

**Indian Internet Journal of Forensic
Medicine and Toxicology**
Year 2025, Volume-23, Issue-1 (January-June)



Evidential Interpretation Of Medicolegal Opinion: Paradigm Shift From Medical To Legal?

¹Jani C.B.

^{*} Professor and Head, Forensic Medicine Department, SAL Institute of Medical Sciences, Ahmedabad-60 (Gujarat).

ARTICLE INFO

Key Words: Criminal Justice System, Evidence, and Interpretation.

doi: 10.48165/ijfmt.2025.23.1.1

ABSTRACT

The criminal justice system provides remedies for offences, as defined by the law of the land. So far as “*offences against human*” in India are concerned, the erstwhile Indian Penal Code (IPC), Criminal Procedure Code (CrPC), and Indian Evidence Act (IEA) were major laws that witnessed many amendments. The BHARATIYA NYAYA SANHITA, 2023 (BNS) completely repealed the former IPC last year. Criminal investigation agencies rely mainly on examination of a person- living or dead—as the case may be and subsequently report of such examination by the Registered Medical Practitioner (RMP) / board of experts form a critical base for further investigations and legal recourse. Once the case is committed for trial, the opinion of RMP and analysis reports of various samples collected are also of immense importance for the prosecution side.

The medicolegal opinion by RMP is based on one’s personal knowledge of “*Forensic Medicine & Toxicology*” coupled with practical exposure to such cases.

The recent biomedical and legal literature permits one to conclude that the evidential interpretation of such opinion/s is more legal than that based on medical science. With due respect to all concerned stakeholders of “*Criminal Justice Delivery System*”, an attempt has been made to review the present scenario and contemplate solutions, if desired.

Introduction:

In India, examination of a person with reference to “*offences against human*” is undertaken by the RMP, having medical qualifications such as MBBS or MD (Forensic Medicine & Toxicology). Whatever, may be the case- such medicolegal examination in prescribed (or even unprescribed proforma) format and opinion based on findings of such examination

is based on one’s personal knowledge of “*Forensic Medicine & Toxicology*”, place of work, practical experience and so on. Majority of textbooks define “*Forensic Medicine*” as “*application of medical knowledge towards administration of justice.*”¹ Other textbooks available on various platforms also have similar definitions in letters and spirits. Such books contain details on various aspects of different injuries, diseases, and toxicological conditions, but are not limited to them. We can safely classify the information as “*Constant,*”

Corresponding author

Email Address: drcbjani@jasmmla.in

Received date-10/03/2025 Accepted date-16/03/2025

Copyright @ Indian Internet Journal of Forensic Medicine & Toxicology (<https://acspublisher.com/journals/index.php/ijfmt>)

“Variables” & “Statutory Guidelines.” The “Constant” includes an injury, that is, abrasion. In every part of the globe, this is termed abrasion only. Whereas “variable” means how this abrasion is commonly produced? This aspect may vary from place to place and person to person. As far as the “constant” is concerned the quantum of difference of opinion is far and few off since it is “Observation.” But, when it comes to age of abrasion, manner of production etc, the “Opinion” varies. Thus, subjectivity over rides objectivity at this juncture- to be a precise interpretation and opinion.

When such a MEDICOLEGAL OPINION is placed for perusal by police officials or judicial authorities, a detailed scientific explanation may be required for evidential interpretation. For many reasons, judicial authorities do not consider medicolegal opinion. The point to ponder is the various situations in which this happens, why this happens, and how, as a man of science, we can overcome situations where interpretation becomes more of a legal nature rather than a medical one.

