

Relevance of Medical Opinion in Homicide Cases

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Abstract

The paper investigates the role of medical opinion in homicide cases, especially under Indian law. When courts are confronted with complicated factual matters that are beyond their knowledge, they rely on the opinions of experts from diverse professions to interpret the evidence. Medical experts play an important role in homicide cases, describing complicated wounds and sharing their knowledge to help judges comprehend the cause of death. The article addresses several research questions, including the acceptance of medical opinion on death causation, its impact on determining the accused's mens rea (guilty mind), the weightage given to medical opinion regarding murder weapons, and how courts deal with discrepancies between medical and ocular evidence. The article covers the advisory character of medical evidence, the hazards of overreliance on medical experts, and the necessity for courts to weigh aspects such as the physicians' credentials, competency, and prejudices. It emphasises the necessity of medical opinion in proving causality and evaluating the accused's mens rea, but warns against physicians' subjective judgements. The article continues by emphasising the courts' dependence on medical professionals to describe the nature of injuries and draw conclusions based on their knowledge, while also taking into account other important circumstances of the case.

Keywords: Homicide cases, death causation, medical evidence, hazards of overreliance on medical experts, physicians' credentials

INTRODUCTION

In every trial of a criminal offence, it is most likely that certain factual issues will be disputed. Courts may come across dead ends, wherein certain events need explanations that are beyond their expertise. Judges might lack the competence to say, whether a particular death has been caused by strangulation or hanging; they might be unable to understand what quantity of a poison is sufficient to cause death; or they might need to decipher whether a particular handwriting belongs to a specific person. When courts come across such unfamiliar evidence, they need the opinion of people who are experts in their respective fields and can interpret the evidence. The onus on these experts is just to aid the courts in understanding certain facts, which are beyond the comprehension of the judges. The personal perspective of these experts is something that courts are not bothered with.

Homicide refers to when a human being is killed due to the act or omission of another human being. Since killing humans ultimately deals with finding the cause of death by looking at the nature of injuries,

etc., the role of forensic science becomes paramount. Courts are unable to understand the anatomy of individuals. It is imperative that medical experts have the onus of explaining complex wounds and furnishing the courts with their expertise. In India, cases of homicide are mostly dealt with under Section 299 and Section 300 of the Indian Penal Code, 1860 [1]. These sections talk about culpable homicide and murder, respectively. The interpretation of these sections over the years has shown that courts reach conclusions within the different clauses of these sections, primarily with the aid of medical experts.

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Section 45 of the Indian Evidence Act, 1872, allows the courts to ask experts in different fields for their opinion in case they need clarity in one of the following areas [2]:

- Foreign law
- Science
- Art
- Identity of handwriting

For the purpose of this project, I shall restrict myself to the relevance that the opinions expressed by medical practitioners have in cases of homicide in India. We shall see how medical experts have moved on from providing their expertise just on objective factual matters to the court to even giving their opinion as to the manner of causation of death. They are allowed to use hypotheticals to support their statements. However, courts are reluctant to accept hypotheticals provided by forensic experts. Courts nowadays place increasing emphasis and reliance on medical opinions. Sometimes, it is even used to circumvent the evidence of the eyewitnesses in cases where their evidence is inconsistent and is completely ruled out by medical evidence. Sometimes, if medical experts are not consulted in certain matters, it might weaken the case of the prosecution and lead to the acquittal of the accused. Thus, in a way, the support of medical opinion has become mandatory on certain points of law.

RESEARCH QUESTIONS

There are multiple queries that emanate from the discourse on the relevance of medical opinion in cases of homicide. The following are the broad questions that I have tried to address in the course of this project:

- How far shall judges accept the medical opinion on the causation of death due to certain injuries?
- Can medical opinion have a bearing on the determination of the *mens rea* of the accused?
- What is the weightage given to medical opinion in determining whether certain injuries were caused by alleged weapons of murder?
- How do the courts deal with the discrepancy between medical and ocular evidence?

