EJPMR, 2026, 13(9), 186-195 **Research Article** **Impact Factor: 8.158**

EUROPEAN JOURNAL OF PHARMACEUTICAL AND MEDICAL RESEARCH

www.ejpmr.com

ISSN (O): 2394-3211

ISSN (P): 3051-2573

Coden USA: EJPMAG

RETROSPECTIVE STUDY OF MEDICAL NEGLIGENCE CASES UNDER JALNA DISTRICT CONSUMER FORUM BETWEEN 2011 – 2020

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DOI: https://doi.org/10.5281/zenodo.22158859

How to cite this Article: *[1]Dr. Punam Subhash Pawar, [2]Dr. Shruti Bhokare, [3]Dr. Dipali Mane (2026). Retrospective Study Of Medical Negligence Cases Under Jalna District Consumer Forum Between 2011 – 2020. European Journal of Pharmaceutical and Medical Research, 13(9), 186–195.

Article Received on 04/08/2026 **Article Revised on 24/08/2026** **Article Published on 01/09/2026**

INTRODUCTION

Ayurveda is an ancient medical science. There are eight branches of *Ayurveda*.
Agadtantra and *Vyavhar ayurved* is special branch of ayurveda having its own importance.[1]

In ancient times, in *Kautilya's Arthashastra, Adhikaran 4* named *Kantak Shodhanam*, states that doctors (*vaidya*) should face consequences for negligence i.e. doctor should be punished for his negligence.

भिषजः प्राणाबाधिकमनाख्यायोपक्रममानस्य विपत्तौ पुर्वः साहस दण्डः ।
कर्मापरादेन विपत्तौ मध्यमाः ॥
मर्मवेध वैगुण्य करणे दण्डपारुष्य विद्यात ॥

–(कौ. अर्थशास्त्र अधिकरण ४/७८) [2]

Medical negligence occupies a significant place in Forensic Medicine and Medical Jurisprudence. Medical negligence refers to the failure of a healthcare professional to exercise the reasonable degree of skill, knowledge, and care expected under similar circumstances, leading to injury, disability, or death of a patient.

In the present era, the concept of the Consumer Protection Act is studied under medico-legal ethics in the fields of Forensic Science and Medical Jurisprudence.

The "Consumer Protection Act, 1986" - An Act to provide for protection of the interests of consumers and for the said purpose, to establish authorities for timely and effective administration and settlement of consumers' disputes and for matters connected therewith or incidental thereto.[3]

The study of medicolegal negligence under the Consumer Protection Act (CPA) enhances awareness among both patients and medical professionals regarding their rights and responsibilities. One of the significant features of the Act is that it provides a simple, speedy, affordable, and effective mechanism for the redressal of consumer grievances, including the grant of compensation or other appropriate relief wherever necessary.

A prevailing misconception among sections of the medical profession is that the Consumer Protection Act (CPA) is anti-doctor. This study seeks to dispel such views by offering preventive guidance and practical insights, while emphasizing the need for reasonable care, optimal professional skill, and competence in medical practice.

This study highlights the significance of the Consumer Protection Act in medical practice. The findings may serve as a useful reference for both patients and

healthcare professionals by improving awareness of patients' rights, professional responsibilities, and the legal aspects of medical practice.

REVIEW OF LITERATURE

Ancient Review

1) Kautilya's Arthshastra

In Kautilya's Arthashastra, Adhikaran 4 named Kantak Shodhanam, states that doctors (vaidya) should face consequences for negligence i.e. doctor should be punished for his negligence.[2]

2) Manusmriti

Manu (3102 BC) in his famous treatise Manu Smriti prescribed various rules relating to minimum age of marriage, punishment for offences (sexual), and as to how a disease or intoxication could render one incapable of making a contract or depose in court.[4]

3) Rig Veda

During the Vedic Age (2000-1000 BC), Rig Veda was written, which mentions about how physicians successfully cured patients literally on the verge of death. Similarly, other Vedas mention crimes such as adultery, incest, abortion, murder, and prescribe punishments for the same.[4]

4) Sushruta Samhita

Sushruta Samhita compiled by Sushruta (Father of Indian Surgery) dealt not only with the management of surgical cases, but also detailed the good qualities of an ideal physician.[5]

Consumer Protection Act, 2019

The Consumer Protection Act is valuable and the object act is providing better protection of interest of consumer. Consumer Protection Act was passed in 1986, but initially medical services were not included in it. In 1995, by the decision of Supreme Court of India in the case of Indian Medical association vs. V.P. Shantha, held that a patient is a consumer and medical practitioner is service provider so that patient can go the consumer court for any medical negligence.[6]

The act was amended from time to time in the following years i.e. 1991, 1993 and 2002. And also in recent, the act was passed in 2019 mainly with objective of overcoming the shortcomings of the previous 1986 Act .The Consumer Protection Bill, 2018 which eventually got passed in the year 2019. After gaining experience, new Consumer Protection Act, 2019 was passed (2019 Act for short). The Act has been partially made effective on 20-07-2020. The earlier Consumer Protection Act, 1986 has been repealed.

