

Medico-legal Work In Private Institutes

A lot of controversy and confusion is always present amongst administrators regarding medico-legal work in the private medical set up. With the judgement by the Supreme Court in case of Pt. Parmanand Katara V/s Union of India and others (1989 AIR 2039) lot of dust has been settled about medico-legal examination of the injured person. Life saving is the pious and supreme duty of the doctors and medico-legal examination facilities cannot come in the way of treatment. To achieve this target even the private practitioners and hospitals must treat the case which has medico-legal implications. In this process requirement of medico-legal examination cannot hamper the life saving treatment which has the implication that medico-legal examination of the injured can be done by private practitioners or hospital or private medical colleges. In the judgement in the above said case it has been clearly emphasized in part 5 that 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 statute or otherwise which would interfere with the discharge of this obligation cannot be sustained and must, therefore, give way [1]. Therefore any registered practitioner can and should start the treatment of the victim and just take care to inform the nearest police official the name, age, sex of the patient and time and place of occurrence of the incident. Report should be sent to the concerned police station or police official as soon as examination and treatment is over.

Keeping in view the above judgement medico-legal examination of injured is now being done in private sector and it has been well accepted by courts and there is nothing in the Cr.P.C. and other laws to prevent the doctors in the private set up not to do treatment and medico-legal examination of the injured.

In case of examination of rape victim a new section 164-A has been introduced in CRPc which clearly tell that it can be examined by a medical expert, such examination shall be conducted by a registered medical practitioner employed in a hospital run by the Government or a local authority and in the absence of such a practitioner, by even any other registered medical practitioner, with the consent of such woman or of a person competent to give such consent on her behalf and such woman shall be sent to such registered medical practitioner within twenty-four hours from the time of receiving the information relating to the commission of such offence [2]. With this new insertion of amendment it has now been well accepted that even in medico-legal cases with serious implications role of private registered practitioner has been well accepted and all the investigations done in this process also stands validated.

It is very clear in the judgement that zonalisation was created to deal with medico legal cases brought by the police. In case of victim reporting directly to the hospital treatment cannot be denied to that victim even in medico-legal cases coming to hospital of their own and such cases should not be unnecessarily referred because of zonalisation. Cases should be referred only if facilities or expertise of treatment in that hospital does not exist.

In this judgement it was ordered to Medical Council of India to forward copies of this judgment to every medical colleges affiliated to it so that treatment is not denied to any victim which has the implication that if treatment cannot be denied and if medico-legal examination is required that will also have to be carried out. Because with the treatment the appearance of injuries will change and later on no useful inferences can be drawn once the wounds present on the body have been stitched which sometimes also require trimming of the edges of the wounds.

From the above mentioned discussion it is very clear that medico-legal examination of the injured can be done by any registered medical practitioner irrespective of being in govt. or private medical set up. The only precaution is that person dealing with medico-legal work must have the knowledge to do the medico-legal work properly. As forensic medicine is taught as a full subject to the medical students during their graduation like any other subject it cannot be an excuse that they do not know how to do the medico-legal work. If the authorities think that this teaching in Forensic Medicine is insufficient then government should pursue with the medical council of India to increase the teaching hours of this specialty and increase the practical exposure of the students to the case works. This can also be done by making internship duty in the forensic medicine mandatory rather than optional.

The second important part in medico-legal work is the post-mortem work. This is the state subject. Some states in India like Haryana and Karnataka are allowing post-mortem work in private medical colleges where as some states like Punjab are not allowing post-mortem work in private medical colleges. Medical students in private colleges are being discriminated versus medical students in government medical colleges. Medical council of India in their inspection sees to it that mortuary and other facilities are present for the conducting the autopsies but does not make it mandatory for the autopsies to be conducted in these mortuaries. Medical council of India must see to it that while giving permission to start the medical colleges that medical colleges get the permission to do the medico-legal autopsies. Otherwise the standard of medical students coming from the government and private medical colleges will become different.

It has been well accepted by governments that post-mortem work is a specialized field and it should be done by forensic medicine experts in medical colleges. That is why in all state medical colleges post-mortem work is being done by forensic medicine experts. Though availability of forensic medicine experts is better in private medical colleges as compared to state medical colleges yet the post-mortem work is not being allotted to private medical colleges. In Punjab the strength of forensic medicine experts in private colleges are 19 experts against the strength of 8 forensic medicine experts in state medical colleges and medical college being run by the university.

The services of forensic medicine experts which can be used by the government remains unutilized in Punjab where as neighbouring state of Haryana is properly utilizing the services of 8 private forensic medicine experts along with 4 in government sector. The fact is that the Government can authorise doctors under Section 174 of Criminal Procedure Code to conduct post-mortem examination in private medical colleges also, as is done in other States. Under this section a police can take the dead body to a civil surgeon or any other qualified medical man appointed by the state government, subject to state rules. A frivolous objection sometimes is raised that such post-mortem reports may be manipulated by

doctors working in private colleges. But most of the doctors in private medical colleges are working after rendering service in the government medical colleges and retiring unblemished from there. They have a great standing and they will maintain their reputation even in private set up. Many eminent retired government doctors have refuted the report that the proposal to allow post-mortem examinations in private medical college hospitals would create room for manipulation [3]. Taking note of this Indian Academy of Forensic Medicine in its annual meeting in 2006 passed a resolution recommending the Medical Council of India and various state governments to take steps so that autopsy work can be started in private medical colleges.

There is great need that post-mortem services be started in the private medical colleges so that students and public get the benefit of forensic medicine experts. The quality of outcome of the investigations will be much better if they are handled by forensic medicine specialist as compared to non specialized medical doctors. Medical students will also be able to grasp the highly technical subject in a better way if they have more practical exposure which is possible only if they are exposed to post-mortem work in their own institutions under the guidance of forensic medicine experts.

References:

1. Pt. Parmanand Katara V/s Union of India and others, Writ Petition (Criminal) No. 270 of 1988. SC 1989 AIR 2039.
2. The Code of Criminal Procedure (Amendment) Act, 2005 [No. 25 of 2005].
3. Proposal on post-mortem defended. The Hindu, Kerala, Kozhikode: 24/10/2005 <http://www.thehindu.com/2005/10/24/stories/2005102409350500.htm> (retrieved on 24/11/2007)

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