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MEDICAL EXAMINATION AND ITS EVIDENTIARY VALUE IN TRIALS

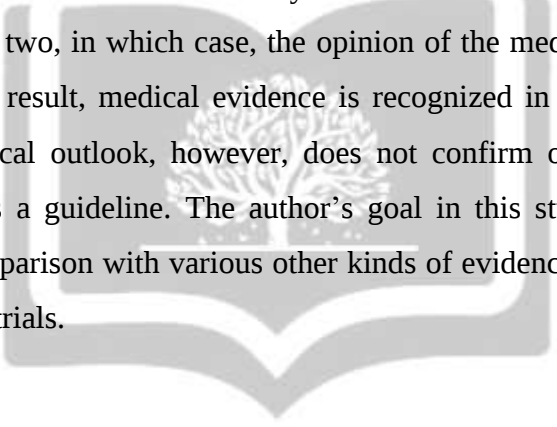
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Abstract

During the course of a criminal trial, medical evidence plays a critical role as corroborative evidence, which is frequently used by the prosecution to prove the defendant's guilt. These evidences are employed in circumstances where there is bodily harm, and because they are corroborative in nature, they complement or detract from the witness(es) testimony, as the case may be. Section 45 of the Indian Evidence Act provides for medical experts to opine on a case with the expertise they have on the field and the knowledge they have acquired through medical examination with respect to the case. The basic purpose of criminal defense is to raise equitable suspicion. In any case with medical evidences, the criminal defense attorney must figure out how to use it to raise equitable suspicion. Unlike law, where practically everything can be debated or interpreted, science is more black-and-white, in the sense that a lab test, for example, is difficult to call erroneous. The Indian laws however, do not validate their significance as much as they do the testimonies, unless there is a clear discrepancy between the two, in which case, the opinion of the medical expert will be taken into consideration. As a result, medical evidence is recognized in Indian law, even if it is corroborative. The medical outlook, however, does not confirm or refute the prosecution case; rather, it serves as a guideline. The author's goal in this study article is to address medical evidence in comparison with various other kinds of evidence, and their admissibility and evidentiary value in trials.

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LITERATURE REVIEW –

1. *M.L. Singhal's "Medical Evidence and Its Use in Case Cases"*¹ discusses how medical evidence and opinions are used in criminal trials to prove the legitimacy of the allegations made and how their evidentiary value varies from case to case, using jurisprudence. The author has cited numerous case laws to demonstrate how the importance of medical examination in trials has evolved through time. Despite the fact that the article uses various case laws to support its claims, they are mainly based on jurisprudence and the evolution of evidence rather than its current application in the judiciary.
2. *"Role of Medical Evidence in India - A Critical Study"*² by Jaro Jasmine talks about the use of medical and forensic evidences in trials with the backing of several precedents. It also highlights their varied types and discusses their evolution and individuality from other evidences with illustrations. However, the author has focused more on the importance of these evidences in cases where only women are victims and with specific references to the Evidence Act than on their application in criminal trials.
3. *Aparajitha Rajagopalan and Roja. K's "A Critical Analysis of Admissibility of Medical Evidence"*³ examines a wide range of precedents and medical evidences' relevance in order to determine how dependable they can be when used as definitive evidence rather than corroborative evidence. In the case that the medical evidence is regarded conclusive, the author also comments on how admissible it will be in trials. However, the authors focus on what 'could be' rather than what 'is', leaving no room for development or improvement of the current situation.
4. *"Medico-Legal Evidence in Indian Law: Appreciation, Evaluation & Impact"*⁴ by Dr. Aditya Tomer opines on the admissibility of medical evidences in criminal trials with the help of precedents. The study focuses mostly on situations in which there are discrepancies among the evidences submitted. The author, on the other hand, neglects to discuss the importance of medical examination as a whole, focusing instead on the comparison of various types of evidence.

¹ M.L. Singhal, *Medical Evidence and Its Use in Case Cases*, H.J.S., Sept. 18, 1995, at 7.

² Jaro Jasmine. A & Arya R, *Role of Medical Evidence in India - A Critical Study*, 120 IJPAM. 75, 80-84 (2018) (discussing the role of medical evidence in India).

³ Aparajitha Rajagopalan and Roja. K, *A Critical Analysis of Admissibility of Medical Evidence*, 120 IJPAM. 971, 972-980 (2018) (discussing the admissibility of medical evidence in criminal trials in India).

⁴ Dr. Aditya Tomer, *Medico-Legal Evidence in Indian Law: Appreciation, Evaluation & Impact*, AUUP, 2016, at 5.