The Consumer Protection Act, 1986 (CPA) established a three-tier system for grievance redressal.

1. District Consumer Forum
2. State Consumer Forum
3. National Consumer Forum

Features Of Consumer Protection Act, 1986

- It applies to all goods, services, and unfair trade practices unless specifically exempted by the Central Government.
- It covers all sectors, whether private, public, or cooperative.
- It provides for the establishment of consumer protection councils at the central, state, and district levels to promote and protect the rights of consumers.

Professional Negligence :– Professional malpractice, such as in medicine, encompasses the failure to fulfill one's duty in providing services, resulting in injury or loss, demonstrating a deviation from accepted standards in the field.[7]

Medical Negligence :- Medical negligence occurs when a doctor fails to exercise reasonable care and skill while treating patients, resulting in harm, bodily injury, or the death of the patient.[8]

Goods and Services Covered under the Consumer Protection Act, 2019

- The term goods refers to all types of movable property.
- It also includes food items.
- However, goods do not cover money or actionable claims.
- The term service includes any kind of service made available to users. It covers facilities related to banking, finance, insurance, transportation, supply of energy, telecommunications, construction of housing, entertainment, and dissemination of information.
- However, services provided free of cost or under a contract of personal service are excluded from the scope of the Act.

Filing of Complaints

For the redressal of consumer grievances, a complaint must be submitted before the appropriate forum.

Who Can File a Complaint?

1. Any consumer who purchases goods or avails services.
2. Any recognized or registered consumer association.
3. One or more consumers having a common interest (joint complaint).
4. The legal heir or representative of a deceased consumer.
5. A parent or legal guardian on behalf of a minor.
6. The Central Government or any State Government in the interest of consumers.
7. The Central Consumer Protection Authority (CCPA).

What Complaints Can Be Filed?

1. Complaints regarding defective goods that do not meet required quality or safety standards.

2. Complaints relating to deficiency or inadequacy in services.
3. Complaints against unfair trade practices adopted by sellers or service providers.
4. Complaints concerning misleading advertisements that misguide consumers.
5. Complaints against charging prices higher than the fixed or displayed price.
6. Complaints regarding sale of hazardous goods or services that pose a risk to life and safety.
7. Complaints related to product liability against manufacturers, sellers, or service providers.

Where to file a complaint?

1. District Consumer Commission or
2. State Consumer Commission or
3. National Consumer Commission

At District Level

At district level a claim of compensation towards damage was fixed to a maximum of Rs. 1 Lakh at the starting which had been enhanced once to Rs.5 Lakh then Rs. 20 Lakh and presently, the maximum compensation allowed at district level is Rs. 1 Crore.

Manner in which complaint shall be made

(1) A complaint, in relation to any goods sold or delivered or agreed to be sold or delivered or any service provided or agreed to be provided, may be filed with a District Commission by.

(a) the consumer,.
(b) any recognised consumer association.
(c) one or more consumers, or.
(d) the Central Government, the Central Authority or the State Government,

(2) Every complaint filed under sub-section (1) shall be accompanied with such fee and payable in such manner, including electronic form, as may be prescribed.[9]

Limitation Period

(1) The District Commission, the State Commission or the National Commission shall not admit a complaint unless it is filed within two years from the date on which the cause of action has arisen.

(2) Notwithstanding anything contained in sub-section (1), a complaint may be entertained after the period specified in sub-section (1), if the complainant satisfies the District Commission, the State Commission or the National Commission, as the case may be, that he had sufficient cause for not filing the complaint within such period: Provided that no such complaint shall be entertained unless the District Commission or the State Commission or the National Commission, as the case may be, records its reasons for condoning such delay.[10]

Reliefs Available to ConsumersRefund of the amount paid by the consumer

1. Replacement of defective goods with new and defect-free goods.
2. Repair of defects in goods or rectification of deficiencies in services.
3. Compensation for any loss, damage, injury, or mental suffering caused.
4. Discontinuance of unfair or restrictive trade practices.
5. Withdrawal of hazardous or unsafe goods from the market.
6. Issuance of corrective advertisements to neutralize misleading advertisements.
7. Grant of punitive damages in suitable cases.
8. Award of litigation expenses to the consumer.
9. Prohibition on the manufacture or sale of goods or services that are unsafe.

