Medico-Legal Complexities of Poisoning Cases in India: An Analysis

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ABSTRACT

A doctor when dealing with emergency case like suspected poisoning case needs to be fulfilled legal as well as ethical duties. He does not only require to fulfill basic management protocol but also to handle the legal formalities which followed the treatment part. General treatment duties shall include supportive care, accurate diagnosis, use of toxidromes, removal of unabsorbed poison, elimination of absorbed poison and antidote administration if available. Besides, the legal duties are documentation, clear and accurate treatment and information to legal authorities when necessary. He is duty bound to fulfill all legal and ethical duties concerning a poisoning case otherwise he is liable for punishment as per the current law. Under this article the legal and ethical duties of a Doctor in poisoning case in India is discussed with latest judicial pronouncements.

Keywords

Poisoning case, Medico-Legal Complexities, Management, Legal formalities, Right to Choose Patient

INTRODUCTION

In our country, a majority of the cases of poisoning are suicidal/ accidental in nature. Accidental poisoning is increasing because of the greater use of chemicals for agro industry and domestic purposes in compare to homicidal poisoning case. Besides snake bite also common case in India. It is estimated that annually about 2 lakh people are bitten of whom around 16000 die. According to WHO, 3 million acute poisoning cases with 220,000 deaths occur annually? Of these 90% of fatal poisoning occur in developing countries particularly among agricultural workers. The exact incidence of poisoning in India is uncertain due to lack of data at central level as most cases are not reported moreover mortality data is a poor indicator of incidence of poisoning. It has been estimated that about 5-6 people per lakh population die due to wrath of poisoning every year. There are more than 4000 species of medicinal plants growing as herbs, shrubs and trees in India, many of which are poisonous when administered in large doses.

The commonest cause of poisoning in India and other developing countries is pesticides, such as Organo phosphorous, chlorinated hydro carbons, Aluminium phosphide, Carbamates and pyrethroid, the reasons being agriculture based economic, poverty and easy availability of highly toxic pesticides. Occupational poisoning due to pesticides is also common in developing countries, due to unsafe practices, illiteracy, ignorance, lack of protective clothing.

Acute poisoning forms one of the commonest causes of emergency hospital admissions. Whenever a victim of poisoning is brought to a medical practitioner, even though it is a medico-legal case, medical responsibilities of the doctor assume first importance i.e. saving the life of the patient. Legal duties, i.e. informing the legal authorities and other related procedures always take a back seat in such instances. Therefore the legal duties of the medical practitioner are likely to be missed during the management of the poisoned patient. As medical practitioner is protected against any harm done in good faith to a patient in an emergency situation ethically as well as legally.1

RIGHT TO CHOOSE PATIENT

Every doctor has a right to choose a patient and he can refuse to provide treatment for any patient. But it is unethical to refuse any case of emergency like poisoning, accident etc. In Pt. Parmananda Katara v. Union of India2 the Court laid down that every doctor, whether he is working in Govt. Hospital or Otherwise, has a professional obligation to extend his/ her services with due expertise for protecting life. No doctor shall refuse to treat a patient in emergency. All registered medical practitioners must attend to the sick and the injured immediately and it is the duty of the medical practitioner to make immediate and timely medical care available to every injured person.

1 Section 92 of Indian Penal Code 1860
2 AIR 1989 SC 2039
whether he is injured in an accident or otherwise, life of a person is far more important than the legal formalities.

In Savelife Foundation and Ors. vs. Union of India (UOI) and Ors3, the Supreme Court give directions to the Ministry of Health and Family Welfare that they shall issue guidelines stating that all registered public and private hospitals are not to detain bystander or good Samaritan or demand payment for registration and admission costs, unless the good Samaritan is a family member or relative of the injured and the injured is to be treated immediately. Lack of response by a doctor in an emergency situation, where he is expected to provide care, shall constitute “Professional Misconduct”, under Chapter 7 of the Indian Medical Council (Professional Conduct, Etiquette and Ethics) Regulation, 2002 and disciplinary action shall be taken against such doctor under Chapter 8 of the said Regulations.

