

On Methods of Examination in Medico-Legal Cases: An Analysis

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Abstract :

Medico Legal Cases are an integral part of medical practice, frequently encountered by Medical Officers. Medico Legal Cases are on the increase, both in the Civil as well as in the Armed Forces. Proper handling and accurate documentation are of prime importance to avoid legal complications for the next of kin to receive entitled benefits. Medical officers working in hospitals, fields, medical & non-medical units encounter medico legal issues should be handled in accordance with the law of the land and directives. Since law and order is a state subject, there are differences in the legal procedures being followed by different States. Medical Officers should acquaint themselves with medico legal procedures that are in vogue in the state in which they are serving. There has to be strict and vigilant environment in our hospital as far as medico legal examination is concerned. Every doctor has to fulfill certain legal requirements in service by compulsion or voluntarily as defined under the law. Medico-legal case examination and reporting is one of the legal responsibilities of all doctors working in a hospital.

(Keywords: Medico Legal; Meaning, Aims & Types of Medico Legal Examination; Examination of MLCs)

Introduction:

Medico Legal is the term which incorporates the basics of two diverse professions i.e. Medicine and Law. Everybody talks about the law but very few, aside from the Lawyers, Judges and Law Teachers, have more than the vaguest notion of what constitutes Law. The average layman often has about as much accurate information about the law as he has about medicine. And the two professional groups unfortunately suffer from more ignorance of law and medicine than is good for them.

Lawyers, who do not constantly deal with medical issues in their legal practice, know very little about the medical profession and its problems. Physicians frequently comprehend too little about the law and how it affects them in the practice of their profession. Medico Legal Experts can provide a link between these two professions for their smooth and effective functioning in a scientific manner. The greatest similarity between the two professions is that both share ideal. The physician meets the law at every turn. He confronts it when, as the treating doctor, he is subpoenaed as a witness in a personal injury lawsuit; he meets it when his aid is sought as an expert in connection with a claim that another member of his profession has been negligent and when he is faced in his office or clinic by a narcotic addict, a man with a gunshot wound, or a young couple seeking a blood test. He is face to face with the law when he is required to render an aggravating array of governmental reports or to preserve physical evidence-for the benefit of a law enforcement agency. The physician, in fact finds a great deal of the law intensely irritating due to unawareness of its purpose.

Meaning and aims of Medico Legal Examination:

Medico Legal is something that involves both medical and legal aspects, mainly- Medical Jurisprudence, a branch of medicine; Medical Law, a branch of law. Medico legal cases can be defined as a case of injury or ailment, etc., in which investigations by the law enforcing agencies are essential to fix the responsibility regarding the causation of the said injury or ailment. In simple language it is a medical case with legal implications for the attending doctor where the attending doctor, after eliciting history and examining the patient, thinks that some investigation by law enforcement agencies is essential, or a legal case requiring medical expertise when brought by the police for examination. Any case of injury or ailment criminality involved is called a Medico-Legal Case.

The main aims of the medico legal examination are: -(i) to find out what types of injury or medical condition it is; (ii) to find out whether a medical condition has caused or aggravated an existing medical condition and with its causes; (iii) if the condition is caused by an accident or by work conditions; and (iv) if an accident or work has aggravated of some underlying condition. That means the examination is intended to be an independent and honest assessment of the injury and is to be as impartial as possible.

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Types of Medico-Legal Examination :

The main types of medico legal examination may be classified as -

1. Criminal case- This include alleged criminal assault , drunkenness, sexual offences and the examination of persons pleading insanity as a defence to a criminal charge, or in whom illness of some kind is known or suspected which may have a bearing on responsibility or may influence a decision as to disposal of a prisoner.
2. Civil case – (i). Examination for service in industry, the civil service, or in the Armed Forces, either on entry, on allocation of particular duties or when a question has arisen of unfitness for further service, or of transfer on health grounds to a different grade in the service. (ii). Examinations in connection with claims in respect of personal injury or illness etc.
3. At a common law; e.g. arising out of a street or other accidents, food poisoning, assault, nuisance, negligence etc.
4. Under Statute – including Workmen’s Compensation Acts, National Health Insurance Acts and (in the near future) the Disabled Persons (Employment Act) and the statutes to be introduced under the Social Insurance and the Industrial Injury Insurance Schemes etc.
5. Under Contract –as in personal accident and sickness insurance, and under schemes for superannuation and similar benefits etc.