Discussion:

Various situations since conception to cremation of humans, wherein medicolegal opinions may be desired broadly include pregnancy, medical termination of pregnancy(MTP), age estimation, sexual assault, drunkenness, type of injury, time since death, cause and manner of death, and alleged medical negligence, are major aspects where medicolegal opinions based on medical science are crucial. However, because of the lack of objectivity and precision, evidential interpretation has more potential for setting aside medical aspects and other legal tools are considered. Ultrasound diagnosis, being more objective, is considered positive/confirmatory signs of pregnancy rather than presumptive and probable signs of pregnancy (which are more subjective and less accurate as compared). The opinion of the Medical Board for MTP will, of course, be based on medical facts- viability of the fetus, and in the absence of other medical indications, members would not recommend MTP. However, Hon. Courts, where the application was made, set aside the opinion of the first Medical Board and asked for a second opinion incorporating “mental status of the victim.” The second board recommended termination of pregnancy.² Thus, it is obvious that two altogether different opinions by two separate medical boards existed as “mental health aspect” was considered by second board only. In this case, there were two different medical opinions and even two different orders. The High Court permits termination of pregnancy, where Hon. Apex Court set aside order by Hon High Court. If objectivity prevailed in the exercise of framing such opinions and recommendations, the legal remedy to the victim would have a shorter legal recourse. Recently, objective guidelines were issued by Hon. High Court of Gujarat for medical board to follow the

purpose of opinion of termination of pregnancy.³ The letters and spirit conveys that “The registered medical practitioner/ medical board:

(i) must not restrict its opinion to the criteria under Section 3(2-b) but must also evaluate the physical and emotional well-being of the pregnant person; (ii) must, in their report, give opinion on whether carrying of the pregnancy to the full term would impact upon the physical and mental well-being of the victim/minor/pregnant woman; and (iii) should also opine on whether termination of pregnancy can be carried out at this stage without any threat to the pregnant person”. Ossification test for age estimation is another area, where the Honourable courts apply the ratio of “Even otherwise there can always be a difference of a year or two in assessment of age ...” laid down in case of Natthal V. State of UP.⁴ In case of discrepancy between medico legal opinion and other evidence (school leaving certificate, etc.), later are more relied upon. The above judgement is of analogue type of X-Ray examination, when “Digital X-Ray” and picture manager soft wears were hardly available in India. One- or two-year differences in age estimation are quite worrisome. Presently, we are in era of “Digital X-Ray” and picture manager soft wears, which can help us reducing the age range and opine with better accuracy.^{5,6} Present author along with respective co-authors have explored the possibility of increase in accuracy with such imaging techniques and perceived that such advancement in imaging techniques can definitely of some help in providing more precise opinion in case of age estimation. The examination of sexual assault cases has dynamically changed with the concept of Non-Penile Penetrative and Penile Penetrative assault. Even the proposed opinion supported by the findings of the examination are made available to the examiner.⁷ Even the definition of “Rape” has been made more exhaustive to the extent that medical examination or its findings will have little or no value since “typical findings” of sexual intercourse with ejaculation, as documented in various literature, are least likely to be present. Summarily, “diagnosis of rape” is more legal rather than medical. In the case of examination of a drunken person, the conclusive proof is a report of Blood Alcohol Concentration and not the signs perceived during clinical examination. Hypothetically, for example, all signs during examination of a person (i.e., breadth of alcohol, slurred speech, staggering gait, etc.) may be documented in the report of examination, but if Blood Alcohol Concentration is found within normal limits (for various reasons!), the medical opinion has little or no value, and the issue of drunk or non-drunk will be exclusively a legal diagnosis. DNA typing, a recent technique which drew attention of investigating officers was much debated in a case before THE HIGH COURT OF MADHYA PRADESH AT JABA LPUR , which ordered “The Trial Court to summon and examine the expert, namely, Dr. XXX, who was the then Scientific Officer Assistant Chemical Examiner, Government of Madhya Pradesh, DNA Fingerprinting Unit, State Forensic

Science Laboratory, Sagar (M.P.) and YYY, Assistant Chemical Examiner, Regional Forensic Science Laboratory, Indore (M.P.)”⁹ This indicates that any analytical report or opinion is considered trustworthy only after cross examination and not exempted from evidence before court of law.

