Commentary

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Can a Doctor's Family be Held Liable after the Doctor's Death? Legal and Ethical Reflections on the Kumud Lall Judgment

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Abstract

Medical negligence claims may continue for several years, and difficulties arise when the treating doctor dies before final adjudication. Here we examine the Supreme Court's judgment in Kumud Lall v Suresh Chandra Roy, which considered whether legal heirs of a deceased doctor can be brought on record in a pending consumer complaint. The judgment clarifies that such claims do not automatically end with the doctor's death, but any liability is civil in nature and limited to the estate inherited by the legal heirs. It does not impose personal blame or professional guilt on the doctor's family. The commentary discusses the distinction between civil and criminal liability, compares medical negligence with other professional negligence claims, and highlights ethical concerns related to patient compensation, evidentiary fairness, documentation, and prolonged litigation. The judgment reinforces the need for evidence-based adjudication, careful record keeping, informed consent, and professional indemnity in medical practice.

Keywords: Medical Malpractice; Professional Liability; Jurisprudence; Ethics, Medical; Physicians; Informed Consent; Medical Records; Documentation; Compensation and Redress

Introduction

Medical negligence cases often continue for many years before reaching final judgment. During this period, patients may die, families may change, and occasionally even the treating doctor may no longer be alive. This raises an important legal and ethical question: can a negligence claim continue against the legal heirs of a deceased doctor?

The Supreme Court recently examined this issue in Kumud Lall v Suresh Chandra Roy [1]. The case involved allegations of negligent ophthalmic surgery resulting in loss of vision. During the pendency of proceedings, the treating doctor died, following which the complainant sought substitution of the doctor's legal heirs in the ongoing case.

Questions of this nature are not limited to medicine alone. Similar situations may arise in cases involving architects, engineers, lawyers, or drivers, where civil claims continue after the death of the individual against whom negligence was alleged. In medicine, the issue carries additional sensitivity because medical outcomes are uncertain even when treatment is appropriate and complications may occur despite reasonable care. The Supreme Court itself noted in paragraph 24 of the judgment that the principles discussed in this case may have implications for other tortious claims, including motor vehicle accident compensation and industrial injury litigation [1].

For doctors, the judgment has practical importance. Medical negligence litigation in India frequently extends over years before final adjudication. If proceedings automatically end upon the death of the doctor, patients and families may lose the opportunity for compensation solely because of delay in adjudication. At the same time, continuation of proceedings against the family members of a deceased doctor raises concerns regarding fairness, professional liability, and the extent to which civil claims can survive after death.

The Court was required to examine whether a medical negligence claim survives against the estate of a deceased doctor and whether legal heirs can be brought on record in pending consumer proceedings. In doing so, it revisited the common law principle *actio personalis moritur cum persona,* meaning a personal action dies with the person. In deciding whether the claim could continue against the legal heirs of the deceased doctor, the Supreme Court considered Section 306 of the Indian Succession Act, 1925, Order XXII of the Code of Civil Procedure, 1908, and Section 13(7) of the Consumer Protection Act, 1986 [1–4].

What happened in the case?

The dispute began in 1990, when the complainant took his wife to Dr. PB Lall, an ophthalmologist in Munger, Bihar, for severe pain in her right eye. According to the complainant, Dr Lall examined her on 10 February 1990 and advised immediate surgery, which was performed the next day. The patient later developed recurrent pain and continued to remain symptomatic despite further treatment. The complainant subsequently consulted doctors in Bhagalpur, Aligarh and Chennai, and alleged that his wife had lost vision in the right eye due to wrong treatment and surgery.

In 1997, the complainant filed a consumer complaint against Dr Lall before the District Forum, Munger, alleging deficiency in service and claiming compensation of ₹4,50,000. The claim included treatment expenses, travel expenses, compensation for loss of vision, and mental agony.

The District Forum partly allowed the complaint in 2003. It held Dr Lall negligent and directed him to pay a total compensation of ₹2,60,000, including ₹2,00,000 for loss of vision, ₹35,000 towards treatment-related expenditure, and ₹25,000 for mental agony.

