

Indian Dental Malpractice Claims and Lawsuits: A Medico-Legal Analysis

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ABSTRACT

Background and Aim: The law of the land assumes that a dentist will always use credible skill, care, and caution in the care of patients. Failing to do something that one is supposed to do (act of omission) or doing something that one is not supposed to do (act of commission) falls under the purview of medical jurisprudence. Each patient is legally entitled to get quality medical care from a physician; failure to such trust is an actionable offense and grievances can be challenged in consumer redressal forums. This analytical study was aimed to study the reasons for dental negligence cases that sought judicial assistance in consumer courts in terms of monetary benefits and also to study the delay in settlements. **Materials and Methods:** Archival data of final court-pronounced judgment cases on dental negligence between 2018 and 2022 (i.e., 5 years) were gathered from customer forum websites (<https://confonet.nic.in>, <http://indiankanoon.org/doc>, and www.casemine.com). A total of 56 proven dental allegation cases were retrieved. In each verdict case, the allegation against dentist by the plaintiff was recorded, and the response to the complaint by the defendant was studied and analyzed. The year of filing the case and date of judgment, basis of compensation awarded, delay in judgment and role of expert evidence appointed by the court assessed. **Results:** Misdemeanor by serious negligence: 3, slight negligence: 8, negligent injuries: 35, felony of injuries by serious negligence: 10. **Conclusion:** Because dentistry involves making decisions in unclear scenarios that affect patient care, there is an inherent danger of malpractice litigation. Awareness of medico-legal issues and professional indemnity insurance coverage for the dentist to safeguard himself from negligence, continuous medico-legal training and documentation of records, and adherence to clinical standards for procedures should be emphasized as prior motives to enhance the standard of care, and a basic awareness of how Indian courts resolve disputes would help dentists plan their professional indemnity insurance and operate their profession properly.

KEYWORDS: Accountability, compensation, consumer court, duty breach, expert evidence, negligence, plaintiff

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INTRODUCTION

“National Consumer’s Rights Day” is observed on December 24th to raise awareness about consumer rights. The Consumer Protection Act of 1986 empowers consumers and safeguards them against market abuse and social injustice. The Supreme

Court declared that doctors are likewise covered by this act.^[1,2]

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The dental professional renders “service” to his patients with an understanding to provide care to their patients, dentists must meet particular credentials and demonstrate sensitivity. If a patient is dissatisfied, they may sue for “failure to provide service” under the Consumer Protection Act.^[3-5] Dentists have an ethical responsibility to serve humanity. Unfortunately, some prioritize profit over patients. This unhealthy relationship between doctor and patient leads to the patient feeling helpless and exploited due to their anxiety and uncertainty.^[6,7] Medical professionals are not immune to negligence in contract or tort under Indian legal ethics. Medical ethics has to guard against the misuse of a doctor’s power.^[8,9]

Oral health is a basic component of the general health of the individual, and due to modern lifestyle changes, people are more prone to a number of oral health diseases.^[10,11] Despite increased per capita expenditure on the general health of the population by government-supported and fully financed health insurance and public health policy under the flagship scheme of Ayushman Bharat, the Pradhan Mantri Jan Arogya Yojana (PM-JAY), which provides cashless access to health care services across India but does not cover general dental diseases, and even individual private insurance companies offering dental insurance schemes with high premium costs for limited dental treatments.^[12,13] All these harsh ground realities suggest that oral health is still a neglected facet because of lack of dental insurance coverage plans and government support for all treatments to individuals, families, and groups, and escalating trend of inflation and high treatment costs, the utilization of oral care services becomes still a common burden and exploitation by private practitioners.^[14,15] This novel study intends to analyze the epidemiology of dental malpractice and hazardous practices used across India.

OBJECTIVES

To study the reasons for dental negligence cases that sought judicial assistance in consumer courts in terms of monetary benefits and also to study the delay in settlements.

