mistake in surgery can be the cause of patient's death.

Unnecessary surgeries are a major faction of medical-negligence cases. This is actually linked with improper diagnosis of the patient. Unwanted surgeries can cause a lot of pain to patient and a lot of unnecessary suffering. Doctors should realize that even a single mistake on their part can take someone's life away so they should be very careful. You will also find a lot of birth injury cases and most of them would be because of medical-negligence.

Failure to monitor the treatment may also lead to patient's suffering. If a medical staff or a doctor is not looking after the patient properly after medical treatment, it falls in the category of medical-negligence. Medical-negligence is basically any kind of improper treatment that may lead to a patient's unnecessary and avoidable suffering or death. If anything happens like this to you or your loved one, doctors should be held liable

. Formation of Research Problem

The formation of the topic for the purpose of research is called research problem. It is the first step in the process of research. The term problem comes from the Greek word ‘Proballein’ which means a question proposed for solution. A problem in simple words is some difficulty experienced by the researcher in a theoretical or practical situation.

Consumer Protection Act 1986

The General Assembly of United Nations adopted 'Guidelines for Consumer Potection Act' by consensus on 9th April, 1985b (Consumer Protection Resolution No. 39/248). Subsequent too the adoption of Guidelines for Consumer Protection Act.

After the introduction of Consumer Protection Act.1986, initially there were differing orders by the various states consumer Disputes Redressal Commission on the issue of including the medical profession under s 2(1) (o) of the Consumer Protection Act, which defines services and lists the type of services to be included and excluded under the Act.

The doctor's skills are not normally gauged only by the success of the treatment. The test is invariably the doctor used standard medical care. If, on the other hand his mistakes arise from his ignorance or want of skill, he shall be inculpated, in as far as he is the wilful cause of such ignorance; he should have either known better or, not knowing better, he should not have undertaken the case for which he knew he was not qualified.

Everybody is subject to the law, the rule of law. It is the price that everybody has to pay for the corresponding benefits of the free and protected society. Law is both restraining and liberating. To what extent is the doctor subject to the law? Where does he stand in terms of power, responsibility and accountability or answerability? Are the restraints

clear, fair, and reasonable? Is the law sufficiently facilitating and liberating for the doctor? There is no need to unmask medicine, but the doctors must be the servant and not the master of his patients and the community. Everybody, and especially the professional man, must be accountable and the law is one of the mean whereby that accountability to the patient, his family and society is revealed and enforced. The law, hopefully, should help to create conditions congenial to the advance of medicine, to the benefit of the patient, to the protection of the doctor and to the good of the community. It should be clear, comprehensive, balanced, flexible and facilitating.

The principle that doctors, and indeed all professionals, should be accountable for their failures is entirely acceptable. However, the modes to test this accountability of the professionals are diverse and various methods have been tried over the period of time.

It is left to one's imagination how a prehistoric tribal chief punished a shaman or medicine man or with doctor or priest, physician who was perceived to have injured the chief's family.

In earlier times medical negligence was considered more as a crime rather than as a tort. The early tribal or communal law depended on local practice and custom for controlling the actions of the members of the medical profession.

CRIME TO TORT: NEGLIGENCE

In all the above mentioned civilizations, medical negligence was considered as a crime which is an offence against the state or the public at large for which the State is the representative of the people. It is the 'people' who bring proceedings to prosecute the crime. The purpose of the criminal proceeding is to protect and vindicate the interest of the public by punishing the defender (the physician) and/or meting out a penalty. The victims were usually not awarded any damages in criminal proceedings.

