

Minutes of online meeting of Medicolegal Society of INDIA on Sat, Sep 20, 2022 at 8:50 PM

The meeting was attended by following members

Dr Sanjay Gupte
Dr. Surendra Saxena
Dr Mukesh Yadav
Dr. Jayanta Das
Dr. Sangeeta Pikale
Dr. Ashish Khatod :
Dr Nitin Dhande
Dr. Sayyed Kazmi
Dr. Srikanth Sundaresh
Dr. Swati Dole
Dr. Ashish Mittal
Dr. Shilpa K V
Dr. Arun Jamkar
Dr. Rishabh Rana
Dr. Devendra Raichur
Dr. Suresh Vasistha
Dr. Hitesh
Adv. Sneha Bhosale
Dr. Rajeev Joshi

Apologies for missing couple of members who joined late and left in between

1. Dr. Rajeev Joshi informed about the discussion he had with members of Akhil Bharatiya Grahak Panchayat in Pune. He also had a discussion with Mr Vijay Moharir from Jalgaon. Their concern was doctors association do not help in getting medical opinion whether in favour of patient or in favour of doctor and hence Grahak Panchayat is helpless in giving any medical opinion to aggrieved patients. There is no alternative but to go to court. Dr Rajeev Joshi had asked them what these associations do for doctors? Have they stood against violence? Have they objected to punishment given to doctors without the opinion of an expert committee? Since the answer to these questions was none, both discussed several ways to work together. Dr Joshi requested a supporting letter / affidavit in PIL regarding violence against doctors AND supporting demand for expert opinion before FIR as requested in IMA intervention, Dr Joshi informed that he has sent letter to IMA Pune and he has received letter from IMA Pune permitting MLSI to take over the matter from which IMA withdrew without giving any reasons. Therefore MLSI will file an interim application in it.

Dr Sanjay Gupte said that it would be a good idea to go along with Grahak Panchayat if possible at all different places. Dr Jamkar said that there should be a body of consumers and doctors which impartially decide complaints. This will go a long way in improving the doctor-patient relationship. Dr Yadav said that it is a good idea. Patients rights should be protected by conducting teaching programs and increasing awareness regarding various issues. Dr Rishabh Rana said that we should have a data driven approach. Dr Rajeev Joshi

said that while it is ideal to have a data driven approach, data is just not available. He is interacting with Aditya Birla Insurance Company for medical accident insurance cover, but the problem is data of incidents such as anaphylactic shock or cardiac arrest during surgery etc are just not available. If we tell patients that it is one in ten thousand they feel that it is an intentionally skewed opinion. Dr Raichur said that statistics will be confusing in such episodes and better not to use the figures. Dr Mukesh Yadav said that what matters is the approach of the doctors and medical community in such events.

Dr. Sangeeta Pikale expressed scepticism in such interactions and she described her experience of working with SETU which was supposed to be a bridge between doctors and patients and patient bodies do not trust the opinion given by the medical community and litigations do not reduce. Dr Kazmi said that the main reason for litigation is doctors do not give time to interact with patients. Dr Rajeev Joshi described the experience of the wife of a paediatrician friend who took her child to a homoeopath. She said that the homoeopath gave patient hearing to her problem and described everything in detail. So she preferred to go to a homoeopath, though medicine given by her husband may have worked.

Dr Gupte said getting both parties together for mediation would be a good idea and FOGSI settled an insurance policy long back in which out-of-court settlement will be supported by insurance companies if a committee formed by FOGSI recommends such settlement. Insurance company accepted only to those who came through FOGSI ?

Dr. Raichur said that there may be an added premium for such arrangements but it will certainly reduce the number of cases as well as time to close the issue and we need to work in that direction. Dr Saxena said that there should be protocol for management of various cases and courts should go by protocol so that differing judgments in each case will not be seen. We should put the ball in the court of the government to create such protocols. Dr Mukesh Yadav said that that should be done by professional organisations of doctors as we can not depend on the government to develop such protocols and we will never have such protocols. Dr Gupte said that there is need of guidelines at different levels e.g. Big hospitals in metros vs small hospitals in rural places (two levels)

Dr. Raichur said that what is right is contextual. For example one line description of right to life has been expanded by the Supreme Court and the list is getting expanded. Dr Saxena pointed out that WHO guidelines give care to be taken at different levels and asked why the government cannot make protocols. Dr Rajeev Joshi described his argument in Bombay High Court in which he opposed court / government making any protocol and if made there should be guidelines and NOT binding on the doctors as each patient may have different complexity. What is essential to know is whether other similarly situated doctors would have done the same thing as done by the doctor in question and in this regard the opinion of the

professional body can be sought by MLSI. What is the standard of care and whether it was met or not is the issue to be decided. Dr Sangeeta Pikale said that there are various mechanisms of treatment to suit various situations, affordability of patients etc etc and RIGID guideline will defeat the purpose. Dr Devraj Raichur said that we should support cause of giving justice, and try to bring doctors and patients together.