The following cases should also be considered as Medico-Legal and as such the Medical Officer is ‘duty-bound’ to intimate to the police regarding such cases which are –(i). all cases of injuries and burns- the circumstances of which suggest commission of an offence by somebody;(ii).all vehicular, factory or other unnatural accident cases specially when there is likelihood of patient’s death or grievous hurt;(iii).all cases of suspected or evidence poisoning or intoxication; cases referred from court or otherwise for age estimation;(iv).cases of suspected self-infliction of injuries or attempted suicide; cases of asphyxia as a result of hanging, drowning, suffocation, strangulation etc.;(v). death due to snake bite or animal bite; drug abuse or drug overdose; (vi).deaths occurring within 24 hours of hospitalization without establishment of a diagnosis and any other case not falling under the above categories but has legal implications etc.

Procedure of Registering a Medico-Legal Case (MLC):

While attending to an emergency or casualty, doctor should understand that his first priority is to save the life of the patient. He

should do everything possible to resuscitate the patient and ensure that he is out of danger. All legal formalities stand suspended till this is achieved. This has been clearly exemplified by the Hon’ble Supreme Court of India in different MLCs also. The duty of doctors to provide medical aid has been extended to the private doctors also. The next important duty is to identify, after carefully analyzing the injuries on the person of the patient, the history given, and the other circumstances of the case; whether the said case falls under the category of an MLC or to intimate the nearest police station, either by telephone or in writing. An acknowledgement of receipt of such a message should be taken for future reference. If the intimation is given orally or on phone, the diary number should be taken down as proof of intimation and should be properly documented in the patient’s records. According to the Hon’ble Supreme Court, “whenever any medico legal case comes to the hospital, the Medical Officer on duty should inform the Duty Constable, giving the name, age, and sex etc of the patient & the place of occurrence of the incident and should start the treatment of the patient. It will be the duty of the said constable to inform the nearest concerned police station or higher police functionaries for further action”. Every big hospital usually has either a police post at the casualty or has a police official posted there for this purpose. Police should also be informed regarding the discharge or death of the said patient in the casualty or any other department of the hospital. A Medico-Legal Register should be maintained in the casualty of every hospital and details of all medico-legal cases should be entered in this register, including the time and date of examination and the name of the doctor who is dealing with the case. This would be of immense help for future reference, when the patient through the Court or the Police, requests for a copy of the Medico-Legal Report.

Examination of Medico-legal Cases :

Medico-Legal Cases should be examined at any time of day or night without delay. Depending on the seriousness or otherwise of illness or injury, the patient should be admitted or referred to some specialist. Cases of head injury or abdominal injury in which symptoms are obscure should be admitted for observation. A private hospital or nursing home can treat and admit medico-legal cases except victims and accused of rape cases. Though the Medical Officer has no jurisdiction, but has to examine all medico-legal cases sent by the police and should obtain

informed consent from the patient. At least two identification marks which are individualistic, preferably on the exposed areas of the person should be noted. In all medico-legal cases, details of examination of injured person, whether admitted into hospital or treated as outpatients have to be entered in an Accident Register. The details of examination including name, address, date and time of examination should be entered. The general condition of the patient should be recorded, for example, state of consciousness, blood pressure, pulse, respiration, temperature, treatment given etc. If the condition of the patient is serious and it is not possible to prepare a detailed medico-legal report, adopt lifesaving procedures, and to admit the patient after noting the general condition is required. The report should be prepared later in the ward by examining the case sheet and consulting the treating doctor. General history and a specific history of the particular incident should be obtained from the victim. In case of criminally accused person, no attempt should be made to obtain any history of the specific incident. It should be limited to questions about the causation of injuries only. If the accused says anything that might incriminate him, it should be neither recorded nor reported. If the patient is treated as outpatient it should be mentioned in the report. And if death is imminent, the doctor should arrange for a dying declaration. When the injured person in a victim of criminal assault is admitted and treated and later referred to a higher center for expert treatment, the doctor who has examined the case first has to prepare the wound certificate. In an emergency, first aid should be given, and if he sends the case without recording the injuries, his inability to record relevant findings must be intimated, which would enable the second medical officer to make proper records.