Both sides appealed. In 2005, the State Consumer Disputes Redressal Commission, Patna, reversed the District Forum's order. It held that the patient's loss of vision was due to glaucoma and that there was no expert evidence to prove medical negligence by Dr Lall. The State Commission also observed that the surgery had been performed with the intention of relieving pain and was acceptable under medical ethics.

The complainant then approached the National Consumer Disputes Redressal Commission through a revision petition. During the pendency of this revision, Dr Lall died on 4 August 2009. The complainant applied to bring Dr Lall's legal heirs, his wife and son, on record. The NCDRC allowed this application in 2010. The legal heirs objected, arguing that Dr Lall had already succeeded before the State Commission and that there was no existing decree against him on the date of his death. They contended that the case should abate and that they could not be made parties for the alleged personal negligence of the deceased doctor.

The NCDRC rejected their objection in 2018 and held that, if liability was eventually established, the legal heirs would be liable only to the extent of the estate inherited from Dr Lall. The legal heirs then approached the Supreme Court. The central question before the Court was whether, after the death of a doctor during pending appellate or revisional proceedings, the legal heirs could be impleaded and held liable for alleged medical negligence, and if so, to what extent.

Why did the Court Face a Dilemma?

The difficulty before the Court arose because two competing principles were pulling in opposite directions. On one side was the older legal principle that a personal action dies with the person. In simple terms, if a claim is purely personal to an individual, it may not continue after that person's death. The legal heirs of Dr Lall relied on this principle and argued that an allegation of medical negligence was personal to the doctor. Since Dr Lall had died during the pendency of the revision, they submitted that the case should come to an end. They also pointed out that, on the date of his death, there was no existing decree against him because the State Commission had already set aside the District Forum's order.

On the other side was the argument that the complainant's claim was a civil claim for compensation. If the doctor had left behind an estate, and if negligence was eventually proved, the compensation could be recovered only from that estate. The respondents argued that the heirs were not being blamed personally for the doctor's conduct. They were being brought on record because they represented the estate of the deceased doctor.

The Consumer Protection Act also added to the difficulty. Section 13(7) of the Consumer Protection Act, 1986 provides that when a complainant or opposite party dies during proceedings, Order XXII of the Code of Civil Procedure applies. Order XXII allows legal representatives to be brought on record when the right to sue survives. The problem was that the procedure allowed substitution, but the Court still had to decide whether the substantive right to continue the case survived after the doctor's death.

The Court also had to consider Section 306 of the Indian Succession Act, 1925. This provision deals with which legal claims survive against the estate of a deceased person. The older rule protects heirs from being personally answerable for certain personal wrongs of the deceased. At the same time, civil claims connected with loss to estate may still survive. This created the central difficulty: *Should medical negligence be treated as a purely personal claim that ends with the doctor's death, or as a compensatory claim that may continue against the estate?*

The case also raised a practical concern. Medical negligence litigation often takes many years. If a claim automatically ends because the doctor dies before final judgment, delay itself may defeat the complainant's right to compensation. But if every claim continues fully against the doctor's family, the heirs may be dragged into litigation for professional acts they did not perform and could not defend from personal knowledge.

The Court therefore had to balance three concerns: *The patient's right to seek compensation, the doctor's right to defend his professional conduct, and the heirs' right not to be made personally liable for an act they did not commit.* This is why the question was not simply whether the doctor's wife and son could be added as parties. The real issue was the extent to which a negligence claim could survive against the estate of a deceased doctor.

How is this Different from Criminal Liability?

Doctors often worry that continuation of a negligence case against legal heirs means that the family is being punished for the doctor's conduct. That is not correct. There is an important difference between criminal liability and civil liability.

Criminal liability is personal. If a doctor is accused of a criminal offence, the case is against that doctor as an individual. Criminal responsibility cannot be inherited by the doctor's spouse, children, or other legal heirs [5]. A deceased doctor cannot be tried or punished after death, and the family cannot be sent to jail or criminally punished for the doctor's alleged act.