Difference between Civil Negligence and Criminal Negligence[11]

Civil Negligence	Criminal Negligence
1. Civil negligence does not amount to an offence.	1. Criminal negligence amounts to commission of an offence.
2. In this the negligence tried in civil court.	2.In this the negligence tried in criminal court respectively.
3. The affected party is the complainant.	3. The State, through a public prosecutor is the complainant.
4. It generally causes compensable (repairable) harm.	4. It involves serious harm due to gross negligence.
5. The negligence is not gross or of a high degree.	5. The negligence is gross, indicating severe carelessness.
6. The doctor is not criminally punishable.	6. The doctor is punishable under criminal law.
7. Compensation is usually monetary.	7. Punishment may include imprisonment, fine, or both.

THE BHARATIYA NYAYA SANHITA, 2023

An Act to consolidate and amend the provisions relating to offences and for matters connected therewith or incidental thereto.

Death by negligence

Whoever causes death of any person by doing any rash or negligent act not amounting to culpable homicide, shall be punished with imprisonment of either description for a term which may extend to five years, and shall also be liable to fine; and if such act is done by a registered medical practitioner while performing medical procedure, he shall be punished with imprisonment of either description for a term which may extend to two years, and shall also be liable to fine.[12]

MATERIALS AND METHODOLOGY

Place of work – Jalna District Consumer Forum Study design – Retrospective Observational Study

NO.	Case No.	Date of Judgement Delivered	Remarks of forum	Name of complainant	Name of Opponenet
1.	9/2012	28/11/2013	Dismissed.	Mr. Gopinath Datta Jagtap, Mr. Datta Ramchandra Jagtap	1. Dr. Santosh Gavhane 2. Dr. Sameer Parhad
2.	109/2012	14/02/2014	Dismissed	Shenfad Daulat Ware	1. Dr. M. D. Ambekar
3.	48/2013	30/07/2014	Dismissed	Sau.Rukhaminibai Pralhad Dhavale	1. Dr.R.G.Narvade
4.	62/2013	11/04/2014	Dismissed	Mr. Ganesh Uttam Kuhire	1.S.S.Misal 2. Dr.Uttam Kagne
5.	83/2013	21/06/2014	Allowed	Mr. Tukaram Pralhadrao Bidve	1. Dr. Kamlesh Suvalal Sankalecha
6.	89/2013	30/09/2014	Allowed	Mr. Vinod Dilip Sonwane	1.R.V.Survase ,Shri Pathalogy Laboratory, Jalna 2. Dr.Vishal Deshpande
7.	89/2015	04/02/2017	Dismissed	Mr. Shrikisan Baburao Golde	1. Director, Ganpati Netralay Hospital, Jalna
8.	10/2016	04/10/2017	Allowed	Mr. Vikas Bhanudas Shejul	1. Dr. Ritesh Bhagyawant 2. Dr. Umesh Jagtap 3. Dr. Mandhana
9.	19/2016	11/04/2017	Dismissed	Gaffar Sayyad Rustum Ismail	1. Dr. S. Amir
10.	33/2016	15/06/2017	Dismissed	Mrs. Indu Vijay Rathod	1. Dr. Qureshi 2. Dr. Hina 3. Medical Officer, Rural Hospital, Ner 4. Health Officer, Zilla Parishad Office, Jalna
11.	81/2016	05/12/2016	Dismissed	Mrs. Pramilabai Sanjay Pawar	1. Om Multi-specialty Hospital & Research Center Pvt Ltd Near Shivaji Statue, Jalna ,Jalna- Maharashtra 2. Dr.Onkardas M. Agrawal
12.	103/2016	04/02/2017	Allowed	Mr. Ganesh Rajayya Paripelli	1. Netraseva Hospital, Jalna
13.	172/2016	31/01/2017	Dismissed	Mr. Shrikrushna Rambhau Paikrao	1. Dr. Sandeep A. Chavan 2. 2. Nirwal Computerized Clinic Laboratory, Partur , Jalna
14.	131/2017	30/07/2019	Allowed	Mrs. Vrinda Yogesh Surale	1. Dr. Smita Prasad Kulkarni
15.	167/2018	04/10/2019	Allowed	Mr.Gajanan Shamrao Kayande	1. Managing Director, Deepak Hospital, Jalna 2. 2. Dr. Shivaji b. Munde
16.	317/2019	28/07/2025	Dismissed	Mr. Sanjay Laxman Pimpale Mrs. Usha Sanjay Pimpale	1. Shushrusha Hospital, Jalna. 2. Dr. Jyoti Kalamkar, 3. Dr. M. R. Kalamkar, 4. Pawar Diagnostic Centre, through Dr. Devidas M. Pawar 5. Dr. Jayaprakash Bhansali 6. Dr. Ashutosh R. Soni

METHODOLOGY

Phase A.