All the documents and the material collected as evidence, should be properly preserved, packed and sealed and kept in safe custody till they are handed over to the police after obtaining a receipt. If the clothing is removed, it should be sealed and handed over to the police. In a criminal case, the opinion of the senior medical doctor should be obtained in case if surgery has to be performed. And in case of poisoning, the patient should be admitted and stomach wash should be done immediately and the specific antidote should be administered. In difficult situations the doctor should seek help from appropriate experts to finalize any report. The person should be referred to a specialist depending on each case. In case of difference of opinion between two experts, the medical

officer should adopt the opinion which he considers correct and the opinions of the expert should be attached to the file and sent to the Court. Alterations, interpolations and over-writings should not be done. If a correction has to be made of a priority entry in the report, it should not be totally obliterated, but a single line should be drawn through the word to be changed, and the correct information should be written above and abbreviations should be avoided. Medico-legal reports should be issued as soon as possible to help the investigation. The injured person must be kept under observation, if the nature of a particular injury cannot be made out at the time of examination, and the report should be given after necessary x-ray and laboratory investigations. All forms filled for x-ray, laboratory examination, etc. should be labelled by the words Medico-legal Case. In case of discharge or death of a medico-legal case in the hospital, the police having local jurisdiction should be informed without delay and death certificate should not be issued. At the time of discharge, detailed instructions should be given in writing about the treatment and general care including diet, exercise, etc.

If a person is brought dead to the hospital then not to examine the wounds, but must to inform the police and not to hand over the body to the relatives. To fill the death certificate form if available, or tonote it on the outpatient ticket, without giving the cause of death is essential. Not to issues death certificate and not to release the body to the relatives, if (a) the injured was brought dead, (b) a crime has already been registered by police, (c) the police has already been informed about the case, (d) when the cause of death is not known etc. Autopsy to be conducted on a body or not is the discretion of the police, or has to conduct autopsy on anybody brought to him. A male or female medical officer can conduct autopsy on a male or female body but the doctor cannot refuse to conduct autopsy if inquest report is not given. In a dead body viscera have to be preserved if the police give requisition and injuries are always ante-mortem in autopsy report and age of injuries should also be noted. The accused will get benefit of doubt if a vital fact is omitted. If a patient dies during treatment the deceased happens to be a close friend or relative of the doctor, he should not undertake the autopsy.

Conclusion :

The state is responsible for administration of the criminal justice system. In Indian Law, the rights are generally created at birth and they extinguish at death. But in certain matters law recognizes and protects

the desires and interests of the deceased. There are three rights in this respect i.e. about the deceased body, his reputation and his estate. Law secures decent burial for all dead men and the violation of a grave is criminal offence. In India a dead is respected by all religions and the body has great spiritual significance attached to it. Thus there is a dilemma when a body is taken for an autopsy. The state may if it feels that a death has not occurred in a natural manner get the corpse examined forensically. Thus the state which has such power is entitled to claim a body for autopsy even after burial or before cremation. Societal interests have overshadowed religious sentiments, as has ethical growth of sanctity of human body. After examination, the body is returned to the family in such a form as to and returned to the family. Only in cases of mass death where bodies cannot be identified dowse the state, do a mass burial to keep the dignity of the human body. Every doctor under the law is bound by a contract to serve its patient and cannot refuse treatment. Every doctor has to fulfill certain legal requirements in service by compulsion or voluntarily as defined under the law. Medico-Legal Case examination and reporting is one of the legal responsibilities of all doctors working in a hospital. Apart from his routine and usual “clinical” cases, a doctor will come across certain ‘Medico-Legal’ problems at one time or the other during the practice of his profession. The general belief that only the doctors working in the Government hospitals would be involved with such cases has now been dispelled by the- recent decisions of the Hon’ble Courts, particularly by the Supreme Court. The best way to deal with these cases is to understand them clearly, analyze them thoroughly and then act accordingly. There are different guidelines, rules and proforma for conducting medico legal examination all over India. There is a need to increase awareness on the role of clinicians with respect to their ethical responsibilities as provided by the medico legal manual. There is also a need to formulate standard operating procedure in the context of Doctors, Nurses and Police in their respective medico legal roles.

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