With respect to the manner of production of injury/manner of death, at most times, investigating officers hardly seek opinions from RMP who have undertaken such examinations. Many times, it is the court room where the RMP is asked to submit his extempore answer about the manner of production of injuries/manner of death that is based only on injury reports/postmortem reports, etc. Such practices have the risk of misinterpretation and misrepresentation. In one such case, the trial court passed an admonition against the RMP who opined in case of custody death and almost two decades after the Hon High Court convicted both accused but also held that “*The criticism of the medical officer by the learned Sessions Judge in the judgement in para 55 noted above, was wholly unwarranted. Such adverse remarks are, therefore, deleted.*”¹⁰ In alleged medical negligence cases, the opinion of experts about issues is also crucial because the number of such litigations is increasing every day. This exercise performed by medical experts is also subjective. In one such case it was observed that “*Expert opinion by medical board as ‘no negligence’ was overruled on the ground that doctors will try to help their seniors/ colleagues.*”¹¹ This indicates that evidential interpretation of such opinion was not taken into account and warrants an objectively structured procedure for “expert opinion in alleged medical negligence.” In summary, it is observed that there is a paradigm shift with reference to the evidential interpretation of medicolegal opinion- as less medical and more legal. It is likely that subjectivity and non-uniformity in such medicolegal work is the root cause, because of which authorities focus more on legal aspects, even though they are authorized to do so. However, the gray areas evidential interpretation of medicolegal opinion is not desirable, and hence it is a matter of major concern for all men of science contributing to “*Criminal Justice Delivery System*” and it calls for introspection and remedial steps.

Conclusion:

To overcome existing grey areas of evidential interpretation of medicolegal opinion, the medical fraternity involved in such exercise shall:

- ➔ Evolve steps to make such exercise more objective rather than subjective,
- ➔ Take initiative to ensure uniformity in formats/ reports of medicolegal examination,

- ➔ Focus more on need / application-based research work involving medicolegal cases,
- ➔ Undertake seminars/workshops for wider sensitization of all stakeholders.

Ending with the hope that science will continue to increase its contribution to legal authorities in the best interest of democratic society.

References:

1. Krishan Vij. (2011) Textbook Of Forensic Medicine And Toxicology- Principles & Practices. Chapter 1: Introduction To Forensic Medicine And Indian Legal System. 5th Edition. Elsevier, New Delhi.P.4
2. Civil Appeal No: 5845 Of 2009 Before The Hon’ble Mr K G Balakrishnan, Justice The Hon’ble Dr. B S Chauhan, Justice The Hon’ble Mr. P Sathasivam, Chief Justice Suchita Srivastava And Anr. Vs. Chandigarh Administration. Supreme Court, Decided On: 28/08/2009.
3. XYZ V. State Of Gujarat, 2024 SCC Online Guj 4042, Order Dated 08-11-2024...Available At <https://www.sconline.com/blog/post/2024/11/12/Gujarat-High-Court-Allows-Termination-Of-Pregnancy-At-24-Weeks-Of-Minor-Rape-Victim/>
4. Natthal V State Of U.P, 1993/JIC, 696 [A II].
5. International Journal Of Health Research And Medico Legal Practice, Vol. 2, No. 1, 2016. “Software Tool In Digital Radiographs For Appearance & Fusion Of Ossification Centers At Wrist Joint”.
6. Journal Of Indian Academy Of Forensic Medicine, Vol. 39, No.1, Jan-March. 2017. “Carpals – The Tiny Markers Of Age Estimation By Digital Radiography”.
7. GUIDELINES & PROTOCOLS Medico-Legal Care For Survivors/Victims Of Sexual Violence (2013) Government Of India Ministry Of Health & Family Welfare Department Of Health & Family Welfare Hospital Division.Pp.51-52.
8. S.63 Of The Bharatiya Nyaya Sanhita, 2023 No. 45 Of 2023 [25th December 2023.]
9. Criminal Reference No. 6 Of 2022 In The High Court Of Madhya Pradesh At Jaba Lpur Before Hon’ble Shri Justice Ravi Malimath, Chief Justice & Hon’ble Shri Justice Vishal Mishra On The 11th Of September, 2023.
10. Criminal Appeal No. 1366 Of 1993 With Criminal Misc.Application No. 6099 Of 1993 In The High Court Of Gujarat At Ahmedabad.
11. Sagarmal Agrawal Vs Dr R K Sharma (Appeal No. 72/2011 Dated 08-10-2021 Rajasthan SCDRC, Circuit Bench, Kota)