With the progress of civilization, medical negligence was increasingly treated as a tort by the judiciary so that the victims can be provided with damages. As common law was evolving in England, the earliest recorded action against a medical man was mounted in 1374 when a surgeon, J Mort, was brought before the King's Bench concerning his treatment of an injured hand. He was in fact held not liable, but the court said that if such a patient proved negligence, the court would provide a remedy. However, of much greater significance, was the fact that the court also held:

Medical negligence may be defined as want of reasonable degree of care and skill or willful negligence, on the part of a medical practitioner in the treatment of a patient with whom a relationship of professional attendant is established, so as to lead to his bodily injury or to the loss of his life .Modern tort law differentiates between injuries, which are a result of intentional conduct and those resulting from negligence. In a civil action, the plaintiff has to prove that:

1. His recognized legal right had been infringed;
2. That there was duty of care, which was breached by the defendant, i.e., the doctor; and that
3. This breach was the cause of injury to him;
4. As a result from this injury, the loss of income, extra expenses and mental suffering and pain could be equated in terms of money for the purpose of compensation.

To put simply, negligence involves not 'neglect' or carelessness' but failure to take such care as the circumstances demand. Therefore, there are two essential elements:

1. Legal duty to exercise proper care; and
2. Failure to take such care.

A medical professional is in breach of his duty when he fails to come up to the standard of skill and care the law requires him. The determination of what precisely that standard is in all the circumstances of any particular case is one of the prime functions of the court, and as no two cases are identical, one can when dealing with the abstract speak only of generalities.

The widely known "Bolam test" in Bolam Friern Hospital Management Committee is the classic statement on determining the standard of care in a case of medical negligence. Mc Nair J heald.

But where you get a situation, which involves the use of some special skill or competence, then the test whether there has been negligence or not is not the test of the man on the top of a Clapham omnibus, because he has not got this special skill. The test is the standard of the ordinary skilled man exercising and professing to have that special

skill. A man need not possess the highest expert skill at eh risk of being found negligent. It is well established law that it is sufficient if he exercises the ordinary skill of an ordinary competent man exercising that particular art.

It is stated that the liability of doctors is not unlimited; the standard of care required of them is not that standard shown by exceptional practitioners, Surgeons, doctors and nurses are not insurers. They are not guarantors of absolute safety. They are not liable in law merely because a thing goes wrong the law requires them to exercised professionally that skill and knowledge that belongs to the ordinary practitioner

In general, in a case of medical negligence, the burden of proof always lies with the complainant who has to prove the presence of duty of care, breach of care and the consequential damages suffered by him.

As a rule, the law is very considerate to the medical professional; Lord Denning in the case of Hatcher V. Black.

The injury must not find a doctor negligent simply because one of the risks inherent in an operation actually took place or because in a matter of opinion he made an error of judgement. They should only find him guilt when he had fallen short of the standard of reasonable medical care.

- **MEDICAL NEGLIGENCE IN INDIA**[1]

During British rule, English common law was introduced in the administration of justice in India. Mr. Wheeler, member of council, Sea Customer and Chief justice of Choultry in Chennai, died due to administration wrong medicines. Dr. Samuel Browne was tried and acquitted by the Grand Jury when the Bill of Ignoramus was brought in.

Prior to the introduction of the Constitution of India in 1950, a very large number of English principles of the law of torts were flowed and applied by the Indian Courts. For instance, J Tendulkar observed in Amelia Flounders v. Dr. Clement Pereira

Actions for negligence in India are to be determined according to the principles of English common law and those principles have been set out in an action for negligence against medical men by Earle, CJ.

After the introduction of Constitution of India, by virtue of art 372, they continue to have the force of law even today. Therefore, Indian Courts accept the Common Law of England in cases involving law of torts.

- [1] (Medical Jurisprudence & toxicology 24 edition 2011 Justice Kannau & Dr. K. Mathiheran page no. 123)

GENESIS OF CONSUMER RIGHTS

In the 1960, consumer rights gained prominence in USA. John F Kennedy, the former President of USA, on 15 March 1962, declared four consumer rights in his special message to the American Congress. Subsequently, the International Organisation of Consumers union with its head quarters in Paris added three more rights to this list. The consumer rights have also been incorporated in the United Nations Charter of Human Rights. This Consumer rights are

1. Right to safety
2. Right to be informed
3. Right to choose
4. Fight to be heard
5. Right to redress
6. Right to consumer education
7. Right to a healthy environment
8. Right to basic needs

The General Assembly of United Nations adopted 'Guidelines for Consumer Protection by consensus on 9 April, 1985 (Consumer Protection Resolution No 39/248).

