

Minutes of the Meeting dt 27th June 2022

Online Meeting of Medicos Legal Aid Association was held between 8:50 pm to 10:05 pm on 27th June 2022. It was attended by

01. Dr. Sanjay Gupte
02. Dr. Mukesh Yadav
03. Dr. Surendra Saxena
04. Dr. Ashish Khatod
05. Dr. Sangeeta Pikale
06. Dr. Swati Dole
07. Dr. Ashutosh Jape
08. Dr. Mahesh Sinha
09. Dr. Wadnap
10. Dr. Lalit Shah
11. Dr. Uma Nambiar
12. Dr. Hitesh
13. Dr. Deavraj Raichur
14. Dr. Ashok Shukla
15. Dr. Chandrakanta
16. Dr. Vidya Shetty
17. Dr. Rajendra Abhyankar
18. Dr. Rajeev Joshi

Apologies for typos in names if any, and missing out a few attendees as I missed the tract of those who were joining while we were having very interesting discussions. Errors and omissions in the minutes may please be excused.

Dr. Sangeeta Pikale discussed the issue related to 1.25 Cr compensation for missing limb reduction defect in USG, which is likely to crush the doctor. She stated that the guidelines were declared in 2006 and it would not be correct to expect the radiologist to be completely responsible for the unfortunate event. She has suggested that IRAI or FOGSI should frame guidelines and publish them from time to time. She said that the patient herself appeared in the National Commission, and produced the child before the commission. This has led to high compensation. Since she had to leave early for another meeting, she has sent a detailed email which describes all the issues pertaining to the topic being discussed. The mail has been sent to all in the medicos legal aid group in reply to the topic 1.25 cr Compensation for erroneous ultrasonography report, hence it is not duplicated here. She raised the need for no fault compensation, which will be discussed subsequently.

Dr. Ashutosh Jape described the justification given by the National Commission while awarding the compensation. The commission has categorically stated that while it wanted to give a wrap on the knuckles of the doctor, it did not want to break

his skull. He said that at this stage it is impossible to challenge the order of the National Commission though we are finding that the compensation is excessive. However it may be possible for Dr. Ghike to submit income tax returns for the last 20-25 years and show the Supreme Court that it is just not possible for him to pay such huge compensation.

Dr. Gupte said that there are no guidelines regarding reporting, and blaming obstetricians for not sending the patient for anomaly scan was incorrect. In 17-18 week, that is what is expected. Now the radiologist can not retract his statement if he goes for appeal in the Supreme Court.

Dr. Mahesh Sinha asked what was the position in the western countries and he heard that the child had multiple anomalies, because of which high compensation was given.

Dr. Gupte said that there is no cap on compensation which is there in the UK. He described that since 1993 there has been an effort to get no fault compensation insurance but there has not been any progress in this regard.

Dr. Rajeev Joshi said that had the ultrasonologist detected limb defect, the possibility of a syndrome or any other defects could have been evaluated and hence the bench was inclined to award compensation taking into consideration cost of treatment for all anomalies. He said that in response to this case, the radiologists should say that they will not be able to do an anomaly scan altogether as there is a 70-75% chance of missing an anomaly as per standard textbooks. Radiologists should only give measurements of BPD, AC and CRL and leave the interpretation to patients or obstetricians. They can take consent of the patient that only growth scan out of the 4 i.e. NT, Growth, Anomaly and 2DE scans are requested, as it is impossible to afford to pay such compensation. There can be contractual agreements with disclaimers to protect further suits as there are bound to be some errors. If radiologists take such an approach then it will be detrimental to the interest of the patients. He is willing to sign such an affidavit if required if the radiologist association supports this view.

Dr. Jape felt that radiologists can completely refuse to do scans but if they do it then there will be liability in case of missing a diagnosis. Asking a patient to sign on such consent would be incorrect. He was given the task of interacting with Dr Ghike and taking a call for assistance from the association. We can discuss this in subsequent meetings.

Dr. Surendra Saxena described the need for a Medical Service Manual. He said that for all other professions there are rules and regulations to protect the professionals, but there are none for the doctors. There was a medical service manual during the pre-independence era and similar manuals should be prepared taking into consideration current needs, standards and accordingly rules and regulations should be prepared. Doctors have no immunity like lawyers, they have to work in emergency situations but fee is not as of right, there is no rationale for punishment or

compensation awarded in medicolegal cases. It is necessary to have rules and regulations as to how we should treat the patients and how the community should treat us including administration and judiciary.

Dr. Gupte said that it is a wonderful idea and he agrees completely with Dr Saxena. We need to work from ground level up to prepare such a manual.