1. Visited the Jalna District Consumer forum for data collection.
2. The permission letter signed by the dean of the college was submitted to Jalna District Consumer forum.
3. Discussion was done with the registrar of the Jalna District Consumer forum about study work and total time span.
4. Sorting of cases was done on the basis of inclusion criteria and exclusion criteria.

5. Copies of all cases were collected.
6. Collected the data from online databases also.
7. Verification of data collected from online databases.
8. Cases were classified/ distributed as follows -

- Cases of negligence/malpractice.
- Cases happened in urban/rural areas.
- Cases happened in government hospitals/institutes and private hospitals.
- Cases happened in various system of medicine (Ayurveda, Allopathy and Homeopathy).
- Cases found in general practitioner and speciality practice.
- Cases have gone in favour of medical practitioner and victim.

Inclusion Criteria

- Medico legal cases under Consumer Protection Act.
- The Medico-legal cases admitted and delivered judgment under Jalna district consumer forum.
- The Medico-legal cases which are admitted and judgment delivered under Consumer Protection Forum between 1st Jan 2011 to 31st Dec 2020.

Exclusion Criteria

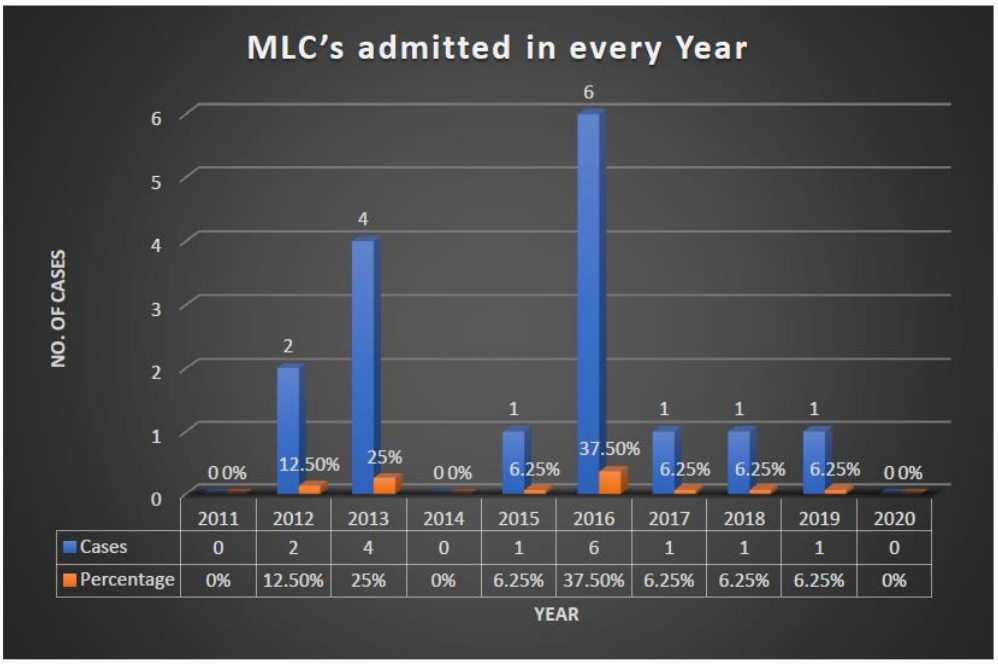
- Pending cases regarding medical negligence before the court.
- Medical negligence cases which are required further investigations.
- Cases which are related to rape or any criminal assault.
- Cases which were transferred to the state consumer forum.
- Cases in which negligence is by the administrative department of hospitals.
- The Medico legal cases which were admitted and not delivered judgement under Consumer Protection Act between 1st Jan 2011 to 31st Dec 2020.

Phase B.

Critical study of Medico-legal cases

1. The study of procedure of each case was done.
2. The study of remarks and final result given by court was done.
3. Each case was discussed with lawyer, guide and colleagues.
4. Each case was summarized separately.