Subsequent to the adoption of 'Guidelines for Consumer Protection' by the General Assembly of United Nations by consensus in 1985, the Parliament of India enacted Consumer Protection Act (CPA or COPRA) in 1986 with the stated objective to provide for better protection of the interests of consumers and for that purpose to make provisions for the establishment of consumer council and other authorities for

the settlement of consumers' disputes and for matters connected therewith. The Consumer Protection Act came into force on 1 July, 1987, and subsequently quasi-judicial machineries known as Consumer Disputes Redressal Agencies were established at the district, state, and Central levels to provide speedy and inexpensive judicial remedies to consumer disputes.

- **Consumer Protection Act vis-à-vis Medical Profession**[2]

After the introduction of Consumer Protection Act, initially, there were differing orders by the various State Consumer Disputes Redressal Commissions on the issue of including the medical profession under s 2 (1) (o) of the Consumer Protection Act, which defines services and list the types of services to be included and excluded under the Act.

However, in 1992, in an appeal from Kerala State Commission Protection, the National Consumer Disputes Redressal Commission included the medical profession under s 2(1)(o) of Consumer Protection Act.

When the medical profession was brought under Consumer Protection Act, the Indian Medical Association doubted whether the Consumer Disputes Redressal Agencies could adjudicate the complaints of medical negligence capably. Therefore, subsequent to the order of National Consumer Disputes Redressal Commission, Indian

[2] (Medical Jurisprudence & toxicology 24 edition 2011 Justice Kannau & Dr. K. Mathiheran page no. 124)

Medical Association impleaded itself in the special leave petition field in the Supreme Court of India against this order.

Salient features of CPA

- A serving or retired District Judge or a High Court judge or Supreme Court judge will be the President of District Forum, State Commission and National Commission respectively
- Two more persons (four persons in National Commision) of ability, integrity and social standing, and have adequate knowledge or experience of, or have shown capacity in dealing with, problems relating to economics, law, commerce, accountancy, industry, public affairs or administration are also appointed as members. One of them will be a woman
- The of majority is the order of Consumer Forum/Commissions
- The consumer disputes redressal agencies are conferred with the powers of the First Class Judicial Magistrate.
- The consumer disputes redressal agencies can issue interim orders
- The consumer disputes redressal agencies have provisions for recovery of amounts ordered to be paid as arrears of land revenue
- A complaint filed in the Consumer Forum/Commission should be adjudicated, within a period of90 days from the date of notice received by opposite party and within 150 days if it requires analysis or testing of commodities.
- The maximum time limit for a claim to be filed under CPA is 2 years from the date of occurrence of the cause of action.

- A complaint/respondent can represent his case on his own without the help of a lawyer
- Every complaint filed shall be accompanied with the prescribed amount of fee
- CPA has provisions to award costs not exceeding ten thousand rupees to the respondent when the complaint is found to be vexatious or frivolous.

A final order is required to be passed within 90 days of the issue of the notice or the receipt of the copy of the complaint filed by the opposite party if the goods forming subtract matter of the dispute are not required to be sent to a laboratory for testing, and 150 days if such testing is required to be done. No time limit has been laid down for the disposal of an appeal or revision petition.

Penalty – In case of dismissal of frivolous or vexatious complaints, where a complaint instituted before the district forum, the state commissions or, as the case may be, the National Commission, is found to be frivolous or vexatious, it shall for reasons to be recorded in writing, dismiss the complaint and make an order that the complainant shall pay as penalty to the opposite party such cost, not exceeding ten thousand rupees, as may be specified in the order.