RELEVANCE OF MEDICAL OPINION IN HOMICIDE CASES

Medical evidence in court is held to be advisory in character. The court is never bound to accept what is opined by the medical experts in their explanation of the facts of the case. There are cases wherein the courts have to take a call on the degree of acceptance they can give to medical opinions. This depends upon the direct evidence present, the logical coherence in the medical opinion, whether the opinion is consistent or not with ocular evidence and the like. There have been judgments wherein the entire decision and final verdict of the court depend upon the opinion of the doctors. Further, courts are seen to not replace their opinion with that of the medical expert as that could lead to miscarriage of justice. However, the problem arises when over emphasis is placed on medical experts. Courts often fail to focus on other relevant issues such as the qualification of doctors, whether they are competent enough to give their opinion, whether they are experts in the field they are opining on, whether they are interested witnesses biased towards one party and so on and so forth. There is also a lack of any standard in India with respect to the extent to which the courts shall accept the opinion of the doctors. This is also because that would reduce the discretion of the judges and depend upon the facts and circumstances of each case. In this project, I have tried to explore the different facets of a crime that can be explained by medical experts and how much their opinion holds sway over the judges.

While certain judges like Justice Hidayatullah have stated that doctors should be allowed to bring in new independent facts before the courts, several others believe that medical experts should only be allowed to express their opinion on facts that are available before the courts [3].

With the growth of science, there is an increasing reliance on scientific evidence by the courts. In a case where the prosecution only had circumstantial evidence against the accused, but nevertheless the evidence was grave enough to show guilt on the part of the accused, the court acquitted him. It stated

that the case of the prosecution would have been ‘clinging’ had it proved that the blood stains of the deceased matched with the group of blood found on the chopper in which the accused was escaping [4]. Further, in cases involving dying declarations, doctors have the burden of proving that the dying declaration was made in a state in which the accused was rational enough to be conscious of what he or she was saying [5]. In such a situation, the doctor has to explain to the court whether, looking at the injuries sustained by the deceased, he or she, moments before dying, was in a consistent and logical state of mind [6].

Thus, we see that medical opinion is not only relevant for explaining to the court facts that are present before it but also has a bearing on whether other evidence can be accepted by the court or not. It is in such situations that sometimes courts rely too much on the opinions of doctors, and knowingly or unknowingly, are clouded by the opinions of such experts.

CAUSATION

Medical evidence has a primary role to play when it comes to establishing causation. Looking at the injuries, it is difficult, if not impossible, for the courts to determine, whether they are ‘sufficient in the ordinary course of nature to cause death’. There have been several cases wherein doctors have opined that the injuries first inflicted by the accused were not those that have caused death, but actually supervening factors that contributed to it. This has led to the courts changing the sentence from murder to culpable homicide.

In the case of *Govindaswamy v. State of Kerala* [7], the death of the deceased could not be attributed to the injury caused by the banging of the head against a flat surface by the accused. Had this been declared to be sufficient to cause death by the doctors, the accused would have been held guilty of murder. However, the doctors opined that death was caused by the cumulative effect of this injury and that caused by the deceased’s fall from the train and her subsequent rape. Thus, it was solely the doctor who could, because of his expertise, decide whether death could be attributed to the injuries caused by the accused. The court accepted his opinion as it is and changed the sentence from Section 302 to Section 304.

The landmark case of *Virsa Singh v. the State of Punjab* [8] established that in order to convict a person under Section 300 (3), the intention of the accused is only relevant until whether he intended to cause that specific injury or not. Whether or not that injury was ‘sufficient in the ordinary course of nature to cause death’ was declared to be an absolutely factual finding, which over the course of time has been seen to be completely dependent on medical opinion.

There have been cases wherein the doctor has not given any opinion as to the chain of causation to establish a link between the act of the accused and the death [9]. This has led to the court acquitting the accused on the basis of a lack of medical opinion backing the prosecution’s case. Courts have even gone to the extent of stating that if medical evidence is unable to express a clear opinion as to the nature of injuries, the possibility of the accused causing those injuries is also negated [10]. While doctors are mostly expected to only give their opinion pertaining to the nature of injuries, they have even given evidence stating that the particular injuries could not have been caused by accident, thus leading to the courts holding the accused liable [11].

The opinion of doctors plays a very important role, especially in those cases where there is a substantial period of time between the infliction of injuries and the death of the victim [12]. In those cases, the courts have to rely solely on the opinion of the doctors when the injury caused is not evidently death-causing [13]. It is not easy for the courts to replace the doctor’s opinion with their own in these cases [14].

