

Original Article

Medical Negligence Cases Decided by Consumer Dispute Redressal Commissions in Cases of Cataract Surgery- A Retrospective Study

Akash Srivastava¹, Mukesh Kumar Bansal^{2*}, Pragya Trivedi³ and Mukesh Yadav⁴

¹Assistant Professor, ²Assistant Professor, Department of Ophthalmology, Government Allopathic Medical College Banda, Uttar Pradesh, India

³Senior Resident, Department of Obstetrics and Gynaecology, Government Allopathic Medical College Banda, Uttar Pradesh, India

⁴Principal, Government Allopathic Medical College Banda, Uttar Pradesh, India

*Corresponding author email id: drmukesh1987@gmail.com

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ABSTRACT

Background: Nowadays litigation and allegations are increasing in India and Ophthalmologists are at very high risk to encounter this issue, major and serious complications can end up in loss of eye sight or even eye, which are often referred to as grievous injury by court of law. **Aims and Objectives:** The present study throws light on various aspect and reasons leading to litigation and allegations, pattern of medical negligence and also the pattern of compensation awarded by various forums pertaining to cataract surgery, which is off course the most commonly performed ocular surgery in India and across the world. **Material and Methods:** The National consumer dispute redressal commission (NCDRC) decided 942 cases of all speciality from year 2002 to February 2018 out of these 30 judgement of alleged medical negligence cases are related to ophthalmology, out of which we have included 11 cases of cataract surgery. **Results:** Out of these 11 cases, in 4 cases (36.36%) medical negligence is proved before NCDRC and compensation is awarded and endophthalmitis is found to be most common cause leading to litigation. Highest compensation awarded is 9 crore 85 lacs and lowest is 20 thousand. In most of the cases leading to litigation, in 50% cases the pre-existing ocular and systemic comorbidity is present. In this era where more and more patient are getting aware of their rights and number of litigations are increasing at higher rate, this has pushed the doctor to defensive mode and make hi practice in a more safer way, which could be detrimental to society in near future. Therefore there is need to establish a balance between patient's right and professional honesty. **Conclusions:** The results of this study will help in improving the standards and quality of health care services and will strengthen the doctor-patient relationship and will make the doctor think about reviewing his/her pattern of practice and this will finally benefit the society.

Keywords: Cataract surgery, Medical negligence, NCDRC, Ophthalmology

INTRODUCTION

Cataract surgery is the most common ocular surgery performed in India and worldwide. As with all surgeries, it also includes its own intra-operative and post-operative

complications. Although most of the complications are dealt successfully resulting in finally good visual outcome but few remains as a trouble for both patient and operating surgeon which can result in outcome ranging from poor to worst i.e. from diminution of vision to total loss of

eyesight even loss of the eye. In this whole spectrum whether and where the patient falls, the hope of patient the vision will come some day, when not fulfilled, results in great mental agony and setback to the patient and finally he tries for compensation.

Although the outcome of cataract surgery is not caused by negligence or even poor practice however defending the bad outcome is rarely easy. Referring to Jackson and Powell ^[1] the hon'ble supreme court states that "professions operate in sphere where in each case success or failure depends upon various factors which are outside the control of professional man a simple lack of care, error of judgement is not the prove of medical negligence on part of doctor. Doctor cannot be held liable for negligence till he follows a practice acceptable to medical profession."

A survey conducted by National Law School of India University, Bengaluru ^[2] has pointed out four main reasons for increase in medical negligence litigations in India, these are:

1. Greater consumer awareness.
2. Flexibility and ease provided by consumer forums as compared to civil courts.
3. Cost involved in medical services resulting in high expectations from medical institutions.
4. Litigant mindset among people.

The division of consumer courts in India, in accordance with the consumer protection act 1986 is district forum, state forum and national forum of which district forum can allow /award the compensation upto 20 lacs, state forum can allow/award the compensation upto 1 crore and national forum can award any amount of compensation. The judgement of the national forum can only be challenged in the hon'ble supreme court ^[3].

When the medical profession is included in this act, there were many doubts among the medical fraternity about its effect on their profession and practice. Many of them feel that doctors will become more defensive in the

treatment of patient and will not intend to take risk due to danger of allegations in consumer court. But with the time they realise that this may be positive in future as it will definitely reduce the act of quackery and held the doctor more responsible, accountable and caring to their patient. This act improves the standards of medical care and hence also improves the transparency and trust in the doctor patient relationship. And it will be society and its people who will finally be benefited.