- **Case Law on Medical Negligence**[3]

In Lt Col VN Withamore Rao, v. R N the defendant practitioner was sued for negligent diagnosis resulting in amputation of fingers of left hand, which diminished plaintiff's earning capacity. The defendant diagnosed syphilis and gave injections of sul-

[3] All cases referred from Medical Jurisprudence &Toxicology 24 edition 2011 justice Kannau & Dr. D.K. Mathiheran 129.131 &132.

phostapor sulpharse to the plaintiff who developed toxic effects as a result of injections. According to the expert opinion, the injections could be given if there was no syphilis. Hence, the defendant did not exhibit any negligence, carelessness or want of skill, which make him liable for damage. The Oahore High Court found the defendant doctor not guilty of negligence because the plaintiff had failed to prove that there was connection between injection administered to the plaintiff and peripheral neuritis or gangrene.

In spring v. State of Andhra Pradesh and Ors, the plaintiff undwent caesarean section to deliver her third child at Government Maternity Hospital, Afzalgunj, under spinal anaesthesia. She had sterilization operation also done simultaneously. After discharge from the hospital, she had pain in the abdomen. So she went back to the same doctor who performed caesarean operation on her, after customary examination, she was told that the pain would subside in course of time. Since her condition became serious afterwards, she got admitted in a private hospital. A second operation was done and a 'mop' with surrounding mpus, which had produced an internal fistula into sigmoid colon and densely got adherent to a loop of small intestine, was found. After removing the mop, an end-to-end anastomosis was done and a defunctioning transverse colostomy perfomed to safeguard the anast there was no other answer to the above except that the doctors had been negligent and to an extent callous in performing their duty and they, accordingly, had violated the petitioner's right under art 21 of the Constitution of India.

In State of Punjab v. Shiv Ram and Ors an appeal challenging the decree of damages passed by the High Court in favour of the respondents on the ground that the respondents having undergone the sterilization operation became pregnant. It is held that the cause of action for claiming the compensation in cases of the failed sterilization operation arises on account of the negligence of the surgeon and not on account of child birth and the failure of sterilization due to natural causes would not provide any ground for claim. There is no finding arrived to hold the operating surgeon and his employer liable for damages either in contract or in tort. There are several alternative methods of female sterilization operations recognized by the medical science of today and none is foolproof and no prevalent method method of sterilization guarantees 100% success. The causes for failure can well be attributable to natural functioning of human body and not necessarily attributable to any failure on the part of the surgeon.

In State of Haryana and Ors v. Raj Rani, failure of sterilization performed by a doctor and vicarious liability of the State was discussed. It is held that the vicarious liability of state cannot be applied in this case as the negligence of the doctor cannot be proved. Only when the negligence in the performance of doctor can be proved, vicarious liability of State could be upheld. State is not liable to pay compensation for the unwanted child as no proof of negligence committed by the doctor is established. The compensation already paid by state shall not be refunded.

In Kailash Hospital and Research Centre Ltd. And Anr. v. Sanjeev Duggal and Ors, the National Consumer Disputes Redressal Commission, while awarding compensation of Rs. 2,50,000/- along with damage of Rs. 25,000/- and costs of Rs. 10,000/- to the respondents in a case of medical negligence, gave the following directions: “A copy of

this order be sent to U.P. State Medical Council and Chief Secretary, Government of .P. for enquiry and further action, to see if such a Hospital still should be there where they are, i.e., whether they should continue to be registered by the respective Registering Authority, for if they are allowed to continue to be there, in our view, they may be causing more harm than good to the Society/patients, if they are allowed to continue to work in such a dishonest manner." The appellants submitted that they were not pressing their challenge to the award of compensation, damages and costs, but the direction given to the State Medical Council and Government of U.P. to take action against them may be set aside because a solitary instance of the alledged medical negligence could not justify closure of the hospital. It was held that the award of compensation etc. made by the Commission did not suffer from any legal error warranting interference, but, at the same time, that the Commission was not at all justified in giving the direction extracted hereinabove. It appears that the said direction was given by the Commission out of sheer anguish and not on consideration of any sound legal principle. Accordingly, the appeal was allowed in part and the direction given by the Commission to the State Medical Council and Government of U.P. to take action against the appellants was set aside.

