

Paramedical Ethics and Law

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Abstract: *Healthcare is one of the human rights. When doctors, paramedics and patients act as partners only then the healthcare system can properly function. The Constitution of India under Article 21 provides for Right to health which is the part and parcel of right to Life as is given under Article 21 of the Indian constitution. Persons in the health care profession which includes paramedics have the duty to provide health services to the needed person. Every profession has some prescribed ethics which is to be adopted by every person in that profession. Ethics as is defined as behaviours, set of values and those relationships that is based on trust. Medical Profession is a noble profession. People have a faith on them as they have on God. Healthcare professionals consist of health works partnership with patients and with each other. In the healthcare sector Paramedics have to follow some ethic while performing their duty like duty to take care, duty to keep confidentiality of the patient data and records etc. If the paramedic fails to perform their duties they are liable under various Indian laws like Consumer Protection Act, Indian Penal Code and Criminal Procedure Code.*

Keywords: Health care, Paramedics, Profession, Ethics, Liability

1. Introduction

*Preservation of human life is of paramount importance. That is so on account of the fact that once life is lost, the status quo ante cannot be resorted as resurrection is beyond the capacity of man.*¹

Ethics is a set of moral principles that is to be followed. It is system of moral values or a guiding philosophy which contain the moral principles of conduct governing an individual. Law is to regulate the society, without it we can't imagine a civilized society. It is meant to protect the citizens and their property from any harm. To live a dignified life or to live with dignity and morality we need law in society. Ethics and law both serves the similar purpose of identifying what is right and wrong, so that we can live in a civilized society. Every profession has its own ethics known as Professional ethics. These professional ethics consists of principles which govern the behavior of a person in that profession. It tells or we can say guided the person how the person should act in that profession while dealing with other people and institution in such a environment.

Paramedical Personnel

Paramedical Science has emerged as important branch of medical science in the modern world for the helped and facilities the doctor for better diagnosis treatments and therapy.

The word Paramedic is used to define the personnel who function as extenders of physicians. The word paramedic is consist of two word *para* and *medic*; *para* means 'along the side and *medic* is taken to mean physician'²

Paramedical personnel also known as Paramedics, is the health care workers who provide clinical services to patients

¹Law Commission of India, "201st Report on Emergency Medical Care to Victims of Accidents and During emergency Medical Condition and Women Under Labour",⁷, (August 2006), <https://lawcommissionofindia.nic.in> (last visited Aug. 01, 2022)

²Monroe Community College 'The Role of The Paramedic', <https://www.monroecc.edu> (last visited Aug. 9, 2022)

under the supervision of a physician.³They are the key players in the medical and health sectors as it embraces the nurses, technicians, therapists, physician assistants and other ancillary personnel who is involved in medical care. Without paramedics, the entire health and medical sector is out of gear and is most non-functionary.⁴ As these paramedical personnel's perform various health diagnosis, they perform routine diagnostic procedures such as taking of blood samples, therapeutic procedure such as administering injections or suturing wounds and also relieve physicians of making routine health assessments and taking medical histories.⁵The paramedical staff serve many jobs like medical job maintenance, radiography technicians, radiologists, physiotherapists, speech therapists, audiologists, dialysis, emergency functions perfusion techniques, cardiac techniques, respiratory therapies etc.⁶ However, The Paramedical and Physiotherapy Central Councils Bill, 2007-A Bill⁷, defines Paramedics U/S 2 (1) (1) as a person whose name has been entered in the registers of the Paramedical (Medical Laboratory Technology) Central Council and Paramedical (Radiology Technology) Central Council

2. Paramedical Ethics

Paramedics are very important in the medical profession as they are the first to respond in any medical emergency situation. They are trained to handle even a traumatic situation. So they should adopt their professional ethics while performing the role of paramedics. The word Ethics is derived from the Greek word "*ethos*" which means '*way of*

³The Editors Of Encyclopedia Britannica, 'Paramedical Personnel', <https://www.britannica.com> (last visited Sept. 5, 2022)

⁴India Today, 'Build A Career In Paramedical Science' August 6, 2019, <https://www.indiatoday.in> (last visited Sept. 1, 2022)

