BOOK REVIEW

Medical Negligence and the Law in India
Duties, Responsibilities, Rights
Tapas Kumar Koley

This treatise on ‘Medical Negligence and the Law in India’ written by a Physician covers important aspects of Medical Negligence. This Book is timely and adds to the other existing books on the subject in the market. There has been a sea change in doctor patient relationship, from that of a friend, philosopher and guide to a person who is considered to be a service provider. This has led to an increase in the medical malpractice suits in the country.

Medical Negligence in India is both a criminal offence under the CRPC and a Civil Liability under the Law of Tort. This Book has dealt with the Criminal Procedure Code as well as dealt at great length about the Consumer Protection Act which was introduced as late as 1986. The Consumer Protection Act, The Consumer Protection Fora and their jurisdiction have been very well delineated. In the context of the Consumer Protection Act the Book has delved into the subject of doctor patient relationship, the duties and responsibilities of the doctor towards his patient and the duty of patient to inform, follow and report the medical treatment suggested to him. It has very vividly brought out the reasons for increasing doctor patient conflict and how this can be reduced significantly by certain small steps to be taken by the doctor, hospitals and other healthcare providing agencies. This has been done in the first two sections and the 3rd section is an illustrative case based section in which cases of Medical Negligence are presented in brief and the verdict delivered has been brought out nicely.

The Author has tried not only on the basis of law but sometimes based on the corroborative evidence as to how the doctors have been given respite by the Hon’ble Courts. In this Section he has also highlighted a few cases of reverse compensation to doctors where the patients have filed frivolous cases, a highly comforting development for the doctors who are not at fault.

The Book covers the Criminal Procedure Act and CPA fairly well and can act as a useful companion and resource material for a doctor to know the Law of the Land.

However the Book fails on certain quarters: There is monotony in presentation and the legal jargon at places is difficult to comprehend.

The Book has failed to cover some of the landmark judgements delivered by Hon’ble Supreme Court though the Book has a publication date of 2010.

Certain laws pertaining to the medical profession like Medical Termination of Pregnancy Act, Pre-natal Sex Determination and the Foetus Act, Monopolies and Restrictive Trade Practices Act do not find mention in the Book at all.

All in all the book is a useful and concise presentation of CPA Act in detail along with illustrative cases and their verdicts in various consumer and other courts which are dealt with very well.

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