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EXPERT EVIDENCE: RELEVANCY AND APPRECIATION IN CIVIL MEDICAL NEGLIGENCE CASES OF INDIA

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AABHL Conference, Christchurch
December 07, 2025

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EXPERT EVIDENCE - MEANING AND SIGNIFICANCE

- Expert Evidence or Expert Opinion Evidence - Opinion by an individual having expertise in a field of science/art;
- Expert Evidence - advisory in character and not binding on Commissions.
- Significance - Dual duties

DUAL DUTIES OF AN EXPERT

The first duty of the expert is to explain the technical issues as clearly as possible so that it can be understood by a common man.

The other function is to assist the Fora in deciding whether the acts or omissions of the medical practitioners or the hospital constitute negligence. (Compensation)

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STATUTORY AND JUDICIAL RECOGNITION OF EXPERT EVIDENCE



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The Consumer Protection Act, 2019

“66. Experts to assist National Commission or State Commission.—Where the National Commission or the State Commission, as the case may be, on an application by a complainant or otherwise, is of the opinion that it involves the larger interest of consumers, it may direct any individual or organisation or expert to assist the National Commission or the State Commission, as the case may be.”

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STATUTORY AND JUDICIAL RECOGNITION OF EXPERT EVIDENCE



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The Consumer Protection Act, 2019

“38(9)(a) the summoning and enforcing the attendance of any defendant or witness and examining the witness on oath;

(c) receiving of evidence on affidavits;

(d) the requisitioning of the report of the concerned analysis or test from the appropriate laboratory or from any other relevant source;”

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STATUTORY AND JUDICIAL RECOGNITION OF EXPERT EVIDENCE



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V. Kishan Rao vs. Nikhil Super Specialty Hospital (2010) 5 SCC 513

The Supreme Court of India

“54. This Court however makes it clear that before the consumer Fora if any of the parties wants to adduce expert evidence, the members of the Fora by applying their mind to the facts and circumstances of the case and the materials on record can allow the parties to adduce such evidence if it is appropriate to do so in the facts of the case.”

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CORROBORATION OF EXPERT EVIDENCE WITH SCIENTIFIC CRITERIA

Ramesh Chandra Agrawal vs. Regency Hospital (2009) 9 SCC 709

The Supreme Court of India



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“The duty of an expert witness is to furnish the Judge with the necessary scientific criteria for testing the accuracy of the conclusions so as to enable the Judge to form his independent judgment by the application of these criteria to the facts proved by the evidence of the case. The credibility of such a witness depends on the reasons stated in support of his conclusions and the data and material furnished which form the basis of his conclusions.”

- The Opinion alone ought not to be treated as a gospel truth.

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OBSERVATIONS FROM THE PRESENTER'S LITIGATION PRACTICE

Experts from private hospitals - Potential bias?

1. Jacob Mathew vs. State of Punjab, (2005) 6 SCC 1 (Experts preferably from Government Hospitals) - No embargo on private hospital doctors to act as Experts.
2. Cross-examine the Expert to prove or disprove bias; no scope for speculation.

Only the Complainant/Patient has the right to lead expert evidence?

1. Burden of Proof on the Complainant/Patient
2. Shifting character of Burden of Proof; equal opportunity to disputing parties.

CONCLUSION



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- Medical Negligence Litigation in India - Niche practice area
- Necessary to spread awareness amongst Judges and Lawyers on the current position of law.
- Objective application of the law would shape the medical law jurisprudence in India.

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THANK YOU



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