⁵Supra note 1

⁶C.L. Avadhani, Dr. G. Udayasuriyan, ET.AL, "Role Of Paramedical Staff And Its Impact On Patient Satisfaction Expectations In Healthcare Sector- A Review"⁸ (3) International Journal Of Creative Research Thoughts (IJCRT),(1052) (1053) (MARCH 2020)

⁷ Bill No. 96 of 2007

living⁸ It is a branch of philosophy which is concerned with human conduct or behavior of person in his society or profession. Ethics reflects on human beings, studies what is morally right or wrong, just or unjust. It is the interaction of human with other human, with nature, consists of responsibility and justice. When a person is adopt a particular profession there also he/she has to follow some guiding principles which tells a human what to do or not to do, what is right or wrong, what is his/her responsibility and this is known as professional ethics.

Paramedic, they are the first who assist and aid the patients with medical care in medical emergencies. While performing their duties of paramedics they have an obligation to follow ethical principles like respect their patients, avoid harm, show empathy, act honestly, use their skills to handle the situations safely etc.⁹

A fundamental responsibility of the Paramedic is to conserve life, to alleviate suffering, to promote health, to do no harm and to encourage the quality and equal availability of emergency medical care.¹⁰ They provide services which are based on human need with respect for human dignity without any discrimination on nationality, race, religion, color, sex or status. Their ethical and legal responsibilities are largely concerned with matters of duty of care towards patients and the public, negligence in treatment and practice, a patients consent to treatment and procedures and confidentiality of a patients personal and medical information.

What is duty to care? It means a person's obligation to take reasonable care with respect to the interests of others, including assisting in the management of suffering and preventing any further suffering through error or omission.¹¹ The duty to care was explained in the landmark case of *Donoghue v. Stevenson* Case. Lord Atkin in this case laid down the general principle of the duty of care concept in law and formulated the test which is known as 'neighbour test' or 'neighbour principle' Lord Atkin in this case held that-

You must take reasonable care to avoid acts or omission which you can reasonably foresee would be likely to injure your neighbor. Who, then, in law, is my neighbor? The answer seems to be a person who are so closely and directly affected by my act that I ought reasonably to have them¹² in contemplation as being so affected when I am directing my mind to the acts or omission which are called in question.¹³

⁸'What Is Ethics?' Government Of Canada, <https://www.canada.ca> (last modified on July 23, 2015)

⁹ Ashley Donohoe, 'Ethical Responsibility of Paramedics' Chron, Newsletters, 23 June 2020, <https://work.chorn.com> (last visited Aug. 15, 2022)

¹⁰ Code of Conduct, <https://voices.unhicago.edu> (last visited Aug. 29, 2022)

¹¹ Analyse Legal and Ethical Issues Facing Paramedics, <https://www.lawteacher.net> (last visited Sept. 11, 2022)

¹² *Donoghue v. Stevenson* (1932): Case Analysis, <https://professionalnegligenceclaimsolicitors.co.uk> ((last visited Aug. 15, 2022)

¹³ United Kingdom House of Lords Decisions, '*Donoghue v. Stevenson* (1932) UKHL 100', <https://www.uni.trier.de> (last visited Aug. 15, 2022)

Paramedic ethic says that he/she has to take the consent of the patient, without the consent; regardless of profession it is unlawful to touch anyone. Consent is to give assent, permission or agreement. From the ethical point of view consent is of the fundamental importance in any profession. As in the case of paramedics they have to treat, test, and transport the patients, it is crucial that the patient consent be obtained. Consent can be obtained in various ways – verbal, written or implied. If a paramedic is treating the patient who is capable giving the consent then if the paramedic act without the taking the patient consent then it is an assault. In the same way, if the paramedic is physical examining the patient without the consent of patient which is unlawful can lead to claim for a battery.

In the cases of emergency medical services is always implied consent. This is based on the assumption that the patient in such a medical condition due to unconsciousness, or another undefined medical condition like severe injuries, severe illness is unable to give consent, would give consent if patient could convey in such a emergency medical condition. In the case of minor, legal guardians mostly parent or other adult person, who is taking the responsibility like school principals give the consent.

