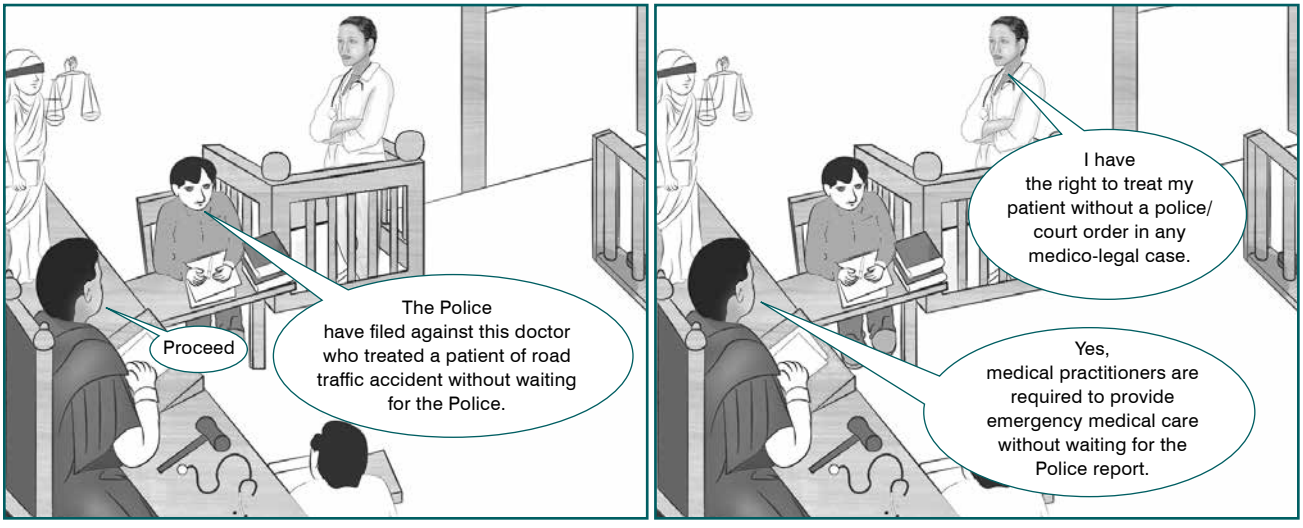
Doctors are Required to Provide Emergency Medical Care without Waiting for the Police Report



Lesson: Doctors have the right to practice unencumbered in the best interest of patients even in medico-legal cases. In Pt. Parmanand Katara vs Union Of India & Ors on 28 August, 1989 AIR 2039, 1989 SCR (3) 997, the Supreme Court of India, in the context of medico-legal cases, has emphasised the need for rendering immediate medical aid to injured persons to preserve life and the obligations of the State as well as doctors in that regard. The Court observed: "Every doctor whether at a Government Hospital or otherwise has the professional obligation to extend his services with due expertise for protecting life. No law or State action can intervene to avoid/delay the discharge of the paramount obligation cast upon members of the medical profession." Regulation 13 of the Code of Medical Ethics framed by the Medical Council of India also says that the patient must not be neglected. "A physician is free to choose whom he will serve. He should, however, respond to any request for his assistance in an emergency or whenever temperate public opinion expects the service…"

CASE SUMMARY

Mr P, a human rights activist, filed a writ petition in the Supreme Court under Article 32 of the Constitution of India on the basis of a newspaper report titled ''Law helps the injured to die". According to the story, a bystander picked up an injured scooterist who had been hit by a speeding car. He took the injured to the hospital nearby, but the doctors refused to attend to the victim and instead asked him to take the injured person to another hospital located, 20 km away, that was authorised to handle medico-legal cases.

The victim succumbed to his injuries before he could reach the hospital. Mr 'P' asked that every citizen brought to the hospital should be promptly administered treatment and the procedural criminal law should be allowed to operate after that. And, suitable compensation should be allowed in addition to any action taken for negligence in contravention of this directive.