MATERIALS AND METHODS

DATA COLLECTION

A total of 56 cases were retrieved from archival data of judgment records on dental negligence from the years 2018 to 2022. Judgments were accessed from the open consumer forum websites <https://confonet.nic.in>, <http://indiankanoon.org/doc>, and www.casemine.com (by using the keyword “Dental Negligence” in the text

phrase search box)^[8,16-18] The following parameters were analyzed:

1. The year the lawsuit began^[19-22]
2. Type of court
3. Branches of Dentistry
4. Reason for the allegation
5. What kind of health facility offers dental care?
6. If an expert has been designated or not^[23]
7. The witness’s area of expertise or specialization^[23]
8. The doctor’s expert opinion’s impact on the case’s outcome^[24,25]
9. Amount of compensation demanded^[24,25]
10. Compensation amounts sanctioned
11. Basis for the compensation amount awarded to the plaintiff
12. Number of days delayed between treatment and judgment pronounced^[26]

BASIS FOR CALCULATING COMPENSATION^[24]

Compensation under common law for medical negligence includes financial loss, future medical expenses, and pain and suffering.

$$\text{Formula} = 70 (\text{age}) \times \text{annual income} \pm 30\% \text{ for inflation} - 1/3 \text{ for expenses}$$

STATISTICAL ANALYSIS

SPSS was used for statistical analysis, definitive variables were analyzed using the Chi-square test, and continuous variables by using *t* test. The study protocol was approved by the Institutional Ethics Committee of the Army College of Dental Sciences, Secunderabad.

Categorical variables	Continuous variables
Compensation	Dentist dissatisfaction
Litigation status	Mistrust
Financial incentive	Upset with health
Expert opinion	Delay

INCLUSION CRITERIA

- Case law on dentistry with a 5-year timeline (2018–2022)
- Cases involving inquiry and legal counsel opinion
- All dental practitioners in India

EXCLUSION CRITERIA

- Road traffic accident cases
- Unlicensed practice cases
- Nondental complaints
- Government/NGO institutions providing free services are excluded
- Ongoing cases excluded

RESULTS

DISCUSSION

Malpractice claims can cause financial and emotional distress for both dentists and patients.^[27] The Dental Council of India regulates ethical dentistry in India, which was founded under the Dentist Act of 1948.^[3,8,11] Utilization and access to dental services for dental problems are delivered in India by the government/non-government, mostly by private establishments.^[28] Health is the greatest of all possessions reflecting the age-old proverb, “If health is lost everything is lost.” Everybody shall have the right to life and health. If anybody is deprived of the enjoyment of his health, then he can go to the court of law for the enforcement of his right. A patient should always obtain all the benefits for his health and prosperity, which he deserves based on humanity, law, and ethics.^[10] Patients had to spend out-of-pocket expenditure for dental problems fixed and they were forced to “pay or suffer.”^[29] This societal issue deteriorates the patient–dentist interaction and as per the doctrine of legitimate expectation, the standard of care should be high for a dentist, but if breached, it would contribute materially to mental agony, physical pain and suffering, and emotional and economic loss to the patient. This disturbing trend of disputes over dental negligence and medico-legal claims has been raising.^[11,30] India passed the COPRA, a comprehensive law, in 1986 with the goal of advancing and safeguarding consumer interests. In order to settle conflicts, consumer councils have been established at the district, state, and federal levels. It encompasses six distinct consumer rights [Figures 1–5].^[31–33]

In the present study, we gathered and analyzed data on legal suits regarding dental malpractice cases in

India from the years 2018 to 2022. There were a total of 56 cases retrieved from the archival data of lawsuit cases against dentists, indicating rising awareness and the tendency of patients to claim legal rights. Based on regional registration, this study reveals that state consumer courts handled the bulk of cases ($N = 30$), and private practitioners are involved more ($N = 45$), indicating that the urban population is exploited more [Table 1]. However, it must be noted that most government institutes have an internal public grievance redressal system for patient concerns and problems, but cases have reached criminal courts ($N = 6$). Our study found that the specialties mostly involved were oral surgery ($N = 17$) and endodontics ($N = 14$) [Figure 2]. Studies show that prosthetics have high claims, according to Kiani and Azadi^[34] Wu *et al.*^[35] found implant dentistry-related litigation at 37%, and oral surgery at 25%. Makwakwa *et al.*^[36] found maxillofacial surgery at 27.3%, endodontics at 22.7%, and prosthetics at 22.7%. Fernandez^[37] found oral and maxillofacial surgery at 39.52%, dental implants at 16.94%, and orthodontics at 12.9% in Costa Rica. Rovida *et al.*^[38] found oral and maxillofacial surgery at 42%, while Montagna *et al.*^[39] found prosthetics at 70% for failures. According to Moles *et al.*,^[40] 28% of