Confidentiality is another Paramedic ethics. Being a paramedic, it the duty to take a reasonable care regarding confidentiality of medical reports, patient interaction, patient information etc. Only when it is mandatory to give the information like in police investigation, before court provide the necessary information as required to the concerned authorities

History of Paramedic:

Since the early days of Roman conquest the concept of paramedic is present, as the older and less physically capable warriors were used intermittently to remove wounded soldiers.¹⁴ During wars dating back to Roman Empire, in managing injured persons there is a paramedical staff. In earlier period during war military personal who are no longer able to fight were given the task of organizing and the removal of wounded soldiers from the battle field and providing some form of healthcare.¹⁵

Dr. Nagel from Miami Fire Department was the first true paramedic in 1969. Paramedic the term was used only in 1960, non-medically qualified personnel trained to provide emergency medical care have been established since ancient times.¹⁶

It wasn't until 1972 that the first residency program to train physicians specifically for the practice of emergency medicine was established at the University of Cincinnati.

WTO trade agreements have encouraged the privatization and commercialization of healthcare system across the world as free trade principles are applied to services as well as commodities. GATS: The General Agreement on Trade in

¹⁴ 'Emergency Medical Paramedic', www.emergencymedicalparamedic.com (last visited Aug. 01, 2022)

¹⁵ *Supra* note 6 at 1052

¹⁶ Crosby W., "*Book Review: A History of Military Medicine*, N Engl J Med. 328, 1427-1428 (1993).

Services covers the movement of consumers and providers across borders for health services.¹⁷

As A. Whittaker in *Pleasure and Pain: Medical Travel in Asia*, writes that opening of the health sector trade under the General Agreement of Trade in Services (GATS) and increased corporatization of medicine with Asian countries are reasons for the growth of medical and health tourism in Asian countries.¹⁸

In 201st report on 'Medical Treatment after Accidents and During emergency Medical Condition and Women in Labour' Justice M. Jagannadha Rao, Chairman, Law Commission of India opined that¹⁹-

Preservation of human life is of paramount importance. That is so on account of the fact that once life is lost, the status quo ante cannot be resorted as resurrection is beyond the capacity of man. The patient whether he be an innocent person or be a criminal liable to punishment under the laws of the society, it is the obligation of those who are in charge of the health of the community to preserve life so that the innocent may be protected and the guilty may be punished.

Legislation on Paramedical Ethics:

The Paramedics have legal duties that are to the patients, the employer, the medical director and public. These duties were defined in statutes and regulations that are based on commonly accepted standards of medical care, Paramedics like the other health care professionals have ethical responsibilities in addition to legal duties like²⁰:

- Maintaining mastery of skills
- Reporting honestly
- Responding with respect to the physical and emotional needs of every patients
- Respecting confidentiality
- Working cooperatively and with respect with other emergence personnel and health care professionals
- Critically reviewing one's own performance and taking steps to improve it
- Caring-towards the patient, which is the foundation of the paramedic – patient relationship
- The paramedic serves as a model of ethical behavior.

Paramedics have the role of healer-who supports another during illness, paramedic heals the patients through supports to the patient, clinician-As a clinician paramedic diagnosis the patient suffering and help in proper treatment and patient, clinician and patient advocate as being a paramedic one has to defend and supports the patient's rights to health care. So, we can say that the role of paramedics is challenging.

Paramedics are affected by both statute and case law. Paramedics work under various laws or Acts like the Mental Health Act 1986, Laws related to Ambulances and Emergency services, Drug Poisons and Controlled Substances Act 1981 etc.

The Paramedical and Physiotherapy Central Councils Bill, 2007-A Bill,²¹ u/s 12 (2) (c) provides that the function of the Central Council shall include-the determination of standards of education, training, research, professional conduct or ethics of paramedics. Further provides that 'each Central Council shall determine by regulations the standards of professional conduct and etiquette and a code of ethics for the practitioners'²²

Legal, medical and other professions come under the List III-Concurrent list under Seventh Schedule of Constitution of India. The Constitution of India under Seventh Schedule defines and specifies the allocation of powers and functions between Union and States. The Seventh Schedule contain three list-List-I-Union List, List-II State List, List – III Concurrent List consist of 52 subjects on which the parliament as well as the State Legislature can make law. If there is any conflict in laws made by the Union and State legislature it the central Law, law made by Parliament will prevail. List III, of Concurrent list, Item no.26 covers Medical Profession, so, the State legislature makes law related to medical services or profession.

