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## Standard of Care in Medical Negligence: Bolam Test vs. Indian Judicial Approach

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**Abstract:** The concept of “standard of care” constitutes the normative foundation of medical negligence law, determining the threshold at which professional conduct becomes legally actionable. Rooted in the traditional Bolam principle of English common law, the standard historically privileged professional opinion over judicial scrutiny. However, Indian courts have progressively reoriented this doctrine by incorporating constitutional values, patient autonomy, and consumer protection frameworks. This article critically examines the evolution of the Bolam Test and juxtaposes it with the Indian judicial approach, highlighting doctrinal shifts, landmark rulings, regulatory interventions, and emerging medico-legal trends up to October 2025. It argues that India has developed a hybrid, rights-oriented standard that departs significantly from classical professional deference.

**Keywords:** Medical Negligence, Standard of Care, Bolam Test, Indian Judiciary, Patient Rights, Informed Consent, Consumer Protection, Medical Ethics

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### 1. Introduction

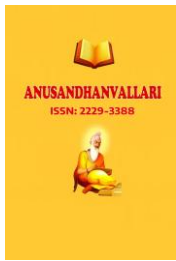
Medical negligence law represents a delicate balance between professional autonomy and patient protection, operating within a framework that must accommodate both scientific uncertainty and legal accountability. The notion of “standard of care” is central to this balance, as it determines the threshold at which a medical practitioner’s conduct becomes legally blameworthy. Historically, courts have exhibited deference to medical expertise, recognizing that judges lack the technical competence to second-guess clinical decisions. However, with the commercialization of healthcare, rising literacy among patients, and the expansion of rights-based jurisprudence, this deference has been increasingly questioned. In India, the transformation has been particularly significant, as courts have integrated constitutional principles—especially the right to life and dignity under Article 21—into the evaluation of medical conduct. This has resulted in a shift from a purely professional standard to a more holistic one that includes patient autonomy, informed consent, and institutional accountability. Furthermore, the rise of consumer protection mechanisms has enabled patients to seek remedies outside traditional civil courts, thereby democratizing access to justice. Consequently, the standard of care is no longer a static or purely technical concept; it is a dynamic legal construct shaped by evolving societal expectations, technological advancements, and judicial philosophy.

### 2. The Bolam Test: Doctrinal Foundation

The Bolam Test originates from *Bolam v Friern Hospital Management Committee*.

#### 2.1 Classical Formulation

The classical formulation of the Bolam Test establishes that a medical practitioner is not negligent if their conduct aligns with a practice accepted as proper by a responsible body of medical professionals skilled in the relevant field. This principle emerged in a context where courts were cautious about interfering with specialized domains requiring technical expertise. The underlying assumption is that medicine is not an exact science, and



therefore multiple acceptable approaches to treatment may coexist. By deferring to professional opinion, the Bolam Test sought to protect doctors from undue liability arising from honest differences in clinical judgment. However, this formulation also created a self-regulatory model, where the medical profession effectively determined its own standards. Critics argue that this leads to a lack of accountability, as peer groups may be reluctant to label a colleague's conduct as negligent. Additionally, the test does not adequately address situations where accepted practices themselves may be outdated or inherently flawed. Despite these criticisms, the Bolam Test remains influential as a foundational doctrine, shaping the legal understanding of medical negligence across common law jurisdictions, including India.

## 2.2 Jurisprudential Basis

The jurisprudential basis of the Bolam Test lies in the principle of judicial restraint, which recognizes the limitations of courts in adjudicating highly technical matters. The doctrine is

grounded in the idea that professional expertise should guide the determination of acceptable standards, rather than lay judicial opinion. This reflects a broader common law tradition of deferring to specialized knowledge in fields such as medicine, engineering, and finance. Furthermore, the Bolam Test embodies a form of epistemic humility, acknowledging that medical science involves uncertainty, evolving knowledge, and context-specific decision-making. By relying on a "responsible body" of professionals, the test attempts to ensure that liability is not imposed arbitrarily or retrospectively. However, this approach also raises questions about the objectivity and independence of expert testimony, as professional bodies may have institutional biases. Over time, courts have recognized that uncritical reliance on expert opinion can undermine justice, particularly in cases involving vulnerable patients. As a result, the jurisprudential foundation of Bolam has been increasingly scrutinized and modified to incorporate elements of reasonableness and logical consistency.