Dr Dhande said that there are two grahak panchayats. One is Ahik Bharatiya and another is Maharashtra level but registered. We need to find out the status of Akhil Bharatiya. Dr Joshi informed that he interacted with akhil bharatiya group and would check its registration etc. Dr Saxena said that there is no grahak panchayat in MP to the best of his knowledge. Dr Yadav said he will also have to check whether such an association exists in UP. Dr Gupte said that consumer societies exist everywhere under different names and styles and once we decide the mechanism of interaction with one association, the same can be replicated with others. Dr Mukesh Yadav said that a non litigant approach is always better but we need to check whether it is enforceable. We can ask the doctor to come to the table for negotiation, but whether the patient party will accept is a question. Dr Joshi said that that will have to be handled by an association of consumers. Dr Dhande asked whether experts who give opinions will have to go to court to give evidence. Dr Joshi described that such an event is unlikely. For example if Dr Dhande from Jalgaon gives an opinion for a case in Aurangabad, it is not practical for him to travel to give an opinion in court. So we should create a mechanism in such a manner that the name of the doctor who gives an opinion is never disclosed. The mechanism in his view is as follows, subject to correction by MLSI.

GrahaK Panchayat takes complaint from patient for which it charges Rs. 1000/=

It pays Rs. 750 to MLSI along with necessary documents.

MLSI retains 250 for admin costs and forwards documents to the specialist with Rs. 500/=

Specialist either gives opinion on his own or takes opinion of body of experts in his domain e.g. Orthopaedic Association and gives opinion to Medicolegal Society of INDIA.

MLSI gives opinions to GrahaK Panchayat without disclosing the name of the expert .

This will help in two ways. If an expert opinion is against the doctor, MLSI can inform him that such a complaint against you is likely to be decided against you so better be ready for compromise. GrahaK panchayat on the other hand can ask the patient to come for compromise and try and settle the issue without going to court / out of court as the case may be. If the expert opinion is in favour of the doctor, GrahaK panchayat will inform the patient accordingly and still if there is any issue, will try to mediate and settle matters out of court.

Dr Joshi said that this is a broad outline and there will be several learnings as we go along.

2. **Supreme Court declines to provide security at national level : DMA vs Union of INDIA : what can be done by MLSI?** Dr Vasistha said that it is not Delhi but Dwarka Medical Association. He will find out current status and we will evaluate possibility of amending the petition to improve protection of law rather than physical protection by police.
3. Proposed interim application in IMA intervention in Sneha Marzadi 10276/2021 COVID -19 management (procedure before FIR and Arrest) : IMA has given letter of withdrawal and permission to MLSI to take over. The DRAFT sent to all managing committee members was approved unanimously.
4. Proposed interim application in 2332/2020 Criminal PIL for violence against doctors for expeditious hearing and pointing out issues : The DRAFT sent to all managing committee members was approved unanimously.
5. Patient's rights and patient safety related initiatives to be taken by MLSI members all over INDIA : Dr Jayant Das was present during the beginning of the meeting but had to leave. So it was discussed that this will be taken up in subsequent meetings. Dr Vasisth said that we should also discuss patients' duties and consequences of not performing duties. Dr Yadav suggested conducting a webinar on this topic. Dr Joshi suggested that we can invite grahak panchayat members to keep it open for consumers / patients to attend this. Those who are interested in talking on this topic may give their names to Dr Yadav and it will be organised in the next 8-10 days.
6. Assignment of tasks to various office bearers of MLSI : Dr Joshi said that now all managing committee members are recognized officers of the registered society, everyone should pick up one task from the list of tasks given to them by the constitution.
7. Any other subject with prior permission of the chair : Dr Joshi thanked Ms. Srishti Yadav, daughter of Dr Mukesh Yadav for helping the association to make a logo and design for letterhead. While the work is in progress, she has put in lot of effort for the association,

The meeting ended at 10:20 PM, next meeting will be on 4th October 2022 at 8:50 PM