Dr. Raichur said that Dr. Saxena has raised a valid need. However, the response of the medical fraternity for such initiatives is very poor which is exemplified by the fact that very few organisations responded to NMC RMP Regulations 2022 by filing their suggestions. So we need to inform them what their default future is as opposed to the created future by taking steps to control government behaviour while regulating our practices.

Dr. Rajendra Abhyankar said that it is necessary to create awareness regarding issues faced by medical professions, and he has been doing this work for the last three months so that people are made aware about their rights as well as responsibilities. He said that during his talk to orthopaedic surgeons in Pune, he realised that none of the 170 attendees were even aware of NMC RMP Regulations 2022 and the need of submitting comments and objections on these regulations.

Dr. Rajeev Joshi said that the apathy for our problems is so much that all the efforts to connect to doctors in Kerala regarding suspension of two doctors did not bear any fruits. Dr Pikale also felt that we have met a dead end as nobody was willing even to talk about the issue, and hence we decided not to proceed with any effort in this regard.

Dr. Mukesh Yadav raised the issue of appointment of IAS officers in the position of Director General of Medical Education instead of considering 9 Principals of the medical college in the State who have rightful claim on the position. He said that there is a 2004 decision of Allahabad High Court supporting demand that IAS should not be appointed as DGME, and he will be filing a writ petition along with 8 other principals. He sought support from the Medicos Legal Aid Association. Dr Mahesh Sinha said that in Chattisgarh also IAS has been appointed as DGME. Dr Yadav said that 8 Principals are having apprehension as to whether the wrong decision of the government will be upheld by the Court. Dr Rajeev Joshi said that the association would be happy to provide all support as required by the Principals, but Dr Yadav has to spell out exactly what the association should do. Any step of the association should not be counterproductive to the efforts taken by the principals. Dr Yadav agreed to send the decision of Allahabad High Court and other required documents. Based on these documents we can discuss them during the next meeting.

Dr Rajeev Joshi informed about the order of Kerala High Court in which court refused bail to a patient. who created hindrance in the work of the doctor. The court has asked the police to increase security to hospitals and IMA Kerala has also

participated in the case with association of private hospitals in Kerala. He has studied the Kerala Act 2012 regarding prevention of violence and it is comparable with Maharashtra Act 2010. Since the PIL filed by Dr Rajeev Joshi in High Court of Judicature of Bombay was very well received by the Chief Justice as well drafted and well researched petition, and since government has agreed to repeal 2010 Act and promulgate new Act, he felt that Medicos Legal Aid Association should file an intervention application in Kerala High Court requesting the Court to direct government to look into possibility of amending the Act. According to Dr Rajeev Joshi, if similar petitions with same prayers are admitted in 3-4 states, then it would be easier to move a petition in the Supreme Court requesting the Central Government to pass the Central Act. Only hurdle in his opinion was the need of the local doctor / association to move the petition as Medicos Legal Aid Association / Medicolegal Society of India is yet to be registered. Dr Mukesh Yadav said that Indian Society of Forensic Medicine of which he is President, has members in Kerala and he will try and find whether any of them is willing to help in this regard. In the meantime Dr Joshi proposed to send an email to IMA Kerala to find whether some members would be interested. It was discussed that whether IMA or any other organisation comes forward to help, we will file the intervention application on our own as the Court has suo moto asked stakeholder comments and shown interest in protecting doctors. Therefore this is a relatively low hanging fruit and we should take all efforts to file the petition in Kerala High Court.

Dr. Vidya Shetty said that there is a 2020 letter from the Government regarding the need of installation of Sewage Treatment Plant by hospitals after IMA wrote a letter and held a meeting. However again Thane Municipal Corporation is asking STP for small hospitals Biomedical Waste processing. She will send the documents and we will discuss this topic during the next meeting.

Dr. Rajeev Joshi requested participants to submit their comments on threads created for each topic so that it is easy to compile all comments. Also if there are comments on whatsapp groups then the topic leaders should copy paste them in the threads so that important comments are not lost in the "khichadi" on whatsapp. He also sought help in tabulation of documents submitted by many associations to NMC so that we can compare all comments and prepare a plan of action of how to tackle problems at hand. He said that he is finding it difficult to take out time for this activity as many things are cropping up simultaneously and we as an association need to respond quickly. He also said that because of COVID-19 we have got the beautiful mechanism of online meeting and we should make maximum use of the same. At the same time members should respond on the threads in google group so that discussion is continued on independent threads and workload is reduced.

Members expressed that on Monday everyone has busy OPD and it is difficult to attend at 9:00 pm. Therefore it was agreed that the next meeting will be held on Tuesday, 5th July at 8:50 pm.