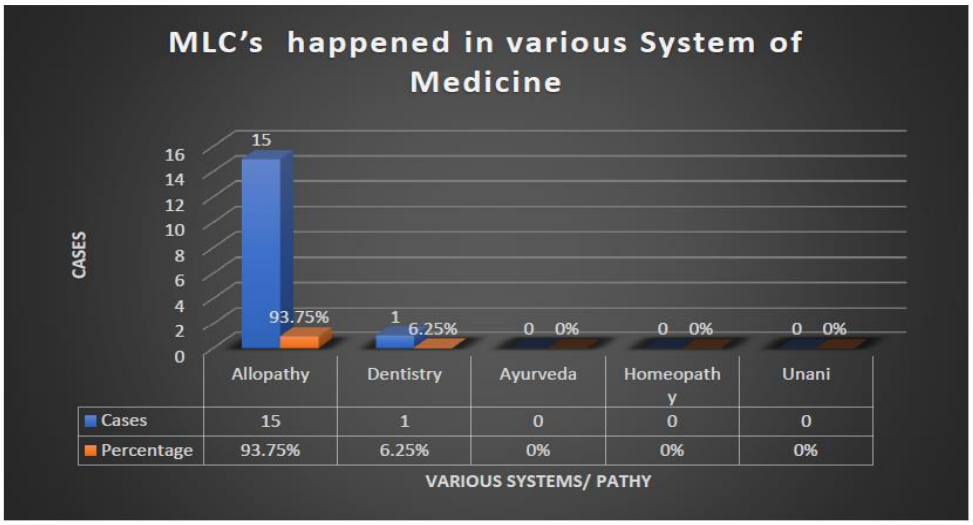
OBSERVATION AND RESULTS



	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020
Cases	0	2	4	0	1	6	1	1	1	0
Percentage	0%	12.50%	25%	0%	6.25%	37.50%	6.25%	6.25%	6.25%	0%

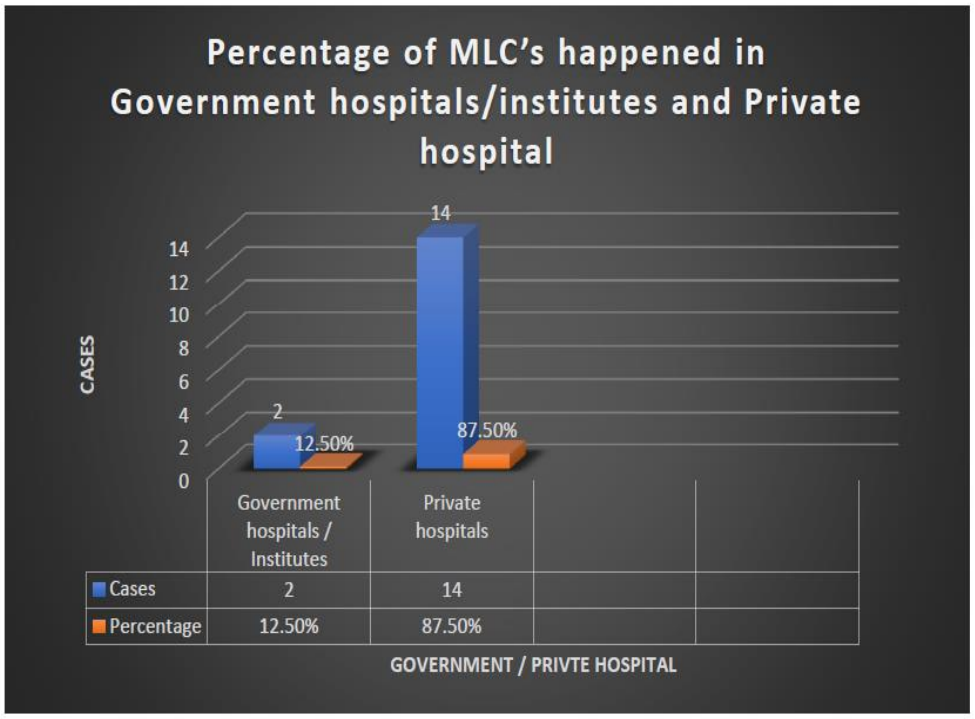
Graph No. 1: Number of MLC's between 1st January 2011 to 31st December 2020.

A total of 16 MLC cases were recorded during the study period (2011–2020), with the highest number of cases reported in 2016 (6 cases), followed by 2013 (4 cases) and 2012 (2 cases).
No cases were seen in the years of 2011, 2014 and 2020.