SOME SALIENT COURT OBSERVATIONS

- The Counsel for Medical Council of India (MCI) stated that there is no prohibition in law to justify the attitude of doctors as complained. The affidavit filed on behalf of the MCI mentioned 'Clause 10 – Obligations to the sick and Clause 13 – The patient must not be neglected' of the Code of Medical Ethics Regulations and further stated: "*… It should be the duty of a doctor in each and every casualty department of the hospital to attend such person first and thereafter take care of the formalities under the Criminal Procedure Code. The life of a person is far more important than the legal formalities.*"
- The affidavit filed on behalf of the Union of India on 3rd August, 1989 also said: "*There are no provisions in the Indian Penal Code, Criminal Procedure Code, Motor Vehicles Act, etc. which prevent Doctors from promptly attending seriously injured persons and accident case before the arrival of Police and their taking*

into cognisance of such cases, preparation of F.I.R. and other formalities by the Police."

- *"There can be no second opinion that preservation of human life is of paramount importance. This is so on account of the fact that once life is lost, the status quo ante cannot be restored, as resurrection is beyond the capacity of man."*
- *"Every doctor whether at a Government hospital or otherwise has the professional obligation to extend his services with due expertise for protecting life. No law or State action can intervene to avoid/delay the discharge of the paramount obligation cast upon members of the medical profession. The obligation being total, absolute and paramount, laws of procedure whether in statutes or otherwise which would interfere with the discharge of this obligation cannot be sustained and must, therefore, give way."*
- *"There is also no doubt that the effort to save the person should be the top priority not only of the medical professional but even of the Police or any other citizen who happens to be connected with the matter or who happens to notice such an incident or a situation."*
- The Court observed that there is an apprehension among doctors that they would be called as witness in medico-legal cases and also that they would be interrogated by the Police, which prevents them from helping such cases. It said, *"…, the policy, the members of the legal profession, our law courts and everyone concerned will also keep in mind that a man in the medical profession should not be unnecessarily harassed for purposes of interrogation or for any other formality and should not be dragged during investigations at the Police station and it should be avoided as far as possible. We also hope and trust that our law courts will not summon a medical professional to give evidence unless the evidence is necessary and even if he is summoned, attempt should be made to see that the men in this profession are not made to wait and waste time unnecessarily…"*
- *"We have no hesitation in saying that it is expected of the members of the legal profession which is the other honourable profession to honour the persons in the medical profession and see that they are not called to give evidence so long as it is not necessary… where the facts are so clear it is expected that necessary harassment of the members of the medical profession either by way of requests for adjournments or by cross examination should be avoided so that the apprehension that the men in the medical profession have which prevents them from discharging their duty to a suffering person who needs their assistance utmost, is removed and a citizen needing the assistance of a man in the medical profession receives it."*
- *"…if he finds that whatever assistance he could give is not sufficient really to save the life of the person but some better assistance is necessary-it is also the duty of the man in the medical profession so approached to render all the help which he could and also see that the person reaches the proper expert as early as possible."*

COURT ORDER

The Court ordered that the guidelines indicated in the 1985 decision of the Committee under the Chairmanship of the Director-General of Health Services should become operative.

1. *"Whenever any medico-legal case attends the hospital, the medical officer on duty should inform the Duty Constable, name, age, sex of the patient and place and time of occurrence of the incident, and should start the required treatment of the patient. It will be the duty of the Constable on duty to inform the concerned Police Station or higher police functionaries for further action. Full medical report should be prepared and given to the Police, as soon as examination and treatment of the patient is over. The treatment of the patient would not wait for the arrival of the Police or completing the legal formalities.*

2. *Zonalisation as has been worked out for the hospitals to deal with medico-legal cases will only apply to those cases brought by the Police. The medico-legal cases coming to hospital of their own (even if the incident has occurred in the zone of other hospital) will not be denied the treatment by the hospital where the case reports, nor the case will be referred to other hospital because the incident has occurred in the area which belongs to the zone of any other hospital. The same police formalities as given in para 1 above will be followed in these cases.*

   All Government Hospitals, Medical Institutes should be asked to provide the immediate medical aid to all the cases irrespective of the fact whether they are medico-legal cases or otherwise. The practice of certain Government institutions to refuse even the primary medical aid to the patient and referring them to other hospitals simply because they are medico-legal cases is not desirable. However, after providing the primary medical aid to the patient, patient can be referred to the hospital if the expertise facilities required for the treatment are not available in that Institution."

REFERENCE

1. Pt. Parmanand Katara vs Union of India & Ors on 28 August, 1989; 1989 AIR 2039, 1989 SCR (3) 997.