Medical Negligence in caesarean operation

It was not disputed that the complainant 'C' had earlier delivered a female and a male child at the OP-Nursing Home and was attended on those occasions by Dr. "(Mrs.) Pushpa Bhargava". The complainant thus believed in the competence of "Dr. (Mrs.) Pushpa Bhargava" and had confidence in her which led her to visit the same Nursing Home for the third time when she was expecting a child. The first grievance of the complainant was about the Nursing Home run by Dr. (Mrs.) Pushpa Bhargava did not accept

the cheque from the husband of the complainant and insisted upon cash payment of amount of Rs. 18,000/-. Though these averments have been denied by the OP-Nursing Home yet it may be mentioned that when the complainant had visited the OP-Nursing

Home in connection with the delivery of the child then she was expected to know that the requisite fee including the expenses which are to be deposited in cash with the OP-Nursing Home as the service of the Nursing Home was being hired or availed for consideration. It was not the case of the complainant that OP-Nursing Home was supposed to render service free of charge. It was also not the case of the complainant that it was usual practice of the Nursing Home to accept cheques in place of cash deposits. “Dr. (Mrs.) Pushpa Bhargava” has categorically denied the presence of the husband of the complainant ‘C’ relied on her own affidavit in this regard and did not file affidavit of her husband regarding the aforesaid matter about issuing cheque drawn on Allahabad Bank for a sum of Rs. 17,500/- and the same was not accepted by the Nursing Home. The complainant herself has no personal knowledge regarding this fact as according to her own version, she was having labour pains and was not accompanying her husband for depositing fees etc. not only this, the original cheque which had been drawn on Allahabad Bank for a sum of Rs. 17,500/- had not been placed on record of the case and proved by the complainant. Apart from it, the specific case of the OP-Nursing Home was that “Dr. (Mrs.) Pushpa Bhargava” was also busy in operating upon another patient named “Smt. Pista Rani” for total abdominal Hysterectomy (TAH) which operation continued up to 10.00 a.m. The aforesaid averment which has not been proved by cogent evidence that the cheque was not accepted and instead payment in cash was insisted upon and the same cannot be held to be any act of either medical negligence or amounting to deficiency in service.

Mishandling of needle Biopsy – Where during needle biopsy, the needle pierced blood vessel which proved fatal but there was no expert evidence to prove negligence and there was no evidence except statement of the complainant. Therefore, negligence not proved.

Mop (towel) left inside the body of patient [4]– Death due to negligence in hospital proved. – I\n the instant case when the wound of earlier operation was re-opened in order to ascertain the true cause of the seriousness of the ailment and to find out the cause of the worsening condition of patient, it was found that a mop (towel) had been left inside the body of patient when sterilization operation was performed on her. It was held that the claim of the appellants cannot be defeated merely because it may not have been conclusively proved as to which of the doctors employed by the State in hospital or other staff acted negligently which caused the death of patient. Once death by negligence in the hospital is established, the State would be liable to pay the damages.

Needle of Suspicion – Failure to take reasonable care–

The proverbial "needle of suspicion" in this case ultimately turned out to be a curved foreign body which stood lodged in the system of the respondent. She had undergone a caesarean operation on 1st October, 1998. Thereafter she complained of pain. She was examined by the appellant-doctor. It was noticed that the respondent was complaining of pain and irritation in the lower abdominal region which was described as vague. The respondent got herself X-rayed. Ultra-sound and CT Scanning was also got done. It was found that a foreign body stood lodged in her system. This foreign body stands re-

[4] Forensise Science DNA test & Technology the Principle of Medical Jurisprudence Dr. Parik & Dr. Mishra page No. 184, 187.