5. *Elliott B. Oppenheim's "Lessons Learned: The Offensive Use of Medical Evidence in Criminal Defense Cases"*⁵ examines the use of medical evidence in a criminal trial and the preparations that a criminal defense lawyer must make. The author offers several suggestions for a lawyer to use in the event of evidentiary conflicts, but fails to provide an understanding of the prosecution's position on the matter.

RESEARCH METHODOLOGY

Methodology is an orderly planned procedure and hypothetical deduction of the manner and methods submitted to a field of study, or the theoretical study of the body of methods and fundamental guiding beliefs connected with a stream of knowledge. Descriptive and analytical research methods were dominantly used for this research work. This required me to gather pertinent, relevant information and build them in order to accurately analyse and resolve into easier elements for understanding. Also, this research paper has tried to concentrate the most on "what" aspect of the research topic instead of "why". Descriptive form of study explains the theme without having to manipulate it in any way. This paper also employed the non-doctrinal analysis approach as the sources acquired were second hand and not primarily collected. Doctrinal research is mainly focused on the materials like statutes, precedents, commentaries, etc. which are easily available and such that one can refer to at one's own convenience unlike conducting on field research. This method enables us to come to conclusions by studying these materials and are pure in nature. The author mostly referred to books, articles and online sources for the completion of this research paper.

RESEARCH QUESTIONS

1. What function does medical evidence play in a criminal trial?
2. When compared to other evidence, what is the admissibility of medical evidence in a trial?
3. Granted the importance of medical evidence in a criminal trial, should it be given a conclusive status?

⁵ Elliott B. Oppenheim, *Lessons Learned: The Offensive Use of Medical Evidence in Criminal Defense Cases*, 19 *Annals Health L.* 167, 168 – 70 (2010) (discussing the preparation of a defence lawyer in a criminal trial).

CHAPTERISATION

1. CURRENT STATUS OF MEDICAL EVIDENCES IN CRIMINAL TRIALS

1.1 What is medical evidence?

Medical evidence is that which is attained by experts to opine on in criminal cases involving bodily injuries to give a foundation to the claims of the prosecution or the defendant, as the case may be. These opinions are invited to discover various aspects of the crime, such as, the weapon used, time of the crime, its effect, etc., among many others which may either rule out or complement the claims presented before the trial. This falls under the category where a layman cannot comprehend the case without the help of medical experts and such is the reason for their existence in criminal trials. Because medical evidence is not unswerving, its value is based solely on how well it endorses and sustains the direct testimony of eyewitnesses, or how well it narrows that evidence and eliminates the chance that the injury occurred in the manner claimed by those witnesses. A doctor's opinion carries a lot of weight, yet it can also be dismissed for good reason⁶. As a result, medical evidence has contributed a critical part in criminal trials. Expert opinions in all fields should assist the court in quickly determining the nature of the offenses in addition to ascertaining the guilt of the accused. Expert testimony from a medical professional, in particular, assists the court in deciding numerous matters, particularly crimes against women or death of an individual. After the case of *Mukesh and Another v. State for NCT of Delhi and Others*⁷, where no ocular evidence was provided, the significance of medical evidence saw an all time high.

A medical witness who conducts a post-mortem assessment of the wounds is also a verity witness, even if they only express a verdict on specific parts of the case. A medical witness' importance is not just as a check on eyewitness testimony, but also as a sovereign testimony since it can demonstrate certain facts independently of other spoken evidence. If an individual is shot at close radius, the medical witness's sign of a tattoo would indicate that the radius was short, regardless of their other opinions. Fractures in bones, as well as the profundity and size of the injury, reveal the weapon's character. It is incorrect to assert that it is solely based on personal opinion. It is frequently unswerving indication of facts discovered on the victim.⁸

⁶ *Id* at 169.

⁷ *Mukesh and Another v. State for NCT of Delhi and Others*, (2017) 6 SCC 1 (India).

⁸ *Smt. Majindra Bala Mehra v. Sunil Chandra Roy*, AIR 1960 SC 706 (India).