## 2.3 Structural Limitations

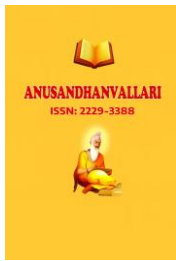
The structural limitations of the Bolam Test have been the subject of extensive academic and judicial critique, particularly in relation to its over-reliance on professional opinion. One major limitation is that it effectively allows the medical profession to set its own standards of liability, thereby creating a potential conflict of interest. This can lead to situations where negligent practices are shielded from scrutiny simply because they are widely accepted within the profession. Additionally, the test does not adequately account for patient perspectives, including their right to be informed and to make autonomous decisions about their treatment. Another limitation is the absence of a robust mechanism for evaluating the quality and credibility of expert evidence, which may vary significantly in different cases. Furthermore, the Bolam Test does not address systemic issues such as hospital infrastructure deficiencies, staff shortages, or administrative failures, which can contribute to medical negligence. These limitations have prompted courts in various jurisdictions to refine the doctrine, introducing elements of logical scrutiny and patient-centered considerations. In India, these concerns have played a crucial role in shaping a more balanced and rights-oriented approach.

## 3. Post-Bolam Developments: Rationality Review

### 3.1 Bolitho Test

The decision in *Bolitho v City and Hackney Health Authority* marked a significant evolution in medical negligence law by introducing the requirement that professional opinion must be capable of withstanding logical analysis. This development addressed one of the major criticisms

of the Bolam Test, namely its tendency to accept any body of professional opinion without examining its reasoning. Under the Bolitho principle, courts are empowered to reject expert testimony if it is not supported by a rational and defensible basis. This represents a shift from mere deference to active judicial evaluation,



ensuring that medical opinions are not only accepted but also justified. The Bolitho Test thus enhances accountability by requiring experts to articulate the reasoning behind their conclusions, rather than relying solely on professional consensus. It also aligns medical negligence law with broader principles of evidence-based decision-making, which emphasize transparency, consistency, and logical coherence. While the Bolitho refinement does not completely abandon the Bolam framework, it significantly limits its scope by introducing a layer of judicial oversight.

### **3.2 Legal Significance**

The legal significance of the Bolitho development lies in its rebalancing of the relationship between courts and medical professionals. By allowing judges to scrutinize the logical basis of expert opinions, the doctrine reduces the risk of unjust outcomes arising from uncritical acceptance of professional testimony. This has important implications for both plaintiffs and defendants, as it ensures that liability is determined on the basis of reasoned analysis rather than mere authority. The Bolitho Test also contributes to the development of a more transparent and accountable legal system, where expert evidence is subject to the same standards of scrutiny as other forms of evidence. Furthermore, it reflects a broader trend toward the democratization of knowledge, where specialized expertise is no longer treated as infallible but is instead evaluated in light of general principles of logic and fairness. In the Indian context, although Bolitho has not been explicitly adopted in all cases, its influence is evident in the increasing willingness of courts to question and evaluate medical opinions.

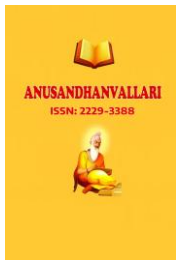
## **4. Transplantation and Transformation in India**

### **4.2 Constitutionalization of Medical Negligence**

The constitutionalization of medical negligence in India represents a significant departure from the traditional common law approach, as it integrates fundamental rights into the assessment of professional conduct. In *Jacob Mathew v State of Punjab*, the Supreme Court articulated a nuanced framework that balances the need to protect medical professionals with the imperative of safeguarding patient rights. The Court emphasized that negligence must involve a gross lack of competence or a failure to exercise reasonable care, particularly in the context of criminal liability. At the same time, it recognized that medical negligence can implicate the right to life under Article 21, thereby elevating it to a constitutional concern. This dual approach reflects an attempt to reconcile competing interests, ensuring that doctors are not subjected to undue harassment while also holding them accountable for serious lapses. The decision also underscores the importance of expert evidence, while cautioning against its misuse. Over time, this constitutional perspective has influenced subsequent judgments, leading to a more rights-oriented and patient-centric jurisprudence.