moved. It is for this, the damage were claimed. The damages have been allowed. Appellants in this appeal seek reversal of the order passed by State Commission. A person who

holds himself out as ready to give medical advice or treatment impliedly undertakes that he is possessed of skill and knowledge for the purpose. Whether or not he was a registered medical practitioner, such a person who is consulted by a patient owes him certain duties, namely, a duty of care in deciding whether to undertake the case; a duty of care in deciding what treatment and a duty of care in answering a question put to him by a patient in circumstances in which he knows that the patient intends to rely on his answer. A breach of any of these duties will support an action for negligence by the patient."

The aforementioned statement of law has been quoted from Hasbury's Laws of England, with regard to the degree of skill and care required from a medical practitioner, what is said in paragraph 35 can also be quoted with advantage. This is being quoted :-

"the practitioner must bring to his task a reasonable degree of skill and knowledge, and must exercise a reasonable degree of care.

Medical Negligence In Treatment

Where the complainant has not adduced any expert medical evidence to prove her contention that line of treatment adopted by OP No. 1 was not correct or it was not adopted with due care, skill and diligence. On the other hand, the bare facts of the case prove beyond doubt that OP No. 1 who as qualified doctor, has adopted the line of treatment which is best available in the present medical science for treating a heart patient and there is nothing on record to show that he did not promptly attend the patient and adopted

the line of treatment required under such circumstances. The complainant has made only allegation that OP No. 1 should have referred the patient some hours earlier to Jeevak Hospital is no ground to hold that it was an act of negligence on the part of the OP No. 1, when thought necessary to refer the patient to Jeevak Hospital in the early hours of morning (at am) and after consultation with Dr. Pradhan, he referred the patient. This alone shows that OP No. 1 was sincere and was attending the patient even at am when normally doctor attends his clinic at about 8 a.m.

HYPOTHESIS

(A) MEANING OF HYPOTHESIS

'Hypo' means less than or under; and 'thesis' means idea or general opinion to be defended by a person and thus 'hypothesis' means an idea formed beforehand which has less value than the generally formed view.

If we have to proceed towards some destination for which we don't know the way, we try to form an idea about the direction to proceed and by trial and error, we reach that goal. The primary idea is called a hypothesis.

The Webster's New Instrumental Dictionary gives the meaning of the term 'hypothesis' as " a proposition, condition or principle which is assumed, perhaps without belief, in order to draw out its logical consequences and by this method to test its accord with facts which are known or may be defined."

According to Werkmeister, "The gusses he makes are the hypothesis which either solve the problems or guide him in further investigation."

According to Goode and Hatt, "Hypothesis is a proposition which can be put to test to determine its validity."

Robert A Berslein and James A Dyer say, "A hypothesis is an assertion of a casual association between two properties."

In short, we can define hypothesis as a tentative statement which express the nature of relationship between two or more variables usually in the form of cause-effect relationship.

Scientific hypothesis are empirical testable statements deduced from a theory. They present the relationship between the variables in a testable form, for example, poverty is a cause of crime.

Hypothesis provides direction to research. It directs an investigator to identify the procedures and methods to be followed in solving the problem. The hypothesis is forward looking. It may be a statement of relationship or it may specify the functions. For any problem framing the hypothesis requires prior knowledge of the phenomena. We can frame master hypothesis and subsidiary hypothesis.

CHARACTERISTIC OR QUALITIES OF A USEFUL OR WORKABLE HYPOTHESIS. (Criteria to form a good hypothesis (Condition of good hypothesis)

Hypothesis expresses a relationship between two or more variables. To formulate a hypothesis, different variables related to the problem should be identified. The variables can be measured. The variables are expressed as independent or causative variables, dependent or effective variables and intervening variable. These relationships between variables are expressed in the form of cause-effect relationship. The relationship can be positive, negative; full or partial. Hypothesis is an explanation that needs to be established before it can be examined.