1.2 In a criminal trial, what role does medical evidence and a medical expert play?

The medical evidence presented by the prosecution is highly corroborative. It establishes that the injuries might have been produced in the means claimed, and that the demise could have been instigated by the wounds, and therefore the prosecution case is coherent with medical science-certifiable facts, and there is no motive to doubt the eyewitnesses. The medical evidence can be exercised by the defense to show that the wounds or death could not practicably have been produced in the means as asserted by the prosecution, and if it can ensure so, it questions the eye witnesses⁹. Because the settings of ingestions may persist to be vague, it is difficult to establish that a medication overdose, intoxication, or inebriation, without more, is proof of a homicide. In cases when the facts are unknown, the same might be said about blunt force damage. To "take on" a pathologist, it is usually highly expensive, and one must have a thorough understanding of the medicine. Furthermore, being "blindsided" by completely unexpected testimony could prove disastrous for the defense.¹⁰

Section 45 of the Indian Evidence Act, 1872,¹¹ grants experts to form an opinion on the affairs of a case that are foreign to law, thereby, providing foundation to the claims presented by either party to the trial. The logical technique used in the study characterizes the nature of such evidence. Complex legal principles limit the kind of evidence that can be presented to the court. These guidelines aim to exclude evidence that is temperamental, redundant, or misleading in favor of evidence that has the greatest chance of being true. Medical evidence leads judges to draw rational judgments from the evidence's certainty. Medical experts' evidence is based on their assumptions, which are deduced from their specialized talents earned via study and experience¹². These evidences though play a vital role in legitimising claims in a trial, their contribution being only corroborative, do not stand a chance as of its current status, to help escalate the judgement solely based on this. In contrast to medical

⁹ Berliner L, *Expert Evidence and Eyewitness Testimony*, 3 JIV. 108, 108-110 (1988) (discussing the status of expert evidence and eyewitness testimony in a trial).

¹⁰ Gary Edmond & Kent Roach, *A Contextual Approach to the Admissibility of the State's Forensic Science and Medical Evidence*, 61 UTLJ. 343, 344-346 (2011) (discussing the admissibility of forensic and medical evidence).

¹¹ § 45, Indian Evidence Act, 1872.

¹² Emma Cunliffe, *Independence, reliability and expert testimony in criminal trials*, 45 AJFS. 284, 284-285 (2013) (discussing the reliability of expert testimony in criminal trials).

negligence cases, where the emphasis is on medical eminence, in criminal trials, the elucidation and analysis of medical evidence or the quality of the judgement is scrutinized.¹³



¹³ *Id* at 285.

2. ADMISSIBILITY OF MEDICAL EVIDENCE IN A TRIAL

2.1 Conflicting medical evidences

As already discussed before, medical evidences are of a corroborative nature, which can only contradict or complement claims made in a trial, which gives us ample reason to believe that in case of contradicting evidences, the eye witness(es)' claims would prevail. If the prosecution's observer's testimony contradicts the medical evidence, there is a serious flaw in the prosecution's case that, unless rationally clarified, is sufficient to discredit the entire case.¹⁴

When a medical witnesses' judgement is contradicted by the testimony of other medical witness(es), both of whom are correspondingly prepared to formulate an estimation, the court should ordinarily consent to the suggestions of the medical witness whose testimony is substantiated by synchronizing evidence¹⁵ and whose testimony corresponds with the prosecution description¹⁶.

In the case of *Mayur v. State of Gujarat*¹⁷, the Supreme Court held that, "Even when a doctor has testified in court, his testimony must be valued equally to that of any other witness, and there is no irrefutable belief that a doctor is, at all times a truthful witness."

The Hon'ble Court in the case of *Solanki Chimanbhai Ukabhai v. state of Gujarat*¹⁸, had held that, "Medical evidence is usually just corroborative in nature. It establishes that the injuries could only have been caused in the manner claimed. The medical evidence might be utilized by the defense to show that the injuries could not have been caused in the manner claimed, thereby discrediting the eye witnesses. The testimony of eye witnesses, on the other hand, cannot be thrown out on the basis of claimed contradiction unless the medical evidence goes so far as to entirely rule out all possibilities of injuries occurring in the manner alleged by eye witnesses." "If direct witness testimony is adequate and consistent, it cannot be dismissed

¹⁴ *Slam Narain v. Punjab Province*, AIR 1975 SC 1727 (India).

¹⁵ *Piara Singh v. Territory of Punjab*, AIR 1977 SC 2274 (India).

¹⁶ *Makhan v. Territory of Gujarat*, AIR 1971 SC 1797 (India).

¹⁷ *Mayur v. State of Gujarat*, AIR 1983 SC 5 (India).

¹⁸ *Solanki Chimanbhai Ukabhai v. state of Gujarat*, AIR 1983 SC 484 (India).

based on proposed medical findings. When a witness claims that a certain individual attacked the victim using a spear, it is usually assumed that the spear was employed to impale or puncture the victim's body.”