The courts have stated that expert opinion cannot be accepted just as it is. The doctors are required to not just state their findings, but also give a cogent reason behind them. It is then that the courts accept the findings of the doctor based on their own judgment, or they might reject them [15].

Thus, we see that the courts mostly rely on medical opinion with respect to the injuries inflicted on the deceased. While it is true that it is beyond the expertise of the court to address issues as complicated as the extent of grievousness of the injuries or which injuries on which parts of the body are vital, over reliance on the opinion of doctors might lead to maladministration of justice. Courts should look into factors such as the competence of doctors, their biasness, and their experience. This should especially be done in those cases where the verdict of the court relies entirely on the findings of the doctors.

MENS REA

Courts have been using medical evidence to also form an opinion on the *mens rea*, that is, the guilty mind of the accused. In these cases, a very fine line has to be drawn between the factual necessity of the expert's opinion and his own subjective opinion of the facts present.

In the case of *Dukhmochan Pandey v. State of Bihar* [16], the court reached the conclusion that only those accused who had fired the guns on being ordered had the common intention to kill, whereas the others did not have this intention. This was established on the basis of the nature of the injuries as explained by the medical experts. Thus, we see how the opinion of doctors has a bearing on the subjective aspects of crime as well.

When the opinion of the doctor stated that the injuries caused by all the accused jointly with their deadly weapons were sufficient to establish that they had the common object of killing, the Supreme Court went ahead with this opinion to convict the accused under Sections 302 and 149 [17]. There have been cases in the past where the doctor himself has contended that looking at the nature of the injuries, he could surely conclude that the accused had no *mens rea* at the time of commission of the offence [18]. As far as the conclusion of the court based on any medical expert's opinion is concerned, it has been seen over the years that the courts rely on the doctors to explain the nature of injuries, and based on this explanation of the doctors, the courts reach a conclusion as to the intention or knowledge of the accused [19]. In case, the prosecution is unable to discharge the burden of using medical evidence to explain the nature and effect of the injuries, the court may go ahead and presume the lesser kind of injury and not convict a person for murder [20].

Thus, we see how medical opinion has been used over the years to explain the nature of injuries, and it is on the basis of that, that the courts reach a conclusion with respect to the *mens rea* of the accused. As long as this is happening, it is acceptable. However, when the doctors start opining on whether a particular intention can be attributed to the accused, it might lead to injustice. Doctors look at things from their own scientific perspective, which has a different connotation when looked at from a legal perspective. Courts essentially look at all the other relevant facts of the case to redefine the opinion of these experts and finally reach a conclusion.

ALLEGED MEANS OF MURDER

Courts have placed supreme reliance on the opinions of medical experts to determine whether or not the injuries found on the body of the deceased were caused by the alleged weapons of murder. Further, deaths caused by poisons or other chemical substances have to be completely explained by medical professionals to the courts who have almost no knowledge of such scientific matters.

Courts have gone to the extent of stating that even if, according to the eyewitness, the injuries were caused by a particular weapon, the courts will rely on such evidence only if the medical reports also say so [21]. Weapons allow the court to link the injury to the accused. When two weapons were recovered from the alleged murderer but were not produced before the doctor, the court set aside the conviction because the doctor could not present any conclusive proof as to the actual weapon used by the accused [22]. If the postmortem report says that death was caused by a 'sharp edged weapon' but no such weapon could be recovered, courts may place heavy reliance on the opinion of doctors to set aside convictions [23]. It is the prosecutor's duty to prove using medical opinion that the injury was caused by that

particular weapon for the court to rely on such evidence [24]. In *Krishnegowda v. State of Karnataka* [25], when the doctor could not prove whether the injuries were caused by a chopper or a club or by falling on a sharp object, it was taken to be a major fallacy in the prosecution's case, which led to the conviction being set aside.

In cases of deaths caused by poisoning, courts rely heavily on doctors to understand whether the death was caused by the intake of poison or by some adverse reaction inside the body. It helps to understand the *mens rea* of the accused by looking at the quantity of a drug administered, especially in those cases where the poison might be a safe one to use within specific limits. Experts also help the courts understand the extent of lethality of the poison used.