A good hypothesis is one which is testable and must be based directly on existing data. It might even be expected to predict or anticipate previously unknown data.according to Galtung, there are ten dimensions of a useful hypothesis :

(i)generality, (ii)Complexity, (iii)specificity, (iv)determinancy, (v)falsifiability, (vi)testability, (vii)communicability, (viii)reproductibility, (ix)predictability, and (x)tenability.

1. **Specific** – The hypothesis should not be too vague or general. There is a general tendency to select hypothesis that are too vast.

2. **Conceptually clear** – The hypothesis should be properly expressed. The definition and terms used in the hypothesis should be those which are commonly accepted terms and not our own creations. If new terms have to be used, their definition and meaning in terms of already existing concept should be made clear.

3. **Related to available technique** – The hypothesis should be capable of being verified. For this purpose we have to take into consideration the technique of study that is available.

4. **Related to body of theory** – It is desirable that hypothesis selected must be in continuation with theory already evolved.

5. **Capable of empirical test** – The hypothesis should be such as can be put to empirical test. Empirical test is the basis of objectivity which is so essential for any scientific method.

6. **Simple** – It should have logical simplicity P.V.Young says, "The more insight the researcher has into the problem the simple will be his hypothesis about it." The hypothesis should be simple and to the point.

7. It should be closest to the things observable.

8. It should be expressed in a quantified form or be susceptible to convenient quantification.

9. It must be stated in such a way as to allow it to be refuted.

10. It should be non-contradictory one.

11. It should be capable of being investigated with the available tools and techniques of research.

SOURCES OF HYPOTHESIS

Good and hatt have given the following sources of a hypothesis :

1) A eneral culture : The general pattern of culture helps not only to formulate a hypothesis, but also to guide its trend.
2) Scientific theory – Theory gives us the basic idea of what has been found further generalization and these generalizations form the part of hypothesis.
3) Analogies, - Sometimes a hypothesis is formed from the analogy. A similarity between the phenomena is observed and hypothesis is formed to test whether the two phenomena are similar in any other respect.
4) Personal experience – Hypothesis is formulated according to the way in which an individual reacts to culture, science and analogy. The facts will be true but the hypothesis may be formulated when a rightful individual sees it in a rightful perspective.

STAGES IN FORMULATION OF HYPOTHESIS

1) The researcher has first to observe the phenomena.
2) He should identify the reflection that is cause and consequence of the phenomena.
3) He should logically deduct the fact relating the Phenomena.
4) He should keep it ready for verification with the empirical situation.

IMPORTANCE (OR SIGNIFICANCE OR A ROLE OR UTILITY OR NEED) OF HYPOTHESES

1) Hypothesis gives a point to enquiry. It makes the enquiry more specific and to the point. In the absence of hypothesis the researcher is like a sailor on the wide sea without compass or rudder.
2) Hypothesis helps in deciding the direction in which to proceed. It is the starting point of research.
3) Hypothesis helps in selecting all available and pertinent facts. P.V. Young remarks, " The use of hypothesis prevents a blind search and indiscriminate gathering of masses of data which may later prove irrelevant to the problem under study."
4) It provides precision to the research problem,
5) It helps is selecting relevant facts of phenomenon
6) Hypothesis helps in drawing specific conclisions.
7) It raises the standard of result.
8) It helps to economise the collection data.

COLLECTION OF DATA

Collection of Data is regarded as fascinating phase of research. Through the collection and handling formation, the researcher begins to feel the actual excitement of research. A researcher can either collect the data himself or rely on others for their collected data or information available with them. In both the cases, there is a great need for data of high quality. The selection of data requires great skill and experience.

The collection of data is:

i) Informal

ii) Formal –unstructured and

iii) Formal structured.

Data collection is related to:-(i) Primary and Secondary Sources of data, (ii) Census and sampling techniques, and (iii) Methods of data collection.

