

Medico legal Aspects of Food Poisoning

**Dr. Nishat A Sheikh,
Professor
Dept. of Forensic Medicine
Kamineni Institute of Medical Sciences,
Narketpally**

Virtually every case of poisoning, whether acute or chronic has medico legal overtones.

Basically there are three categories of medico legal cases.

- Accidental
- Suicidal
- Homicidal

The vast majority constitutes either accidental or suicidal poisoning, while homicidal cases are quite rare.

Duty to treat

- Foremost duty is to treat and guard patients interest
- Find out nature of poison so that appropriate and timely treatment is instituted.
- If nature of poison is not known, treatment is instituted on general lines.
- High index of suspicion

Government or Private Hospitals: MEDICOLEGAL ASPECTS

Supreme court judgment passed in 1989,
in response to a
Public interest litigation petition.
In Parmanand Katara Vs Union of India
(AIR 1989. SC.2039)

Private hospital **can not** refuse to
treat medico legal cases.

If adequate facilities don't exist for proper treatment

First Aid

Refer with proper referral slip

Necessary arrangement for transfer.....

Doctors full name on medical records.....

As per Supreme Court judgment, dated-
06/05/1996,SLP (C) No.-796/92
Paschim Bengal Khet Mazdoor Samity
Vs. State of West Bengal

Role of Consent

Consent: All diagnostic and Therapeutic procedure specially invasive or Risky in nature.

Without consent : Amounts to assault in Legal sense.

Suicide attempt : Loose the right to refuse treatment, Forced treatment can be given.

Accused : Not necessary to take Consent. But requisition for examination Should be obtained from Police officer not below the rank of Sub-Inspector.

Sec 53 CrPC: Even reasonable force can be used to accomplish the examination. Which include Collection of blood or Urine sample for analysis.

Emergency treatment without consent

Sec 88 IPC : Act not intended to cause death, done by Consent in good faith for persons benefit

Sec 90 IPC : Consent known to be given under fear or misconception

92 IPC- Act done in good faith for benefit of a person without consent

Making of MLC

- All poisoning cases be labeled as “MLC”
- “Late MLC ” :there is no stipulated time period beyond which an MLC can not be registered.
- Request of the patient, relatives or friends regarding **non registration** of an MLC, should not be entertained.

IPD

- I : Information
- P : Preservation
- D : Dying Declaration

Information to Police: Legal Consideration

All poisoning cases to be informed

S.39 Cr.PC- Medical Practitioner is bound to communicate the fact to the nearest police officer or magistrate.

Failure to do so or omission to give information to public servant will make him culpable under Section **176 of IPC**.

S.202 IPC - Omission to give information of offence to police.

Information to Public Authorities

Doctor must inform all cases of Food poisoning to Public Health Authorities as well as to Police because such cases are liable to be registered.

U/S 269 IPC : Negligent act likely to spread Infection dangerous to life.

U/S 272 IPC : Adulteration of food or drink intended for sale.

Professional Secrecy

Divulge to police and Judicial authority.

u/s 175 CrPC : No scope of professional secrecy
148 & 147 IEA

u/s 176 & 202 IPC : Omission to give information to
public servant is punishable offence.

u/s 177 IPC : Furnishing false information-punishable.

All information to the police should be marked as
“confidential”.

- **Sec. 284 IPC** : Deals with the Negligent conduct in relation to poisons and states that “ *whoever does with any poisonous substances any act in any manner so rash or negligent as to endanger human life or to be likely to cause hurt or injury to any person from such poisonous substance, shall be punished with imprisonment upto 6 months or fine upto Rs1000 or both*”.
- Gist of this offence is culpable negligence with respect to poisonous substances.

Preserve Evidence: Legal Responsibility of Clinicians.

- Make every effort to collect and preserve evidence suggestive of poisoning.
- Deliberate omission to do so can attract punishment under section **201 of IPC**.
- Failure to preserve samples may render him liable to be charged **u/s 201 IPC** for causing disappearance of evidence.

Preserve Evidence-Legal Responsibility of Clinicians. cont...

Material should be collected as early as possible

Two sets of samples- **GA, blood and urine**

1. FSL through I.O. (legally Mandatory).
2. Toxicology lab, FMT dept of the hospital.

Utensils, bottles and soiled clothes if brought should be sent for chemical analysis. (It is corroborative evidence).

Handing over of samples to Police

- Proper labeling and sealing under doctors observation.
- Obtain proper application and receipt from police before handing over.
- Keep record in lock and key.

Arrange for Dying declaration

- Ideally Judicial Magistrate should be called
- If death appears imminent or if there is likelihood of delay in the arrival of Magistrate, the attending doctor must himself record the declaration as per section 32, clause 1, of the Indian Evidence Act (IEA).
- Presence of a doctor is desirable during recording of DD.

- It is desirable that the Doctor certify Compos Mentis.
- Compos Mentis :
 - Person is conscious
 - Mental faculties are normal
 - No clouding of judgment

Psychiatric care

- Any patient who has taken overdose or manifest suicidal ideation should get psychosocial assessment and support as early as possible.
- Recognition and precise analysis of patient with suicide tendencies is essential.
- Analyzing the patients psychological state will allow for a realistic appraisal of the psychosocial alternatives with respect to immediate and long term treatment, disposition and continued follow-up or outpatient care.

Death in cases of poisoning

- Dead body along with hospital records should be sent to mortuary for postmortem examination.
- Hospital administration and police should be informed.
- Death certificate should not be issued, but death summary should be prepared in duplicate and handed over to police.



Zero Mile : Nagpur, India

Thank You