Civil liability is different. Civil cases usually deal with compensation. The question is not punishment, but whether a person who suffered harm should receive monetary relief [1,6]. If a civil claim survives after the death of a defendant, the legal heirs are brought on record because they represent the estate of the deceased person. They are not treated as wrongdoers. Their liability, if any, is limited to the property or assets inherited from the deceased. This was also the position recorded in the NCDRC order under challenge, where the legal heirs were stated to be liable only to the extent of the estate left behind by Dr Lall, if the claim was ultimately decided against him.

This distinction is important for doctors. A finding of civil negligence may lead to compensation. A finding of criminal negligence requires a much higher threshold, involving gross negligence or recklessness, and may lead to penal consequences. The Supreme Court has previously emphasized this difference in medical negligence cases, particularly in Jacob Mathew v State of Punjab [7], where it held that criminal prosecution of doctors requires a degree of negligence much higher than negligence sufficient for civil liability.

In the present case, the question was limited to civil liability in a consumer complaint. The Court was not deciding whether the doctor's heirs could be criminally prosecuted. It was deciding whether a pending compensation claim could continue against the estate of the deceased doctor. This makes the issue less about punishment and more about the survival of financial responsibility after death.

How Other Professions Handle Negligence, and Why Doctors are Different?

The concern raised by this judgment should not be seen as a problem faced only by doctors. Civil negligence is a broader professional issue. Architects, engineers, lawyers, auditors, drivers, contractors and doctors may all face claims when their work causes harm. The common thread is the same: a professional or service provider owes a duty of care, fails to meet the expected standard, and another person suffers loss.

For example, if an engineer gives a defective structural design and the building later becomes unsafe, the claim is not only about the engineer's intention. It is about the loss caused by professional failure. If an architect certifies poor construction or overlooks serious design defects, a civil claim may arise. If a lawyer misses a limitation period and the client loses the right to pursue a valid case, the loss may be financial rather than physical, but it still arises from professional negligence. In motor accident cases, the same principle operates in a more familiar form: compensation is linked to injury, loss of income, medical expenses and other measurable consequences.

In professional negligence, the central question is usually whether the professional met the standard of care expected from a reasonably competent person in that field [6]. The traditional test for professional medical negligence was stated in Bolam v Friern Hospital Management Committee, where the court held that a doctor is not negligent if acting in accordance with a practice accepted as proper by a responsible body of medical opinion [6].

The Supreme Court in Kumud Lall recognised that the issue before it had implications beyond medical negligence. It specifically observed that the principle may affect many tortious claims, including personal injury claims, motor vehicle accidents and industrial accidents. This is important because doctors should not read the judgment as an isolated attack on the medical profession. The legal question is part of a larger civil liability framework.

The comparison with other professions is useful for another reason. In most professional negligence claims, the law is concerned with compensation rather than moral condemnation. The architect's family is not morally blamed for a defective design. The lawyer's heirs are not treated as professionally guilty. The engineer's children are not accused of having caused the structural defect. If a claim survives, it survives only as a claim against the estate, not as a personal accusation against the heirs. The same logic applies to doctors. In this case, one of the arguments before the Court was that if liability were eventually fixed, it would be recoverable only from the estate inherited by the legal heirs.

Doctors, however, are different from many other professionals in their work. An engineer usually works with materials that behave according to predictable physical principles. An auditor works with records. A lawyer works with documents, limitation periods and procedure. A doctor works with human biology, uncertainty, incomplete information, emergencies, co-morbidities, patient variation and rapidly changing clinical conditions. A bad outcome in medicine does not automatically mean negligence.

This difference is recognised in medical negligence law. In Jacob Mathew v State of Punjab, the Supreme Court drew a clear distinction between ordinary civil negligence and criminal negligence in medical practice. It observed that a doctor may be liable in tort for want of due care, but that such conduct may still fall short of the recklessness or gross negligence required for criminal liability [5]. This distinction matters because medical decision-making often involves risk even when the doctor acts with reasonable competence.

Medicine also differs because treatment decisions are often made under pressure. Emergency physicians may need to act before a full history is available. Surgeons may face unexpected intraoperative findings. Intensivists may make

decisions in unstable patients where every option carry risk. Obstetricians, anaesthetists and emergency doctors often work in situations where delay itself may be dangerous. In such settings, later review of the outcome must be careful not to confuse complication with negligence.