Medical services include all the services rendered by both the government and private hospitals, nursing homes, health centers, paramedical staff, clinics, chemists, diagnostic centres, nursing staff and other allied staff.²³

Delhi Medicare Service Personnel and Medicare Service Institutions (Prevention of Violence and Damage to Property) Act, 2008 defines medicare service professionals that include registered medical practitioners, nurses, nursing aides, midwives, paramedical workers, ambulance service providers among others. In 2019 the Ministry of Health proposed passing of Health services Personnel and Clinical Establishments (Prohibition of Violence and Damage of Property) Bill, in which healthcare personnel is defined as fairly wide and include doctors, dentists, nurses, paramedical staff, medical students, diagnostic service providers and ambulance drivers. So, after going through the various definition, we can say that the doctors and health workers, paramedics have the same rights and duties, have the responsibilities to take due care and liability if fails in performing their duties.

The Delhi Medicare Service Personnel and Medicare Service Institutions (Prevention of Violence and Damage to Property) Act, 2008 provides for punishment of up to three years and or a fine of Rs.10, 000/-.

¹⁷A. Whittaker, 'Pleasure and Pain: Medical Travel in Asia' *Global Public Health: An International Journal for Research, Policy and Practice*, 3(3), 271-290 (2008).

¹⁸Global Public Health: *An International Journal for Research, Policy and Practice*, 3(3), 271-290 (2008).

¹⁹ <https://indiankanon.org> (last visited Sept. 11, 2022)

²⁰Mick J. Sanders, "Mosby's Paramedic Textbook" 4thEdn, Pg. 89-90, (2010).

²¹ Bill No. 96 of 2007

²²*Id* at § 25, (1)

²³Samridhhi Pandey, "Medical Services Laws Under Consumer Protection Act, 1986" *Legal Bites* (2020), <https://www.legalbites.in> (last visited Aug. 30, 2022)

The Clinical Establishment (Registration and Regulation) Act, 2010 has been enacted by the Central Government to provide registration and regulation of all clinical establishments in the country with a view to prescribe the minimum standards of facilities provided by them. The ministry has notified the National Council for Clinical Establishment and The Clinical Establishment (Central Government) Rules, 2012 under which it provides that the support/ paramedical staff shall be qualified and trained as per the scope of services provided and as per requirement.²⁴

Section 8-A-The Clinical Establishment (Central Government) Rules, 2012 deals with minimum standards for medical diagnostic laboratories as it provides that-

Every clinical establishment relating to diagnosis or treatment of diseases, where pathological, bacteriological, genetic, radiological, chemical, biological investigations or other diagnostic or investigative services are usually carried on with the aid of laboratory or other medical equipment, shall comply with the minimum standards of facilities and services as specified in the Schedule.

The Tamil Nadu Government has identified Emergency Relief Centres on mega highways in Tamil Nadu and has proposed such centres for every 50 kms on the National Highways in the State. Further proposed, a fully equipped ambulance with a trained paramedic is always on standby to respond to such calls. Victims are transported to the nearest hospitals free of charge.²⁵

Paramedics Negligence and Their Liabilities

Under Article 21 of the Constitution of India guarantees right to life, which include right to get meaningful health care. Article 21 imposes an obligation on the state to safeguard the right to life of every person. Preservation of human life is thus of paramount importance.²⁶

Deontological ethics emphasize the value of human being, underlining the principles of respect for autonomy, beneficence, no-maleficence and justice. Given by Immanuel Kant the concept of Deontological is defined as an ethical theory that the morality of an action should be based on whether that action is right or wrong under a series of rules rather than based on the consequences of the action.²⁷

Based on deontological ethics, medical professionals should be committed to provide medical care to protect humans from any disease or injury, even if an epidemic is out of control.²⁸ Medical Deontology is the science of Professional duties, the moral actions of paramedical staff and medical activities which is to secure each person well-being and protect each individual from being hurt.²⁹

²⁴Clinical Establishment Act Standards for Hospital (Level 1A & 1B), <http://clinicalestablishment.gov.in> (last visited Aug. 19, 2022)

²⁵*Supra* note 1 at 19

²⁶Thangapandi v. The Director of Primary Health W.P. (MD). No. 1332 (2010).