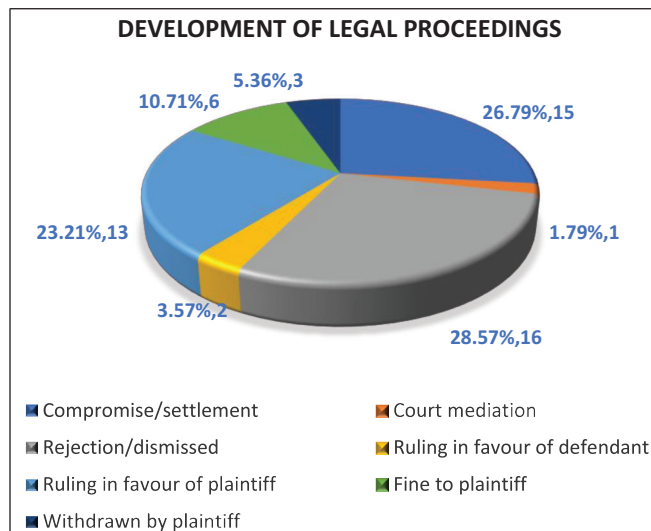


Figure 1: Development of legal proceedings^[48]

Category	N
Distribution of cases year-wise	
2018	13
2019	10
2020	11
2021	8
2022	14
Total	56
Type of institution	
Public	6
Private	45
University/college	5
Total	56
Geographical distribution of courts	
District	16
State	30
National	10
Total	56
Major specialties involved	
Implant	7
Oral surgery	17
Pedodontics	2
Endodontics	14
Prosthodontics	5
Operative dentistry	2
Periodontics	4
Orthodontics	5
Total	56

complaints were related to oral surgery, and 24% to restorative procedures.

When the defendant was found guilty in the trials examined for this study, the plaintiff was typically awarded compensation. With a maximum of Rs. 500,000 and a minimum of Rs. 50,000, the average compensation paid by the defendant to the plaintiff for oral surgery and endodontic cases was substantial [Table 2]. Comparably, an Indian study found that the average compensation was $93,535.07 \pm 139,011.99$ —Thavarajah *et al.*^[8]

The study’s claims, as shown in Table 3, were based on dental neglect cases ($N = 21$). The patients in these

circumstances, in contrast to Melani *et al.*,^[41] frequently took legal action to recover money for dental damages. According to the report, over 29% of the claims that were examined resulted from patients undergoing treatments that they weren’t comfortable with because

Table 2: Compensation amount awarded

Compensation amount (in rupees)		
Compensation in settlement cases	Mean	263000.00
	Standard dev.	219305.72
	Median	150000.00
	Minimum	50000.00
	Maximum	500000.00
Verdict in favor of plaintiff cases	Mean	143300.00
	Standard dev.	160333.87
	Median	64000.00
	Minimum	22500.00
	Maximum	400000.00

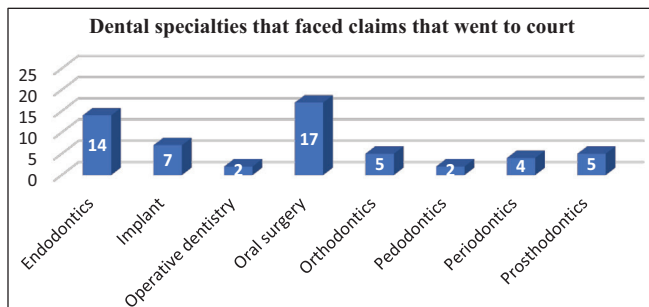


Figure 2: Dental specialties that faced claims and went to court^[34]

Table 3: Rationale for lawsuits and court decisions

Preprocedural allegation	<i>N</i>
Incorrect or delay in diagnosis	8
Improper treatment plan	7
Lack of informed consent	12
Improper equipment setting	2
Negligence	21
Nonaccompaniment of family	5
Patient fault or treatment refusal	3
Failure to involve a specialist	4
Failure to disclose	3
Intraprocedural allegation	
Broken instrument/concealing	4
Hypoxia during therapy	-
Hammering caused a bone injury	2
Sodium hypochlorite irritation	9
Excessive occlusal adjustment	1
Injury to anatomy	3
Improper local anesthesia	6
Tooth avulsion during therapy	2
Wrong tooth extraction	6
Pain	14
Postprocedural allegation	
Bleeding	4
Improper medication	2
Improper referral	3
Infections	4
Paresthesia	1
Cancer due to extraction	1
Unnecessary procedure	7
Warranty/not replacing	3
Wrong procedure/outcome	15
Lack of qualifications	16
Refusal to help	5
Prescription error/unwanted drug effects	2