Another difference is the emotional nature of medical harm. When a building defect causes financial loss, the dispute may remain largely commercial. When a patient loses vision, suffers disability or dies, the injury affects dignity, trust and family life. This emotional context makes medical negligence litigation more intense for both sides. Patients and families may feel abandoned or deceived. Doctors may feel that years of training and service are being judged only by one adverse event.

The comparison with other professions therefore leads to a balanced position. Doctors should not be placed above the law. Patients harmed by negligent treatment deserve a remedy. At the same time, doctors should not be treated as insurers of cure. The standard should remain reasonable care, not perfect outcome. The law must preserve compensation for proven negligence while protecting doctors and their families from automatic blame based only on poor clinical outcome.

The estate-liability question must also be handled with care. If a deceased engineer's estate can answer for proven civil loss, there is no obvious reason why a deceased doctor's estate should receive complete immunity in every case. But medical claims require a stricter and more clinically informed assessment of negligence. The Court's discussion of "loss to estate" is useful here. Claims for measurable pecuniary loss, such as treatment expenses or financial loss, stand on a different footing from purely personal claims such as pain and suffering. The amicus in Kumud Lall specifically suggested that loss-to-estate claims may survive even if personal injury claims do not survive in full.

Ethical Concerns

The judgment raises a difficult ethical question for both patients and doctors: how should the law respond when alleged professional negligence is still undecided and the doctor dies during the case?

The First Concern is Justice for the Patient. A patient who has suffered harm should not lose the possibility of compensation only because litigation has taken too long. Medical negligence cases often move slowly through consumer forums and appellate bodies. If the death of the doctor automatically ends the case, delay may decide the outcome instead of evidence. The patient's suffering, expenditure and disability may remain real, but the legal remedy may disappear. In Kumud Lall v Suresh Chandra Roy, the Supreme Court noted that the issue before it had implications beyond medical negligence, including other tortious claims such as motor vehicle accidents and industrial accidents. Patients should not be denied compensation for proven negligence merely because the professional died before the case ended.

The Second Concern is Fairness to the Doctor's Family. The legal heirs did not treat the patient. They did not make the clinical decision. They may not have access to the doctor's memory, reasoning, or communication with the patient beyond what is available in the medical record. Making them personally answerable for the doctor's alleged negligence would be unfair. The distinction between personal liability and estate liability therefore becomes central. Legal heirs represent the estate of the deceased; they do not inherit professional guilt [1,3].

The Third Concern is Moral Blame. Negligence law must be careful not to convert a compensation claim into inherited guilt. A doctor's spouse, son or daughter cannot inherit professional misconduct. They can only represent the estate in a pending civil proceeding, if the law permits the claim to continue. This distinction protects the dignity of the deceased doctor's family while allowing the complainant's claim to be examined.

The Fourth Concern is the Uncertainty Of Medicine. Medical practice is different from many commercial or technical services. A poor outcome may occur despite proper care. Complications may occur without negligence. Disease biology, co-morbidities, delayed presentation, incomplete information and emergency circumstances may all influence outcomes. The Supreme Court has repeatedly cautioned that negligence in medicine cannot be inferred merely from an adverse result. In Jacob Mathew v State of Punjab, the Court distinguished civil negligence from criminal negligence and held that criminal liability requires a much higher degree of negligence than that required for civil liability [5].

The Fifth Concern is Evidentiary Fairness. Once the doctor has died, the defence may become weaker. The doctor cannot explain why a particular decision was taken, what risks were discussed, what clinical findings were present, or how the patient's condition evolved. This makes contemporaneous documentation extremely important. Poor records harm both sides: patients struggle to prove what went wrong, and the doctor's family struggles to defend the care given.

The Sixth Concern is the Burden Of Prolonged Litigation. A family already dealing with bereavement may be drawn into a dispute involving old medical records, expert opinions and allegations against a deceased doctor. At the same time, a patient's family may also have spent years seeking compensation for an injury they believe was preventable. Ethical adjudication should therefore avoid unnecessary delay, repeated procedural disputes and avoidable harassment of either side.