²⁷<https://www.yourdictionary.com> (last visited Aug. 19, 2022)

²⁸Po-En Tseng and Ya-Huei Wang, "Deontological or Utilitarian? An Eternal ethical Dilemma in Outbreak" *Int J Environ Res Public Health*, 18(16) 8565, (2021).

²⁹*Ibid*

So it the duty of paramedics is to take appropriate methods to promote the health of patients, put their service effectively and have the duty of care. If they don't perform their duties properly they are liable for negligence act. A person is said to be negligent when the person acts without due care in regard to the harmful consequences of his/her action.

Negligence is the breach of a duty caused by omission to do something which is a reasonable man guided by those considerations which ordinarily regulate the conduct of human affairs would do or doing something which a prudent and reasonable man would not do.³⁰ Negligence in medical care may be classified as medical negligence at the level of doctors/paramedical staff/ hospital authorities.³¹ Liability for negligence may be fixed at individual level and or jointly or vicariously where hospitals nursing homes are involved.

Negligence is an essential ingredient of the offence and for negligence to be established by the prosecution must be capable or gross and not the negligence merely based upon an error of judgment.³²

In *Manish Bansal v. State of Haryana*,³³ Punjab and Haryana High court held that "A professional may be held liable for negligence on one of the two findings, either he was not possessed of the requisite skill which he professed to have possessed or he did not exercise with reasonable competence in the given case, the skill which he did possess."

In *Fortis Escort Hospital v. Amarjeet Singh*³⁴ on 22 Sept, 2017, Justice Paramjeet Singh Dhaliwal while deciding the liability of Surgeons and paramedical staff opined that for determining the medical negligence three things are necessary i. e. diagnosis, advice and treatment. Justice further said the importance of proper diagnosis cannot be undermined as much to loss when there is a wrong or half-baked diagnosis. A diagnostic error results in the patient being denied timely effective therapy or being administered potentially toxic, incorrect medications sometimes leading to the devastating consequences. And the important key issue or a role of paramedics in a right diagnosis is the timeliness and accuracy.

The proper and timely diagnosis being the key deciding paradigm for the line of treatment of a patient, if anything going to miss at this stage or delay of a few minutes in a diagnosis in certain acute situation treatment may be fatal.³⁵

In *Chandigarh Clinical Laboratory v. Jagjeet Kaur*³⁶, Mrs. Jagjeet Kaur was taken to petitioner laboratory for getting her blood-group checked up and the report was given to her having blood group AB+. The blood group report was required as she had been advised blood transfusion which she was transferred to GGS Medical College and Hospital,

³⁰ Jacob Mathew v. State of Punjab & Anr, Appeal (crl.) 144-145 of 2004 SC

³¹Smt. Sangeeta Dubey v. Dr. Suneeta Verma & ORS. Appeal No. FA/13/184, State Consumer Disputes Redressal Commission

³²*Ibid*

³³ CRM-M No. 19672-2014 (O&M)

³⁴Appeal no. 672 of 2014, State Consumer Disputes Redressal Commission, Punjab.

³⁵*Ibid*

³⁶ IV (2007) CPJ 157 NC.

where again blood sample collected and it gave a report of the complainant's blood belonging to AB (-).

A complaint in this case was filed before the District Forum alleging medical negligence on which after hearing the parties and perusal of material on record district forum directed the petitioner to allow the complaint and further directed the petitioner to pay a compensation of Rs.25, 000 along with cost of Rs.2000.

In an appeal to the National Commission New, Delhi, the National Commission observed that though the petitioner is qualified pathologist but he has the *duty of care* which required the correct finding in such a case. National Commission in the case held that petitioner has failed to take due care while examining the blood sample and therefore there is deficiency in services and it is a clear instance of medical negligence.