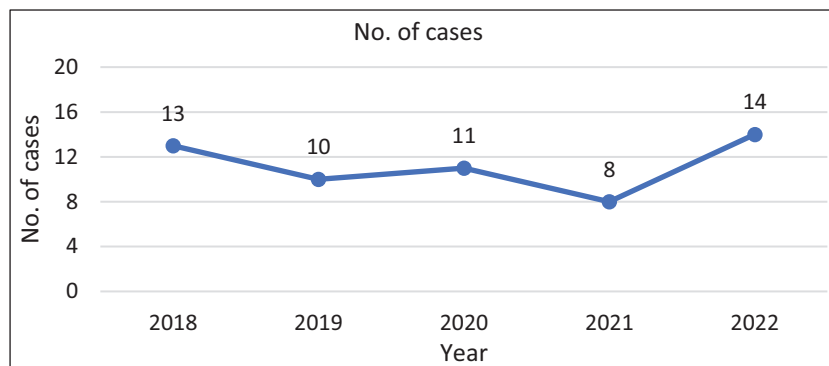


Figure 3: Number of specialties involving dental misconduct brought against dentists^[48]

they were suspicious or unsatisfied, which eventually broke confidence [Table 4].

As depicted in Figure 4, our analysis illustrates the exponential rise in the number of technical and scientific reviewers appointed by consumer courts. The results of expert witnesses Zanini *et al.*^[42] (84.2%) and Montagna *et al.*^[39] (73.1%) are consistent with this tendency. According to our analysis, consumer courts' rulings throughout litigation revealed that, in 26.79% of cases, the defendants reached a compromise, and in 28.57% of cases, the courts dismissed the case. Research by Pérez *et al.*^[25] found that 89% of criminal proceedings ended with an acquittal. However, in a similar study conducted in the Riyadh region by Aldahmashi *et al.*,^[43] the outcomes showed a ruling in

favor of defendant 12.6%, a ruling in favor of plaintiff 54.3%, a case dismissed of 9.9%, a settlement 20.5%, and a withdrawal by plaintiff 2.6%. Similar to a study by Pérez *et al.*,^[25] which found that it takes an average of 4.38 years from the date of the lawsuit event to resolve this type of lawsuit, In contrast, the average waiting time for the verdict in this study was 4 years.^[26] On the contrary, a study done by Alsaed *et al.*^[4] in Saudi Arabia found that it took less than 6 months for the disposal of court-trial judgments.

The Indian Supreme Court has established several standards for paying damages for medical negligence, and the reasons were loss of income, medical costs incurred till the date of judgment, future medical costs, pain and suffering, cost of litigation, inflation and interest, and loss of companionship, care, and protection of a spouse due to the medical negligence,^[24,44] whereas in a study by Delduque *et al.*,^[45] the reasons for awarding compensation were moral, material loss, aesthetic, and death due to medical negligence.

Table 4: Type of conviction

Type of conviction	No. of cases
Misdemeanor by serious negligence	3
Misdemeanor by slight negligence	8
Impersonation	0
Negligent injuries	35
Felony of injuries by serious negligence	10

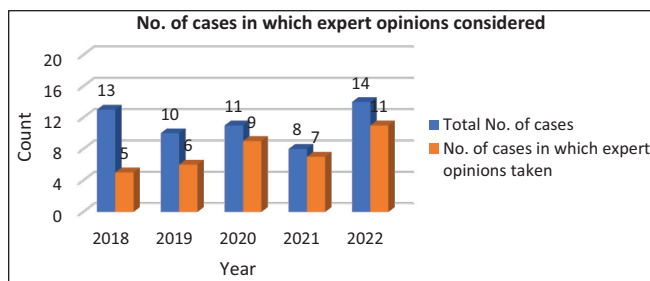


Figure 4: Role of expert witnesses in lawsuits^[42]

CONCLUSION

This study is devoted to all the victims of medical malpractice, whose agony inspired us to begin this endeavor, and will increase awareness of medical malpractice and improve dental care in India. Subpar care and discontent with the treatment's outcome are the two most common errors in dental procedures. To achieve this, solutions must be developed at different levels, including the government, institutions, and individuals. Ethical dentistry based on scientific evidence can minimize risks and benefit patients. Improving India's healthcare system requires more political will, human resources, and investment.