The techniques of collection are of two types: Census and Sampling.

The methods of data collection are: (1) Observation schedule, (2) Interview schedule, (3) Questionnaires, (4) Project techniques and case study methods.

Primary and Secondary Sources of Data collection;-

The sources of data collection are of two types: (i) Primary or internal or field sources and (ii) Secondary sources

Direct primary Sources: The researcher personally goes and observes events, things, behaviour, activities and so on. He has display great skill and objectivity. Observation can be of three types; (i) Participant observation , (ii) non Participant observation (iii)Quasi participant observation. Direct observation is the best, but difficult. In some cases it may be either legally inadmissible or physically impossible.

Indirect primary Sources: As the researcher cannot observe things which occurred long back, he needs to contact those persons who have made observation s relevant to this research. This can be done through interviews, questionnaires or schedules.

Secondary or external Source of data: This information is obtained from someone else who has already worked on the subject. They save a researcher the labour of collecting the data again and prevent unnecessary expenditure: They can be divided in two types (a) Personal documents, and published documents Personal documents consist of life histories, diaries, letters, memories. Public documents come from public bodies, Government and private organisations Apart from books available in libraries, published in statistics, reports of newspapers, journals special reports, film or T.V. programmes. T

SCOPE

The Scope of Research problem I have choosen is Medical Negligence is limited to Consumer Protection Act.

RESEARCH DESIGN:

The method of selecting for study a portion of the universe with a view to draw conclusions about the universe in to is known as Sampling.

Goode and Hatt defined sample as a "Smaller representation of large whole.

Nan Lin defines it as "a subject of cases from the population chosen to represent it." Thus the whole group from which the sample has been drawn is known as **'Universe or Population**' and the group selected for study is known as a Sample.

SAMPLING TECHNIQUE-

The Sampling Technique is made maximum use of, & in no field of research can its importance & value be titled. In researches in education, economic, Commercial and Scientific domains the sampling technique has also very high value in day to day life.

Some Criteria to select a sample

1. Selection of the sampling units to be included in the list
2. Fixing the optimum size number suitable for this study
3. The sample be an efficient one.
4. The sample must be represent the universe.

Random Sampling method used to select my research problem as the scope of investigation for Medical Negligence is limited to a particular to 'Consumer Protection Act' Random sampling Method is applicable to a homogeneous universe. The selection of sample at random from the given universe facilities a purposeful study of the universe through the selected unit.

In this Research the respondents are Medical Officers, Medical Council, and the State.

QUESTIONNAIRES-

According to good and Hatt , 'Questionnaire' is a device for securing answers to questions by using a form which the respondent fills in himself.

The Dictionary of Statistical Terms defines the Questionnaire as a" group of or sequence of question of questions designed to elicit information upon a subject or sequence of subjects from an information."

Questionnaires is a printed list of question sent through mail to respondent to be returned by the respondent after filling up the Questionnaires. This method also called mailed Questionnaires.

The exchange of question & answer by mail is the most economical of all other research method data collection.

INTERVIEW

The interview is the oldest and most often used devise for obtaining information among human being. It is verbal method to securing the Data. Interview technique used for the both literate & illiterate person. There are various types of interviews.

OBSERVATION :

This is very important and very old method of Data collection. This is basic instinct of man to observe, things, Events, Fact happening or taking around him. This and enhances his knowledge which in turn unable him to make more meaningful adjustment with his surrounding.

PROCCESSING OF DATA

After the data collected, it has to be processed before analyzation & interpretation. Date processing depends upon the nature of data.

ANALYSIS & INTERPRETATION OF DATE

Analysis of data includes, i) classification of data ii) tabulation iii) Systematic analysis of data.

CONCLUSION AND SUGGESTION :

Here hypothesis Compared with the data collected. It includes suggestion, recommendation & Facts.

It can be suggested to the patient that after doing a medical treatment they should consult to the other doctors, friends & Colleagues also to the medical officers.

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