If the paramedic negligently performs their duties, they are liable under

- Consumer Protection Act 1986
- Criminal Law
- Other laws

Consumer Protection Act

Initially, The Consumer Protection Act 1986 did not include the medical services, so, the cases of medical negligence at that time were dealt with in civil courts and India for adjudicating the cases of medical negligence relies on the various leading judgement given out by the English courts. In *Dr. C. S. Subramanian v. Kumaraswamy* and others (1994)³⁷ Madras High Court held that the services rendered to a patient by a medical practitioner or an hospital by way of diagnosis or treatment both medicinal and surgical would not come within the meaning of 'service' as is defined in Section 2 (1) (o) of the Consumer Protection Act, 1986.

Further held that a patient who undergoes treatment under a medical practitioner or an hospital by way of diagnosis or treatment both medicinal and surgical cannot be considered to be a 'consumer' within the Section 2 (1) (d) of the Consumer Protection Act, 1986

The Supreme Court in *Secretary Thirumurugan. v. M. Latha*³⁸ has held that the remedy under the Consumer Protection Act is simple, speedy and inexpensive and therefore, judicial bodies established under the Consumer Protection Act have been given powers to adjudicate upon complaints arising out of sale of defective goods fault, imperfection or shortcoming in the quality, quantity, potency, purity or standard of any service which is required to be maintained by law etc. and also empowered to give relief of specific nature and to award, wherever appropriate compensation to consumers.

The Supreme Court in 1995 delivered a historic decision in *Indian medical Association v. V. P. Shantha & Ors.*³⁹ the Hon'ble Supreme Court in this case brought the medical

profession within the ambit of 'service' as is defined in Section 2 (1) (o) of the Consumer Protection Act, 1986. The Supreme Court held that *Services rendered to a patient by a medical practitioner by way of consultation, diagnosis and treatment both medicinal and surgical would fall within the ambit of 'service as defined in section 2 (1) (o) of the Act.*

The number and availability of paramedical staff is linked to the provision of the related services to medical treatment. Accordingly, one pharmacist is provided if there is a drug store maintained by the NH, one X-ray technician for X-ray facility, one Laboratory technician for the laboratory facility and one Physiotherapist for the physiotherapy facility.⁴⁰

Criminal Law

The purpose of Criminal Law is to protect our human or fundamental rights. Protect us as a human being from a criminal act of offenders is the one of the aim of Criminal Law. It does so by defining crime, by describing the processes and sanctions to punish the people who commit any crime.

Indian Penal Code 1860 which is the basic of Criminal law contains various provision for punishment for medical negligence. Sections-52, 80, 81, 83, 90, 91, 92, 304A, 337, 338 is related to the medical negligence in India. These Sections of IPC clearly shows that there is no difference between an ordinary crime committed by a criminal and the act of negligence done by healthcare professional including paramedical staff.⁴¹

Negligence on the part of healthcare professionals made them liable under criminal courts and charged them under Section 304 A of Indian Penal Code. Section 304A of the IPC provides:

Whoever causes the 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 two years or with fine or with both.

Section 337 of IPC provides

Whoever causes hurt to any person by doing any act so rashly or negligently as to endanger human life or the personal safety of others shall be punished with imprisonment of either description for a term which may extend to six months or with fine which may extend to five hundred rupees or with both

Section 338 of IPC

Whoever causes grievous hurt to any person by doing any act so rashly or negligently as to endanger human life or the personal safety of others shall be punished with imprisonment of either description for a term which may

⁴⁰Amar Jesani, "Laws And Health Care Providers: A Study Of Legislation And Legal Aspects Of Health Care Delivery"108 (Cehat1996)