AIMS AND OBJECTIVES

Aims and objectives of the study are:

1. To study the pattern of medical negligence cases related to cataract surgery decided by various forums.
2. To study the causes of medical negligence in cases of cataract surgery.
3. To study the pattern of compensation awarded by various forum.

MATERIAL AND METHODS

National consumer dispute redressal commission (NCDRC) decided 942 cases of alleged medical negligence of all specialties from 2002 to February 2018 out of these 942 judgements 30 judgements of alleged medical negligence are related to ophthalmology. Out of which we have selected 11 cases of cataract surgery out of which in 4 cases negligence is proved and compensation is awarded. Reports from the year 2002 to 2008 are manually retrieved and India's medical negligence reports from 2008 to 2018 is in Figure 1 to 3 available from a website of quality of medical education accessed on 14/10/2018 ^[3].

OBSERVATIONS AND DISCUSSION

1. 10 out of 11 cases i.e. 90.90% reached the national forum and 1 case madras high court directly intervened after the submission of charge sheet by central beuro of investigation (CBI).
2. Out of 11 cases in 4 cases i.e. 36.36% medical negligence proved before National forum and compensation awarded by national forum.

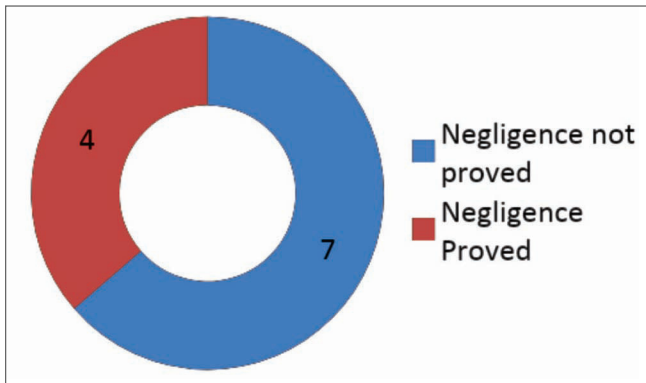


Figure 1: Cases of Cataract Surgery

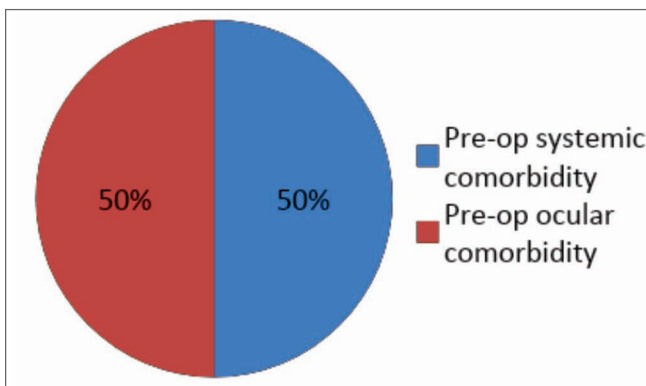


Figure 2: Distribution of Preoperative Comorbidities

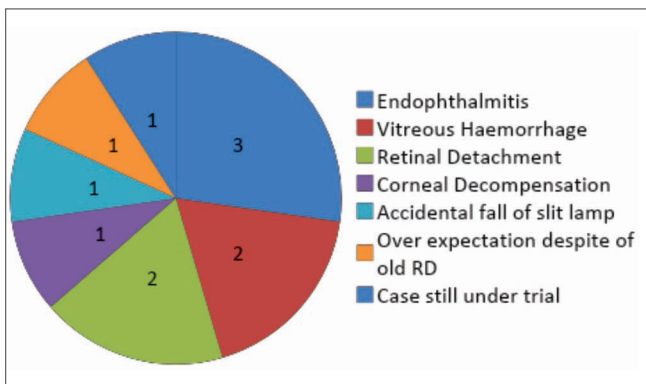


Figure 3: Post operative conditions leading to allegation

- Highest compensation awarded is 9 crore 85 lacs and lowest is 20 thousand.
- Preoperative systemic comorbidity is present in 5 out of 10 cases i.e. 50% cases, one case is cluster endophthalmitis in 63 patients thus individual patient data could not be obtained. Out of 5 cases 3 have

diabetes mellitus leading to retinopathic changes, 1 has COPD and 1 has trauma.