The Supreme Court has consistently held that whenever it is proposed to rely on a certain perspective adopted by writers of books of Medical – Jurisprudence, the said opinion must be presented to the doctor for assessment of how extreme the experts' views correspond to the realities of the case.¹⁹

2.2 Importance of medical evidence in cases involving bodily injuries

Medical proof is critical to an individual's injury claim's feat. The claim's forte is exactly proportional to the potency of the medical evidence. These records, like tangible evidence in a criminal prosecution, are the core component of an indemnification claim or lawsuit.²⁰ Wound evidence and genetic evidence obtained from forensic medical inspections of victims can be used to offer evidence regarding the crime as well as a relationship between the accused and the crime.

The principles established by the Court, which require that the armament of offense retrieved in a case be revealed to a professional and they be asked if the wounds discovered on the deceased could have been triggered by that armament, do not apply in cases where the suspected weapon of crime has not been retrieved²¹. Failure to present a weapon of offense would not undermine the medical evidence if the medical evidence was obvious.²² If the medical evidence is lacking, the Court can reach its own deduction based on the character of the injuries and other pertinent facts to the case.²³

¹⁹ Kusa v. State of Orissa, AIR 1980 SC 559 (India).

Bhagwandas v. State of Rajasthan, AIR 1957 SC 589 (India).

²⁰ *Supra* note 11, at 109.

²¹ Jai Dev v. State of Punjab, AIR 1963 SC 612 (India).

²² BV Danny Mao v. State, 1989 Cr.L.J. 226 (Gauh).

²³ Brij Bhukhan v. State of U.P., AIR 1957 SC 474, (India).

In a research study conducted in the US, it was found that most cases were dropped upon failure of getting the victim to participate or in finding the suspect. It is in cases like these that medical evidence acquired may give the necessary impetus for the completion of the case. Analyzing tools for biological evidence, performing laboratory techniques to achieve a DNA profile, and acquiring and examining samples from suspects for DNA matches are all examples of these actions. Third component, such as the attack's traits, may have an influence on both harm and genetic proof on the one hand, and criminal justice consequences on the other, adding to a statistical association between the two.²⁴



²⁴ Theodore P et al., *Injury Evidence, Biological Evidence, and Prosecution of Sexual Assault*, NCJRS, Jul. 2017, at 4.

3. MEDICAL EVIDENCES' PROGRESS THROUGH THE LENS OF THE JUDICIARY

3.1 Status of medical evidence and eye witnesses in court

The Division Bench of Navin Sinha and R. Subhash Reddy, JJ., while overturning the accused's acquittal emphasized the importance of ocular evidence and held that “The ocular evidence may only be disbelieved if there is a clear conflict between medical evidence and oral evidence, and the medical evidence makes the ocular testimony implausible and rules out the chance of the ocular evidence being true.”²⁵

In the case of *Purshottom v. State of M.P.*²⁶, the prosecution evidence revealed that the deceased was struck three times. Only one wound was discovered by the medical official who apprised the post-mortem investigation, and the kind and extent of the wound were reported. He claimed that the wound he discovered could not have been caused by two blows delivered at the same time. It was discovered that in the regular progression of human affairs and encounters, three blows delivered concurrently by three distinct people from various ways with sharp bordered weapons would rest with such accuracy and precision as to produce a single injury with such clear cut borders, proportions, and other features as those of the peripheral injury discovered by the medical official on the head of the thug. The Supreme Court determined that the prosecution witnesses' version of this crucial fact was fundamentally unlikely and unbelievable. The medical findings contradicted the ocular version of the event. The defendants were found not guilty.

Medical advice pointing to other potentials is not considered as conclusive where the eye witness' justification is established to be consistent and trustworthy. As a result, oral testimony takes precedence over medical proof. Eye-witness accounts would necessitate a vigilant, independent examination and assessment for their reliability, which should not be prejudiced by using any other evidence, including medical evidence, as the sole benchmark for such reliability testing.²⁷

²⁵ *Pruthviraj Jayantibhai Vanol v. Dinesh Dayabhai Vala*, 2021 SCC OnLine SC 493 (India).

²⁶ *Purshottom v. State of M.P.*, AIR 1980 SC 1873 (India).

²⁷ *State of U.P. v. Krishna Gopal*, AIR 1988 SC 2154 (India).