⁴¹*Supra* note 6 at 1055

³⁷ 1996 86 CompCas 747 Mad

³⁸ Appeal(civil) 92 of 1998

³⁹ 1996 AIR 550, 1995 SCC (6) 651

extend to two years or with fine which may extend to one thousand rupees

Civil Laws

Civil law was developed as a way which provides the way to people to resolve their disputes. Disputes include the issues like negligence, contracts, workers compensation etc. Parties in civil disputes is seeking monetary compensation from the another party for an alleged breach of agreement or contract. If the paramedic were to give the patient the blood despite the patient's refusal of consent for treatment with blood, the paramedic might commit a civil wrong trespass and battery of the person, for which the patient might later claim compensation. But if the paramedic were intentionally refuse to administer the blood knowing that it would cause the patient's death and patient had not refuse to accept it then paramedic is liable for criminal negligence.⁴²

With regard to healthcare negligence healthcare provides liability can be divided into two – Direct liability or vicarious liability. When there is the deficiency of the health care providers in providing safe and suitable facilities and environment for procedure as is necessary then the direct liability arises. When the employer is liable for the negligent act of its employees then there is vicarious liability of employer; where the employer is liable not only for his/her own acts of omissions and commission but also liable for the negligence act of their employees.

In the case of *Dr, Jatinder Kumar v. Rattan Lal & 4 Ors.*,⁴³ National Consumer Disputes Redressal Commission while declaring paramedical staff liable for negligence held the complainants are entitled to compensation from the hospital on account of the negligence exhibited by its paramedical staff in not taking the blood sample of the patient to the laboratory for carrying out the malaria parasite slide test.

National Consumer Disputes Redressal Commission in this case held that once blood sample of the patient had been taken it was the duty of the paramedical staff of the hospital to take the said sample to the laboratory where the test was to be performed. That having not been done, the hospital is vicariously liable for the negligence on the part of its paramedical staff. If the hospital has to pay compensation for the negligence of a member of paramedical staff, it will be open to it to take such action as may be available in law against the negligent employee.

Tortious liability

Torts are civil wrong that serve to protect a person's interest in his or her body, property, finances or reputation.⁴⁴ One of the tort committed by the paramedics is the tort of negligence like touching the patient without his/her consent, making the claim or report publicly which lowers the reputation of patient., it enables the patient to bring an action for compensation.

The term 'negligence is used for the purpose of fastening the defendant with liability under the civil law and at times under the criminal law and it is contended on behalf of the respondents that in both the jurisdiction negligence is negligence and jurisprudentially no distinction can be drawn between negligence under civil law and negligence under criminal law⁴⁵ but Lord Atkin in *Andrews v. Director of Public Prosecutors*⁴⁶ held that the 'simple lack of care such as will constitute civil liability is not enough, for the purpose of the criminal law there are degrees of negligence and a very high degree of negligence is required to be proved before the felony is established. In *Dr. Balamugunthan v. Suganthi*⁴⁷ Madras High court held that 'the jurisprudential concept of negligence differs in civil and criminal law, what may be negligence in civil law may not necessarily be negligent in criminal law. . For an act, to amount to criminal negligence the degree of negligence should be much higher i. e. gross or of a very high degree. Negligence which is neither gross nor of a higher degree may provide a ground for action in civil law but cannot form basis for prosecution.

3. Conclusion

When the question arises to deal with human being health issue it is the health care sector which plays important role. Healthcare sector include doctors and healthcare workers. Health care workers include the therapists, technicians and other ancillary persons who are involved in medical care. They can evaluate, examine and give the first treatment to the patient with equipment and medications as is found in the emergency department of a hospital. For that the paramedic must be calm, caring, honest, and intelligent to handle any medical situation. Paramedic has to follow some ethic in medical profession as paramedic has to play the role of healthcare worker or provider. They have the duty to take care, caring, maintain confidentiality of any medical information related to patient. If they failed in performing their duties and don't follow their professional ethics they are liable for their negligence act under civil and criminal laws.

⁴²Ruth Townsend and Morgan Luck, "Applied Paramedic Law and Ethics-Australia and New Zealand", Elsevier Australia, Pg. 76, (2015).

⁴³ Revision Petition No. 1225 of 2015

⁴⁴Supra note 42

⁴⁵ State by Srirangapatna Police v. Jaisingh , Criminal Appeal No. 1958/2005(A) HC Bangalore

⁴⁶ (1937) AC 576, (1937)UKHL 1

⁴⁷ A.S. No. 1131 of 2007