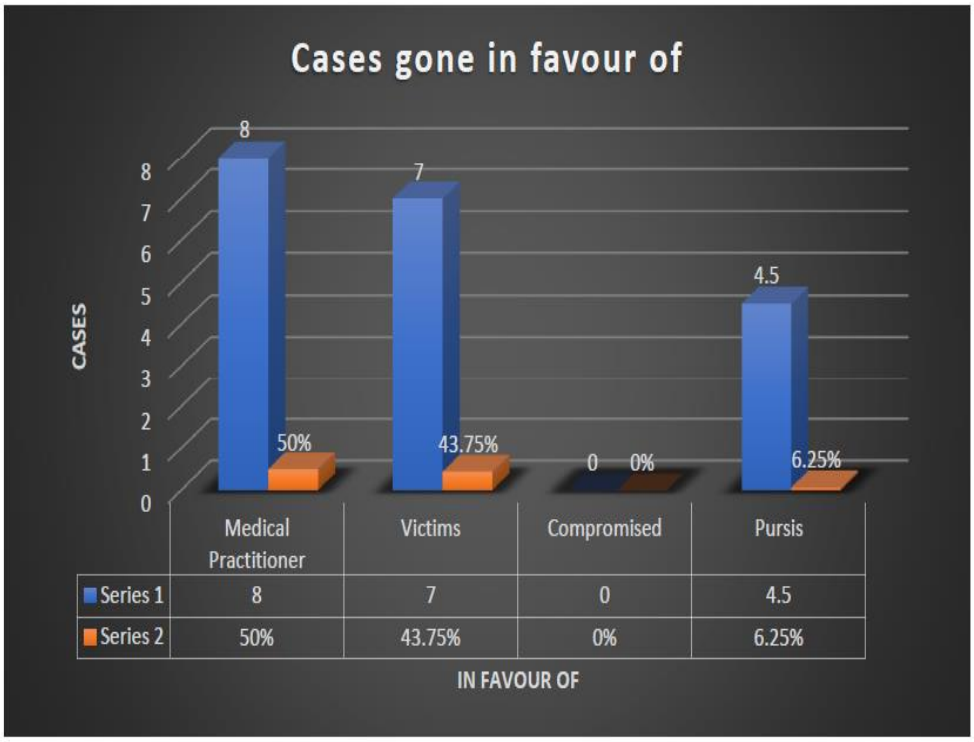
Graph No. 2: Classification of MLC's according to different pathy between 1st January 2011 to 31st December 2020.

The MLC's happened in Allopathy are 93.75%. and in dentistry are 6.25%. No MLC's seen in Ayurveda, Homeopathy and Unani.



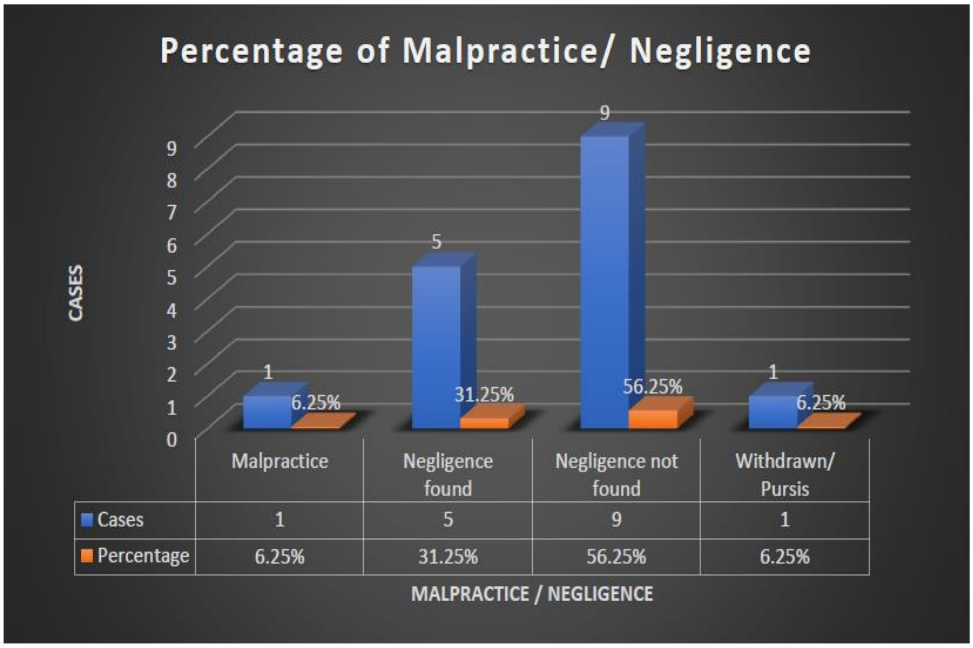
Graph No. 3: MLC's In government hospitals / institutes and private hospitals between 1st January 2011 to 31st December 2020.

The private hospitals shows more percentage of MLC's i.e. 87.5% than percentage of MLC's at government hospital i.e. 12.5%.