### **4.3 Consumer Protection Perspective**

The inclusion of medical services within the ambit of consumer protection law, as established in *Indian Medical Association v V.P. Shantha*, has had far-reaching implications for the standard of care in India. By recognizing patients as consumers, the Court enabled them to seek redress through specialized forums that are more accessible and less formal than traditional civil courts. This has significantly increased the volume of medical negligence claims, thereby enhancing accountability within the healthcare sector. The consumer protection framework also emphasizes compensation and restitution, shifting the focus from purely punitive measures to remedial justice. Additionally, it has led to the development of jurisprudence that prioritizes patient welfare, transparency, and fairness. However, this expansion has also raised concerns about the potential for frivolous litigation and the resulting impact on medical practice, including the rise of defensive medicine. Despite these challenges, the consumer protection perspective remains a crucial component of India's approach to medical negligence, reinforcing the importance of patient rights and access to justice.



#### 4.4 Standard of Reasonable Care

The articulation of the standard of reasonable care in *Kusum Sharma v Batra Hospital* provides a comprehensive framework for evaluating medical negligence in India. The Court outlined a series of principles that emphasize the contextual nature of medical decision-making, recognizing that what constitutes reasonable care may vary depending on the circumstances of each case. It clarified that doctors are not liable for mere errors of judgment, provided that their actions are consistent with accepted medical practice. At the same time, the judgment cautioned against the use of hindsight in assessing negligence, as this can lead to unfair and unrealistic expectations. The decision also highlights the importance of maintaining a balance between patient rights and professional autonomy, ensuring that neither is unduly compromised. By providing clear guidelines, the *Kusum Sharma* case has contributed to greater consistency and predictability in judicial decisions, while also reinforcing the need for a nuanced and context-sensitive approach.

#### 4.5 Informed Consent Doctrine

The doctrine of informed consent, as articulated in *Samira Kohli v Dr Prabha Manchanda*, represents a fundamental shift toward patient autonomy in Indian medical law. The Court held that patients have the right to be informed about the nature of their treatment, including its risks, benefits, and alternatives, before giving consent. This marks a departure from the *Bolam* approach, which prioritized professional judgment over patient participation. The recognition of informed consent reflects broader ethical principles, including respect for autonomy, dignity, and self-determination. It also imposes a corresponding duty on medical practitioners to communicate effectively and transparently with their patients. In practice, this has led to increased documentation requirements, including written consent forms and detailed disclosures. The doctrine has been further strengthened by subsequent judicial decisions and regulatory guidelines, which emphasize the need for patient-centered care. However, challenges remain in ensuring that consent is truly informed, particularly in contexts where patients may lack the necessary knowledge or resources to fully understand their options.

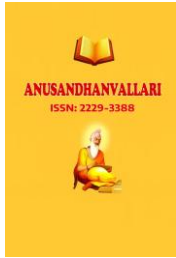
#### 10. Conclusion

The Indian judicial approach to medical negligence demonstrates a clear evolution from the traditional *Bolam* Test toward a more comprehensive and rights-oriented framework. By incorporating constitutional principles, consumer protection mechanisms, and ethical considerations, Indian courts have developed a nuanced standard of care that balances professional autonomy with patient welfare. This transformation reflects broader changes in society, including increased awareness of rights, advancements in medical technology, and the growing complexity of healthcare systems. While challenges such as defensive medicine and inconsistent application remain, the overall trajectory is toward greater accountability and transparency. As of October 2025, the Indian model stands as a distinctive and dynamic approach to medical negligence, offering valuable insights for other jurisdictions seeking to reconcile the demands of professional expertise with the imperatives of justice and human dignity.

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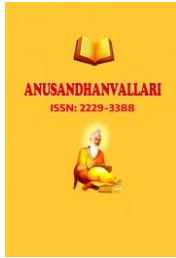
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