Since in homicide cases, there is a lot of dispute as to the facts of the case, it is very important for the courts to distinguish between the truth and the false. It is for this reason that they rely on medical evidence which is supposed to be objective in nature. However, when a doctor opines on the sort of weapon that could have been used for the offence, his opinion may be adversely affected for several reasons. First, in certain cases, the deceased's body might be too mutilated for the doctor to precisely examine each wound and be able to figure out the kind of weapon used. Second, the extreme reliance of the court on the doctor's evidence, such that its non-availability might weaken the case of the prosecution, might prove to be detrimental since doctors too are humans who might be wrong in their assessment. Similarly, certain poisons may have delayed effects while others may decompose completely within the body of the deceased before it is examined by the doctor conducting the post-mortem. It requires a very high level of expertise to understand the cause of death in these cases. In spite of being qualified experts, mistakes in the analysis of the cause of death are highly probable as the interpretation of the symptoms is subject to several non-objective factors. Heavy reliance must therefore be avoided.

MEDICAL OPINION V. OCULAR EVIDENCE

It is established that ocular evidence should be given primary importance over medical evidence. Courts have said that medical opinions can only be accepted if they logically flow with the other facts of the case [26]. If the doctor makes an independent statement, he should back it up with logic and reasoning. However, there have been certain instances and certain situations in which courts have given medical evidence more significance than ocular evidence.

There have been cases, mostly those decided by the lower courts, wherein judges have heavily relied on the 'uncanny' opinions expressed by doctors to bypass the evidence of the eyewitnesses [27]. Medical evidence is used by the courts to establish facts such as the range from which the bullets were shot, the time of the injuries, etc. Sometimes, courts judge the reliability of eyewitnesses based on a medical opinion. In a case where the medical evidence conclusively proved that the shots were fired from a higher level at the accused while the eyewitnesses claimed the contrary, the court held that the eyewitnesses had not witnessed the occurrence at all and went ahead with the medical opinion [28]. When a lower court rejected the dying declaration of the deceased on the grounds that it is impossible for a person with 99% burn injuries to remain conscious enough to make dying declarations, the Supreme Court criticized this reasoning of the lower court [29]. It stated that courts cannot reject the opinion of experts unless it is inherently defective. There have been cases wherein due to the discrepancies between the ocular and medical evidence, verdicts have been given in favour of the accused since he is always entitled to the benefit of doubt [30]. In another case, the Supreme Court rejected the medical evidence, stating that if the eyewitness could be proved to be trustworthy, a medical witness could not be allowed to overrule it [31].

Sometimes, medical evidence has been held to render the ocular evidence completely invaluable [32]. Courts have also gone to the extent of using the motive of the accused to resolve the discrepancy between the opinions of two medical experts [33]. In crimes, it is intention that matters while motive is

taken to be irrelevant. Thus, when the court resorted to using the lack of motive to set aside the conviction under Section 302 when conflicting opinions were given by two doctors, we can see the extent to which medical opinion matters in courts. In another case, when there were inconsistencies between the opinions of two doctors, the Supreme Court justified the inconsistencies by accepting the argument that the nature of injuries changes after the dressing is done [34].

Thus, we see how a large degree of discretion has been given to the judges as to whether to accept medical evidence or not. Whether or not the eyewitness is trustworthy, whether the medical evidence is conclusive or not, whether the eyewitnesses are biased or not—all of these are quite subjective things to be considered. Such subjectivity in matters of criminal law, which not only aims at punishing the guilty but also ensures that no innocent is punished, might lead to injustice at times. There is no objective benchmark against which one can weigh the trustworthiness of either medical or ocular evidence. While medical evidence claims to be objective in nature, it is ultimately humans who are reading the facts and interpreting the symptoms. Similarly, while direct eyewitnesses are supposedly the best witnesses in any crime, human memory is also prone to making mistakes and cannot be relied upon completely.

HYPOTHETICAL

Given is a hypothetical case based on a case already submitted before the Indian court. I have tried to address mostly the medical aspects of the witnesses as well as the judgment to bring out the relevance of an expert's opinion in court.

Facts

The deceased was sitting on his chair in his house when the accused entered with a sharp stick in his hand. After an initial heated conversation pertaining to a land dispute, the accused hit the deceased hard on the head. Thereafter, the deceased fell down the small flight of stairs and eventually becomes unconscious. He died 10 days after being admitted to the hospital.