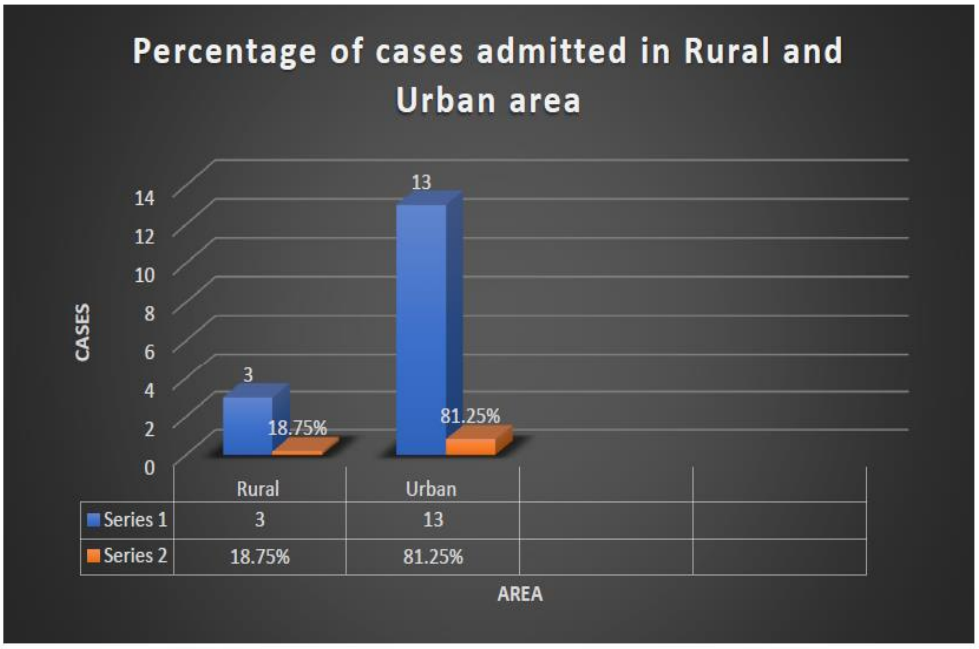
Graph No. 4: MLC's in favour of Medical Practitioner/ victims /compromised / pursis between January 2011 to 31st December 2020.

Here 50% of the cases were in favour of medical practitioners, 43.75% of the cases were in favour of victims, 0% of the cases were compromised, and 6.25% of the cases were disposed of by pursis.



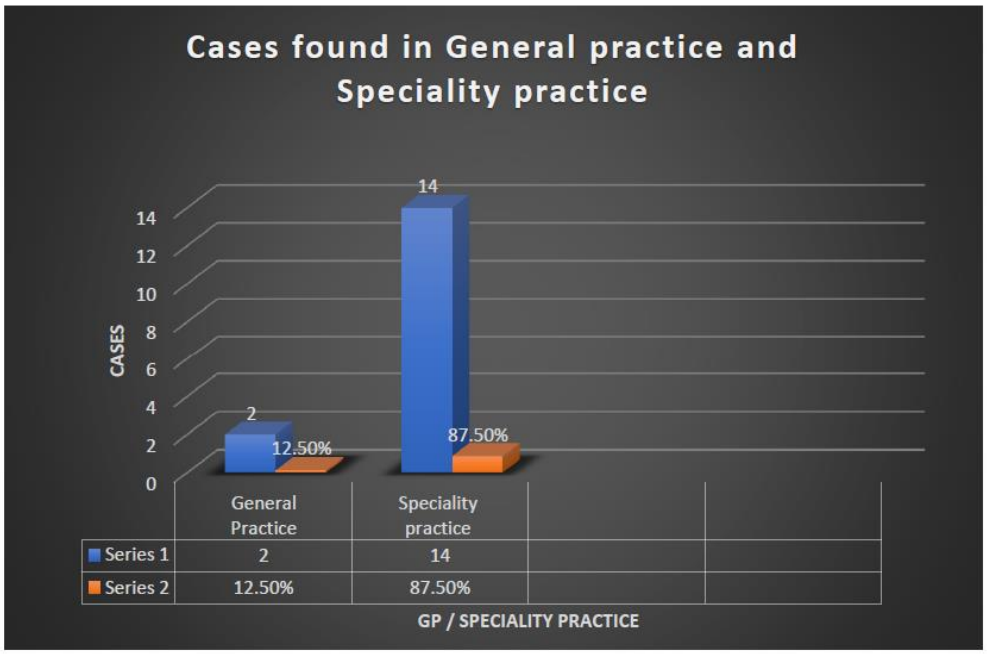
Graph No. 5: MLC's of Negligence / Malpractice Cases between 1st January 2011 to 31st December 2020.

Among the 16 medico-legal cases studied, malpractice was observed in 3 cases (18.75%), medical negligence was established in 6 cases (37.5%), negligence was not established in 9 cases (56.25%), . One case (6.25%) was disposed of by withdrawal /pursis without adjudication.