The Seventh Concern is Professional Trust. Patients must believe that the healthcare system offers a remedy when negligence is proved. Doctors must believe that the legal system will not punish them or their families merely for adverse outcomes. A fair approach should preserve both expectations. It should allow genuine claims to proceed where the law permits, while protecting heirs from personal liability and protecting doctors from outcome-based blame.

The Court's approach reflects this tension. It examined the older principle *actio personalis moritur cum persona,* meaning that a personal action dies with the person, and considered its statutory expression in Section 306 of the Indian Succession Act, 1925 [1,3]. The ethical importance of this distinction lies in separating blame from compensation. Grief and guilt cannot be inherited, but financial claims connected with the estate may require separate consideration.

The judgment in Kumud Lall v Suresh Chandra Roy should be read carefully by the medical profession. It does not make the doctor's family personally guilty. It does not convert medical negligence into hereditary blame. It deals with a narrower civil question: whether a pending compensation claim can continue against the estate of a deceased doctor. The Supreme Court held that the legal heirs of an alleged medically negligent doctor can be brought on record, and that the extent of liability must depend on the pleadings and evidence. [1]

Even while accepting this legal position, the concerns of doctors deserve serious attention. Medical practice cannot be judged in the same manner as a simple commercial transaction. A patient may suffer despite correct diagnosis, reasonable treatment and proper care. Biology is unpredictable, complications are sometimes unavoidable, and emergency decisions are often taken under pressure. The law must therefore remain cautious in separating negligence from poor outcome. The Supreme Court recognised this distinction in Jacob Mathew v State of Punjab, where it warned against criminalising ordinary errors of judgment and held that criminal negligence in medicine requires a much higher degree of fault than civil negligence. [7]

The liability of a deceased doctor's estate should therefore never become a shortcut to compensation. The complainant must still prove negligence. The standard of care must still be assessed with the help of proper medical evidence. The death of the doctor should not weaken the requirement of proof. If anything, adjudicating bodies must be more careful because the doctor is no longer available to explain the clinical reasoning, consent discussion, intraoperative findings or follow-up advice.

A doctor's legal heirs should not be forced to defend professional reputation from personal memory. Their role should be limited to representing the estate. They should not be treated as wrongdoers, subjected to moral suspicion, or exposed beyond the assets inherited from the deceased doctor. Civil law may permit claims against an estate, but professional blame remains personal. This distinction must be preserved in every future medical negligence case.

The judgment also highlights the need for stronger protection systems for doctors. Professional indemnity insurance should become routine, not optional. Hospitals must maintain complete medical records for legally appropriate periods [1,8]. Consent forms, operative notes, discharge summaries and follow-up advice must be written in a way that can speak for the doctor even years later. Medical associations should work toward clearer guidance on estate exposure, indemnity coverage after death, and support for families of doctors drawn into prolonged litigation.

The ethical balance should be this: patients must have access to compensation when negligence is proved, but doctors and their families must be protected from outcome-based blame. A death, disability or complication is not proof of negligence [7,9,10]. A long legal battle should not become punishment by process. The medical profession should accept accountability, but accountability must remain evidence-based, clinically informed and fair.

For doctors, the message is practical. Good care must be accompanied by good documentation. Good intentions must be supported by recorded reasoning. Communication, consent and follow-up are not defensive rituals; they are part of ethical medical practice. For courts and consumer forums, the message is equally important: justice for patients cannot come by diluting fairness to doctors. The law must compensate proven negligence, not every medical misfortune.

Conclusion

This judgment clarifies that a medical negligence claim may survive the death of a doctor, but only as a civil claim against the estate inherited by the legal heirs. It does not make the doctor's family personally liable or morally responsible for the alleged negligence. The judgment reinforces the need for evidence-based adjudication, careful medical documentation, informed consent, and professional indemnity. Courts must protect the patient's right to compensation where negligence is proved, while ensuring that doctors and their families are not unfairly burdened for adverse outcomes alone.

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