- Pre-operative ocular comorbidity is present in 5 out of 10 cases i.e. 50% cases, one case is cluster endophthalmitis in 63 patients thus individual patient data could not be obtained. Out of 5 cases 1 has chronic iridocyclitis, 1 has high myopia with macular degeneration & prior retinal detachment surgery, 1 has brown cataract, 1 has blunt trauma with subluxated nucleus, and 1 case has squint of 30 degree with old retinal detachment.
- Postoperative ocular condition leading to allegations against the surgeon in various forums are: out of 11 cases, 3 i.e. 27.27% have endophthalmitis, 2 i.e. 18.18% have vitreous haemorrhage, 2 i.e. 18.18% have retinal detachment. 1 i.e. 9.09% has corneal decompensation after revision surgery for IOL exchange, 1 has accidental falling of slit lamp during post op examination, and 1 case i.e. 9.09% is over expecting the vision despite of old retinal detachment (pre-op) while one case is still under trial.
- Grounds on which the medical negligence is proved in four cases before the national forum are:
 - Improper act of treatment in case no. 8^[4], not following the standard and acceptable practise required in this case of 4 lacs.
 - Compensation under the tortious liability in case no. 10^[5], by madras high court, awarding compensation of 9 crore 85 lacs.
 - Contributory negligence on behalf of treating doctor in not examining the IOL prior to implantation in case no.11^[6] and inserting the opaque IOL, awarded compensation is of 7.5 lacs.
 - Negligence in treatment and care in case no. 2^[7].
- In this study it is observed that in most of the cases the district forum has awarded the compensation i.e. in 6 cases out of 9 cases, as 1 case is still under trial while in other the madras high court directly intervene. The pattern can easily understood by the Table 1.

Table 1: Pattern of compensation by various forums

Cases of our study	Compensation awarded by District Forum	Compensation awarded by State Forum	Compensation awarded by National Forum
Case no. 1 ^[8]	5 Lacs	5 Lacs	Non negligent and dismissed
Case no. 2 ^[7]	4.5 Thousand special damage + 1.25 Lacs mental agony	Modified to 25 Thousand	Modified to 20 Thousand
Case no. 3 ^[9]	4.5 Lacs	4 Lacs	Non-negligent and dismissed
Case no. 4 ^[10]	5 Lacs (4.5 lacs by Dr. + 50 thousand by hospital)	4 Lacs, all by hospital, Dr. proved non-negligent.	Same as state forum
Case no. 5 ^[11]	2.5 Lacs	Dismissed.	Referred back to district forum due to lack of document, case is still under trial.
Case no. 6 ^[12]	Dr. proved non-negligent & case dismissed	Dr. proved non-negligent and case dismissed	Dr. proved non-negligent & case dismissed
Case no. 7 ^[13]	Dr. proved non-negligent & case dismissed	Dr. proved non-negligent & case dismissed.	Dr. proved non-negligent & case dismissed.
Case no. 8 ^[4]	Dismissed	4 Lacs	4 Lacs
Case no.9 ^[14]	1 Lacs	Dr. proved non-negligent & case dismissed.	Dr. proved non-negligent & case dismissed.
Case no. 10 ^[5]	Madras high court directly intervene	And awarded the sum of	9 Crore 85 Lacs
Case no. 11 ^[6]	Data could not be obtained	5 Lacs jointly by Dr. and manufacturer + Rs 163364/- medical expense + 20000 cost, by manufacturer.	Enhance compensation to 15 lacs i.e. 7.5 by Dr. and 7.5 by manufacturer + 25 thousand by manufacturer.

SUMMARY AND CONCLUSIONS

This study is aimed to highlight the pattern of negligence in cases related to cataract surgery proved in national forum and also to highlight the pattern of compensation awarded by national forum. The present study revealed that most cases reached the national forum. Negligence is proved in 36.36% cases and compensation is awarded. Preoperative comorbidities (systemic + ocular) is found to present in 50% of cases. Most common post operative pathology leading to allegation is endophthalmitis. Highest compensation awarded is 9 crore 85 lacs by madras high court.

RECOMMENDATIONS

1. Doctors should go for professional indemnity

insurance as with the time more and more consumers are getting aware of their right.

2. Doctor must follow the standard procedure for medical care.
3. Always choose the case which is within the capability of surgeon.
4. Good practice is not only to run for excellent vision post-operatively, but referring the patient at right time and to the right place without taking cases on his (doctor's) ego is also an important part of providing good medical care.
5. Finally availability and behavior towards the patient are two most important component in preventing the nuisance of allegation.

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