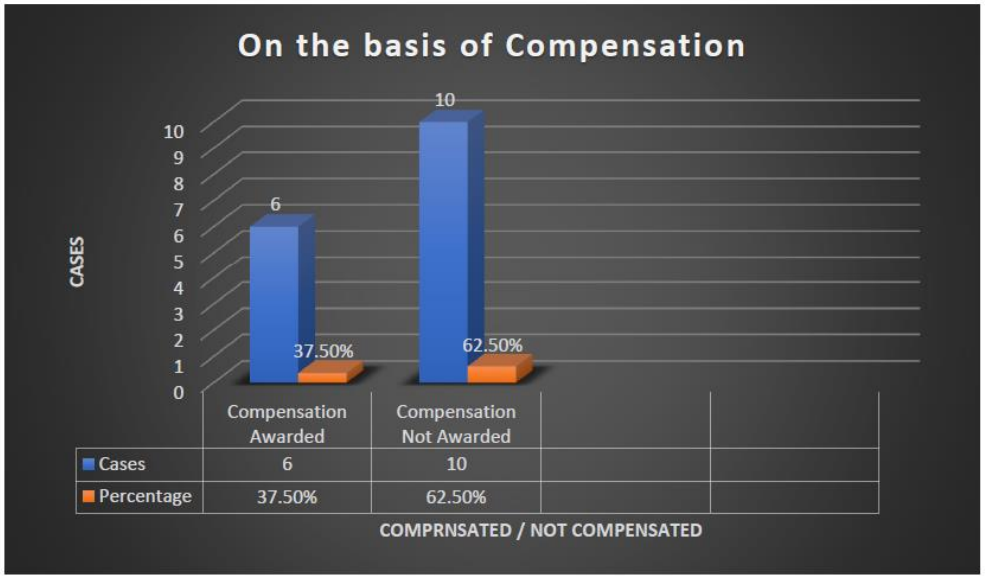
Graph No. 6: MLC's in Rural and Urban areas between 1st January 2011 to 31st December 2020.

1. Percentage of cases admitted in Rural and Urban area is shown.
2. The percentage of MLC's admitted in rural area is 18.75% and in urban area is 81.25%.



Graph No. 7: MLC's found in General Practice and Speciality practice between 1st January 2011 to 31st December 2020.

As per shown in table, the MLC's happened in speciality practice is 14 and only 2 cases happened in general practice that means percentage of MLC's found in speciality practice is more than general practice.



Graph No. 8: MLC's where compensation awarded and nor awarded.

1. Most of the Compensation cases of Medical Negligence were not compensated any amount by forum i.e. 62.50%
2. Compensation was awarded in 37.50% of the total cases.

DISCUSSION

The present study analysed 16 medical negligence cases from the Jalna District Consumer Disputes Redressal Commission (2011–2020). The common causes of negligence were poor documentation, communication gaps, diagnostic errors, inadequate patient care, and failure to follow standard treatment protocols.

Among the analysed cases, medical negligence was established in 5 cases (31.25%), not established in 9 cases (56.25%), one case (6.25%) was malpractice, and one case (6.25%) was withdrawn (Pursis). These findings indicate that every adverse medical outcome does not amount to negligence, and negligence must be supported by adequate evidence.

The Consumer Protection Act plays an important role in protecting patient rights while ensuring accountability among healthcare professionals. Compensation was awarded only when negligence was proved.

Medical negligence can be minimized through proper documentation, valid informed consent, effective doctor–patient communication, adherence to standard treatment guidelines, and regular medico-legal awareness. The present study could not determine the impact of the 2002 amendment and the Consumer Protection Act, 2019 due to the limited sample size. Overall, the study highlights the need for ethical medical practice and improved medico-legal awareness to reduce negligence claims and improve patient care.

CONCLUSION

1. Reasons for Medical Negligence

Mainly due to poor documentation, communication gaps, diagnostic errors, inadequate care, and non-adherence to treatment protocols, especially in rural and resource-limited settings.

2. Type and Pattern of Cases

Out of 16 cases (2011–2020), negligence was proved in 5 (31.25 %), not proved in 9 (56.25%), and malpractice in 1 (6.25%) and withdrawl in 1 case (6.25%). More cases were from urban areas and against private hospitals, though both sectors were affected.

Most cases involved allopathic practice, with 1 case from dentistry and not a single case in Ayurveda, Homeopathy, Unani.

3. Consumer Protection Act and Medical Science

Ensures patient protection and promotes accountability through ethical practice, informed consent, transparency, and proper documentation.

4. Compensation-Related Cases

Awarded only when negligence was proved, covering medical expenses, injury, and mental suffering.

5. Prevention of Medical Negligence

Requires proper records, informed consent, effective communication, adherence to protocols, and improved medico-legal awareness, along with strengthening rural healthcare and monitoring private hospitals.

6. Effect of CPA Amendments (2002 & 2019)

Due to the limited sample size, no clear trend in medical negligence cases or pattern in rural–urban distribution and healthcare institutions could be identified. Larger, long-term studies are needed to assess the impact of the amendments.

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