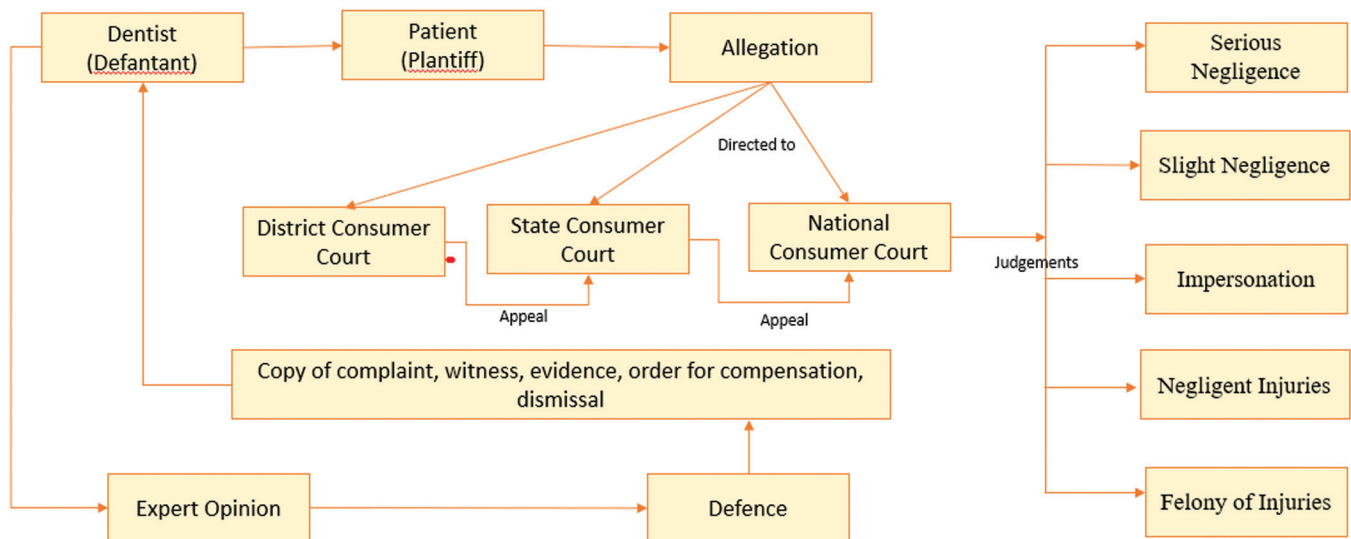


Figure 5: Redressal mechanism for handling lawsuits in India^[49,50]

FUTURE RECOMMENDATIONS

There is a need for the inclusion of topics related to professional liability and dental negligence in the curriculum of undergraduate students, and the importance of professional indemnity insurance coverage to protect dentists should be thought. The government, in collaboration with the Dental Council of India and national insurance companies, should initiate and frame a policy for dental insurance coverage for all dental treatments across India.^[27,36,46]

LIMITATIONS

1. Insufficient medical understanding of the legal system while rendering decisions.
2. These situations are frequently emotive, and the parties to these disagreements have larger needs and objectives that the existing system ignores.
3. This study could not account for missing confounders, such as occupational and psychological predictors of medical misconduct among dentists in India.

TIPS TO MINIMIZE PROFESSIONAL LIABILITY CLAIMS

The practicing dentists should assess the risk, understand patient needs, and explain the pros and cons of the treatment involved with patient consent, follow strict standard clinical norms in performing the procedure, and document it in a medical record.^[22,47]

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CONFLICTS OF INTEREST

There are no conflicts of interest.

AUTHOR CONTRIBUTIONS

SVNV: Conceptualization, design, data acquisition, analysis, statistical analysis, manuscript preparation, editing, and review. MR: Intellectual content definition, literature search, data analysis, manuscript preparation, editing, and review. VP: Literature search, data analysis, editing. MK: Data acquisition, analysis. HJ: Statistical analysis, manuscript preparation, editing, and review.

ETHICAL POLICY AND INSTITUTIONAL REVIEW BOARD STATEMENT

Approved (IEC application number: ACDS/IEC/122/2023).

PATIENT DECLARATION OF CONSENT

Not applicable.

DATA AVAILABILITY STATEMENT

All data generated or analyzed in this study are included in the paper. The additional data for this study are available on request from SVNV at vnssunil@gmail.com.

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