

ABSTRACT

A COMPARATIVE STUDY OF MEDICAL NEGLIGENCE LAWS IN INDIA WITH US

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The term medical negligence itself define the meaning. Doctor and patients have a relationship of trust where a patient have faith or believe on his/ her doctor that they will cure the disease and save their patient's life. Standard care and services are expected from the doctors and the medical staff by their patients. Medical negligence is a misconduct by a doctor or medical staff which results to damage or grievous hurt to the patients and their family. In India medical negligence is punishable under Criminal law (Sec.304 A), Torts, Consumer Protection Act, Indian Contract Act. A medical professional supposed to be an expert of his field, and he has proper training. The patient who is getting treated by the doctor he has believed that their doctor will take reasonable care to healed him from the sickness. Negligence by the doctor causes death to the patients or any harmful injury. In court of justice proving negligence is an uphill struggle for the patients as well as their lawyers too. This paper provides a brief knowledge about the medical negligence, the various laws which are applicable in India and the landmark judgments of Supreme Court. In case of medical cases burden of proof is lies on the patients at the initial stage but in res ipsa patients does not require anything to prove cause the case is clear like a crystal. The paper also provide a comparative study between the laws of India and United States. US is a developed country which has the best medical services.

Keywords: *Medical negligence, Consumer Protection Act, Res Ipsa Loquitur, Malpractice, Good Samaritan Law.*