In the case of Rohit Shekhar v. Narayan Dutt Tiwari and Anr²⁸, the Delhi High Court instructed the respondent to undertake a DNA test because the petitioner could provide DNA evidence that eliminated the probability that his rightful father was his genetic father, and the High Court's decision was upheld by the Supreme Court. Currently, if there is a conflict between eye and medical evidence, the court must rule in favor of the evidence that provides higher assurance. Medical evidence does not take precedence over visual evidence where there is a logical conflict between the two. An eyewitness' testimony is not to be dismissed based on the eminence of a medical belief.

3.2 Is there scope for medical evidences to be considered conclusive?

It can be advocated and suggested that medical professionals be encouraged to do medico-legal practice. As previously stated, medical experts have played an important role as guides in assisting the Courts in reaching a consistent and well-defined result. Furthermore, logical experts/scientific researchers are now playing an increasingly important role, notably in criminal cases, with the courts relying on expert testimony. In one of the latest cases, the Supreme Court held that the mere failure to bring out the medical official's judgement in the witness box by exhibiting the armament to the witness, whether a specific wound is likely by the armament of crime does not make a change where ocular testimony is satisfactory and additionally, substantiated by the First Information Report.²⁹ A medical expert's injury report or post-mortem information is not substantive evidence and is irrelevant in court until the doctor is inspected. Nevertheless, if the doctor is deceased or unavailable for inspection in court, the said reports are made admissible and germane in the conditions set forth in Section 32 of the Evidence Act³⁰, in which case an alternative doctor or a medical expert may be able to substantiate it.

When a case arises out of a bitter feud and all of the witnesses are involved, the testimony of the witnesses must be analyzed with extreme care and carefully, taking into account the timeliest report, medical evidence, and other conditions.³¹ In the case of Awadhesh v. State of

²⁸ Rohit Shekhar v. Narayan Dutt Tiwari and Anr, (2012) 12 SCC 554 (India).

²⁹ Gurmej Singh v. State of Punjab, AIR 1992 SC 214 (India).

³⁰ § 32, Indian Evidence Act, 1872.

³¹ Ladha Shamji Dhanani v. State of Gujarat, AIR 1992 SC 956 (India).

M.P , the Supreme Court reiterated that “The judgement of a medical expert is never conclusive and binding.”

The opinion supplied by a medical witness need not be the deciding word on the matter. The court will examine such a judgement. Likewise, if a doctor's judgment is inconsistent with possibility, the court is under no obligation to follow that opinion simply because it was expressed by the doctor. However, professional opinions on a specific subject must be given fair weight undeniably.³² The Court of Law reiterated the same in the case of State of U.P. v. Hari Chand³³, by holding that “Unless the oral testimony is completely incompatible with the medical findings, it takes precedence.”



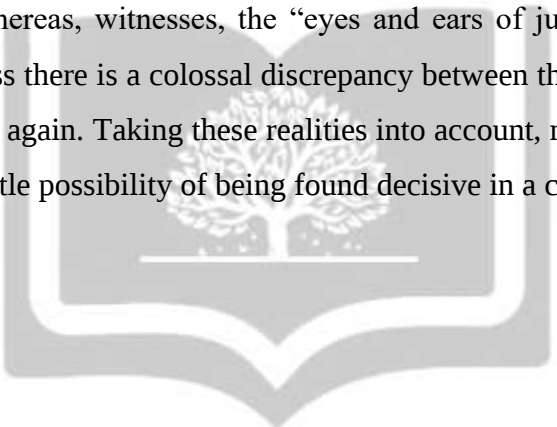
³² State of Haryana v. Bhagirath & Ors., JT 1996 (6) 594 (India).

³³ State of U.P. v. Hari Chand, 2009 (7) SCR 149 (India).

4. CONCLUSION

A medical opinion carries a great deal of weight and comes absolutely in handy in criminal proceedings. It considerably aids the prosecution in proving its case by demonstrating that the wounds may have been produced by the suspected weapon of offense by the suspected persons in the means claimed. Using medical evidence, the suspected persons attempt to disprove the prosecution's theory by demonstrating that the wounds could not have been inflicted by the alleged weapon of offense, and that the death could not have happened in the modus claimed by the prosecution.

The findings and precedents till date have established a corroborative nature of medical evidence. Though it greatly accelerates the path to justice by providing a backing to oral witness(es), they have never been considered conclusive, and for the right reasons. Though experts opine on a given case, at any point, there is always room for biased opinions and errors in judgements, whereas, witnesses, the "eyes and ears of justice" are comparatively tougher to discredit unless there is a colossal discrepancy between the evidence, as quantified by the judiciary time and again. Taking these realities into account, medical evidence, at least for the time being, has little possibility of being found decisive in a criminal prosecution.

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