The duty of the doctor to provide medical aid has been extended to the private doctors also as exemplified by the High Court of Andhra Pradesh in Pattipati Venkaiah Vs State of AP4. Therefore, it is unethical to refuse any case of emergency like poisoning.

Though, if a doctor working in a government hospital can never refuse treatment to a patient of poisoning, but, on the other hand, a private practitioner has the right to choose a patient and hence, can refuse to treat a case of poisoning also.

DUTY TO INFORM LEGAL AUTHORITY

If someone working in a government hospital, it is mandatory to inform police/authorities regarding a poisoning case, he is bound to inform the legal authorities of all the cases of poisoning regardless of their manner, either suicidal/accidental/homicidal. A private medical practitioner, on the other hand, is not legally bound to inform the legal authorities of all the cases of poisoning. He is only having a legal obligation to inform in homicidal cases (i.e. murder/attempt to murder) of poisoning as per Section 39 Cr.P.C. If he is sure that the case is suicidal/accidental in nature, he needs not to inform any authority. However, a doctor can never be sure about the manner of poisoning, to be on the safe side, he should always inform the legal authorities about any case of poisoning.

Section 176 of IPC makes legally bound to Registered Medical Practitioners to furnish information in homicidal cases to any public servant. If he intentionally omits to give such information in the manner and at the time required by law, shall be punished with simple imprisonment for a term which may extend to one month, or with fine which may extend to five hundred rupees, or with both.

Similarly if the police during investigation demands details of a case of poisoning and the Doctor do not provide the same, the Doctor can be penalized under Sections 193 IPC. If the doctor intentionally gives false evidence in any stage of a judicial proceeding, or fabricates false evidence for the purpose of being used in any stage of a judicial proceeding, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine. Section 202 IPC makes legally bound to a Doctor to give information if he has reason to believe that the case belong to case of homicidal & in case of omission in such legal obligation, he shall be punished with imprisonment of either description for a term which may extend to six months, or with fine, or with both. If he, furnish false information, shall be punished with simple imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both (Section 177 IPC).

In every case of suspected poisoning a medical practitioner whether in private practice or Government job, must preserve all the evidences, such as vomited matter, stomach wash contents and samples of urine or feces passed in his presence and likely to contain poison and suspected articles of food or drink or medication in separate wide mouthed glass bottles with glass stoppers tightly fitted. These should be properly labeled with name of patient; material preserved, date of examination and kept under strict lock and key in his own custody till transferred to chemical examiner for chemical examination. A medical practitioner must also preserve any other evidence of suspected poisoning like bottle, cup, tumbler, piece of paper used for wrapping and dispensing the poison. If he fails to do the same he may be charged under Section 201 I.P.C, for disappearance of evidence as whenever any person knowing or having reason to believe that an offence has been committed, causes any evidence of the commission of that offence to disappear, with the intention of screening the offender from legal punishment, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine. Illustration- A, knowing that B has

3 Savelife Foundation and Ors. vs. Union of India (UOI) and Ors. (Decided on 30.03.2016 - SC) Accessed From Manupatra- MANU/SC/0354/2016
4 AIR 1985 SC 1715
murdered Z, assists B to hide the body with the intention of screening B from punishment. A is liable to imprisonment of either description for seven years, and also to fine.

When the condition of the patient is serious or in case of imminent death, the Doctor must arrange for recording dying declaration as per the laid down rules. If the patient dies, he should not issue a death certificate, but he should inform the police and hand over the body to the police officer for further investigation.

CONCLUSION AND SUMMARY

The doctor in cases of poisoning should not refuse to treat the case due to fear of legality. He should treat the patient efficiently and adhere to the other legal duties like removal of the patient from the source of poisoning, proper collection of the material for analysis, reporting the matter to police officer or magistrate where required, recording of dying declaration if needed, handing over the dead body if the person dies to police for further investigation in the event of death without issuing death certificate. By performing his duties both clinical and legal, the doctor not only helps the patient but also helps himself by not omitting his duties and society at large.

REFERENCES