Arguments for the Prosecution

- The accused had entered the house of the deceased with an intention to kill him, which is evident from the fact that he entered in a fit of anger with a stick in his hand.
- Although motive is irrelevant, it is quite evident in this case as it pertains to a historic land rivalry between the two.
- The injury, which was caused by the stick on the head led to the deceased losing his power of control.
- Further, the accused pushed the deceased down the flight of stairs, which eventually led to him losing his life in the hospital.
- The chain of causation, as suggested by the doctor, has not been broken, as the deceased ultimately succumbed to injuries that had been caused by the act of the accused. Hence, the accused should be held liable under Section 302 of the IPC for murder.

Arguments for the Defence

- The postmortem report suggests that the injury caused by the accused with his stick was not sufficient in the ordinary course of nature to cause death.
- Death had been caused due to the cumulative effect of the injuries caused by the stick and by the deceased's falling down the flight of stairs.
- Unless and until the prosecution can prove that death could have been caused only due to the injury caused by the stick, the accused cannot be held liable for murder.
- There is nothing in the evidence to suggest that the accused pushed the deceased down the flight of stairs. In the absence of any such conclusive proof, the injuries caused by the fall cannot be attributed to the accused.
- Since death was caused by the intervening event of the deceased falling down the stairs, the accused should not be held liable under Section 302.

Judgment

Following the judgment of the court in the case of *Virsa Singh v. State of Punjab* [35], a person can be held liable for murder under Section 300(3) only if the injuries caused are 'sufficient in the ordinary course of nature to cause death'. Here, the postmortem report says that the injuries from the stick are not sufficient in the ordinary course of nature to cause death. Death had resulted from the cumulative effect of all injuries due to the stick as well as the fall. Since the prosecution has been unable to present any doctor's opinion stating that the injuries were sufficient to cause death or even produce any evidence that the fall could be attributed to the accused, it is not possible for the accused to be held liable under Section 302 for murder.

Analysis

The facts of this hypothetical are somewhat similar to the case of *Govindaswamy v. State of Kerala* [36]. The deceased has died due to the cumulative effect of two sorts of injuries. One was the injury on the head inflicted by the accused and the other was due to the falling of the deceased down the flight of stairs, the cause of which has not been attributed to the accused. The courts, in determination of the nature of bodily injuries, have relied completely on the opinion of medical experts. We see that in cases like the one at hand, it is just the nature of the injuries that is the determinative factor in the final verdict. Thus, there is heavy reliance on the experts' opinion by the courts in such cases.

The court in the case of *Govindaswamy* also gave the decision along similar lines. However, it is also probable that maybe, the injuries caused due to the fall, would not have impacted the deceased as much, had he been in his proper state of mind. If the accused had not hit the deceased, he probably might have been able to control himself better to sustain lesser injuries and would not have died. How much of his control would have helped save him and how well can the doctor explain such hypothetical situations depends upon the situation. Further, the courts are also seen to not accept such hypothetical situations put forth by doctors. Thus, we see how depending upon the facts and circumstances of each case, the degree of medical opinion required differs and also the reliance of the court in such hypothetical situations.

CONCLUSION

The courts have thus seen fit to place heavy reliance on the opinions of medical experts. It is used in a variety of aspects, ranging from the determination of causation to the determination of guilt of the accused. At times, it is used by the courts in a very restrictive way such that they accept it only if it logically flows with the rest of the evidence. On the other hand, it is also seen to have destroyed the weightage of ocular evidence completely in certain cases where forensic science is conclusive. The significance of medical opinions increases the onus on doctors who give their testimony in court. This should be kept in check by ensuring that the doctors who are allowed to give their opinions are well qualified and experts in the field they are opining on. As far as possible, they should be asked questions pertaining to only factual, objective observations, and their personal subjective opinions should be kept aside. Courts should form their own opinion on every assertion made by the doctors instead of blindly relying on their words, even if it is a purely technical aspect of the crime. Their evidence should be sifted and scrutinized by the courts, just like that of all other witnesses as even experts are humans liable to making mistakes.

It is true that medical science is indispensable from criminal law especially in cases of homicide. But efforts must be made to restrict the role of the experts in the final decision of the courts in order to ensure proper administration of justice.

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