

# Justice eludes India's medical negligence victims

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Four years after Shishir Chand's brother died when his heart condition was allegedly misdiagnosed as gas, his fight for compensation has barely begun in India's notoriously slow justice system.

Chand recalls racing 33-year-old Vishal to a private hospital in eastern Jamshedpur city, as he clutched his chest in agony.

After monitoring Vishal's heart function, doctors sent him home with anti-flatulence medicine. He died the next day of a heart attack, according to Chand.

"So far, all they have done is issue a mild warning to the doctor, asking him to be more careful in future," he told AFP.

Malpractice is a major problem not only in India's overburdened public health system but also in the burgeoning private sector, according to health activists.

A complex and ineffective compensation system, along with the medical community's reluctance to expose colleagues' wrongdoing, are huge barriers for families seeking justice, they say.

"Negligence cases are widespread in public healthcare particularly in rural India, where patients have little understanding of malpractice and erring doctors almost never get punished," Arun Gadre, a doctor turned activist in India, said.

"Similar issues are cropping up in the [private sector](#)."

Consumer dispute tribunals initially handle many malpractice cases, but according to activists, its members lack the expertise to deal with complex medical issues.

India's main doctors' body acknowledges that the tribunal system appears skewed, with the association's figures showing only one in 1,000 complaints lodged with the tribunals by families win any kind of compensation.

"Most of the cases of negligence cannot be established," Narender Saini, general secretary of the Indian Medical Association told AFP.

"We need a fresh look at the system to avoid confusion. Doctors are not gods and inadvertently do commit mistakes," Saini said.

Families can appeal to higher courts but they face the difficult task of having to show substantial evidence of wrongdoing before their cases can proceed, according to Chand.

In 2013, the Supreme Court, hearing an appeal from a tribunal, awarded an American man 110 million rupees (\$1.6 million) in compensation over his wife's death from an overdose of steroids given at a private hospital in Kolkata.

The figure set a record in India, but it came 15 years after the woman died and only after tireless campaigning by her husband, himself a doctor.

## **Doctors rarely suspended**

Experts say a key problem is that doctors are reluctant to testify against

colleagues in India where they are considered, especially in traditional rural areas, to be above reproach.

Chand, who volunteers for advocacy group People for Better Treatment, said he searched for two years to find a doctor willing to give evidence in his brother's case.

"Doctors are afraid to testify against their colleagues because they feel vulnerable. There is a general understanding not to testify as it may open floodgates against each other," activist Gadre told AFP.

Chand has appealed to a tribunal against the Medical Council of India's decision to only issue a warning to the doctor. A spokesman for the hospital involved said its case has been presented to the tribunal, but declined to comment further as a verdict is pending.

Experts say under pressure doctors are bound to make mistakes at some point since public hospitals are often stretched to breaking, with India spending just one percent of GDP on healthcare.

India also has one doctor for roughly every 2,000 patients, according to the WHO, which recommends half that number. And India has just 900,000 registered doctors compared to China's estimated 2.4 million, according to watchdog, the Medical Council of India.

The council says it investigates doctors whenever complaints are filed with the body, but health advocates argue that its hearings are endlessly delayed and adjourned.

## **'Our lives on hold'**

Muzaffar Ahmad, chairman of the council's ethics committee, defended the delays, saying "arranging hearing of complaints and doctors often

takes time".

"We are not the final authority, aggrieved people can always appeal against our decisions in higher courts," Ahmad added.

He pointed to the fact that the council suspended 130 doctors (with punishments ranging from one month to seven years) in one month alone, September last year, although he said some of the complaints had been pending since 2010.

No doctors at all were penalised between 2008 and 2013, according to council data obtained by medical advocacy groups through right to information laws, although it is unclear how many complaints were filed during that period.

Rohit Goyal is waiting for justice after filing a case last year in a tribunal on behalf of his 62-year-old mother who had gone to hospital complaining of dizziness.

Hooked up to a drip, [doctors](#) allegedly hiked Suresh Rani's sodium levels five times above safe limits, leaving her in a permanent vegetative state, according to Goyal.

A hospital spokesman said its own investigations found no evidence of wrongdoing and the hospital is awaiting the tribunal's ruling.

"We found nothing wrong in our internal investigations but the judiciary is supreme," he told AFP.

But Goyal told AFP: "We can't let them go scot-free. They almost killed my mother. I know it's going to take years before we get justice,"

Goyal's wife and his sister quit their jobs to care for Rani, spending

more than a million rupees on treatment.

"Our lives are literally on hold," he said.

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