

Medical Certificate & Its Value in Court Of Law under Forensic Science

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Abstract - Previously unsolvable cases are now solved easily with the development of the field of medical jurisprudence. It covers in its ambit the provision of evidence for a wide range and scope of cases. Medical certificates are a crucial piece of documentary evidence but are treated as opinions by the Court of laws. The following paper seeks to elucidate on the legal issues involved in using medical certificates as genuine pieces of evidence and how courts have over the years used them to reach conclusions to facilitate justice. We will also shed light on the legal pre-requisites for issuing medical certificates, issued by National and State Medical Councils. These legal guidelines are largely followed today, yet medical certificates continue to be treated as secondary pieces of evidence due to lack of a holistic statute on issuance of medical certificate.

Keywords: Forensic science; Medical Jurisprudence; Medical Certificates; Documentary Evidence; Expert opinion; Witness testimony; Investigating Officer; Registered medical practitioner; Relevant Fact; CrPC; IPC; Indian Evidence Act.

INTRODUCTION

Forensic science is the use of science in the service of the law. Sciences used in forensics include any discipline that can aid in the collection, preservation and analysis of evidence such as chemistry (for the identification of explosives), engineering (for examination of structural design) or biology (for DNA identification or matching). A forensic scientist is expert in any technical field and can provide an analysis of the evidence, witness testimony on examination results, technical support and even training in his or her specialized area.

Analysis of forensic evidence is used in the investigation and prosecution of civil and criminal proceedings. Often, it can help to establish the guilt or innocence of possible suspects. Forensic evidence is also used to link crimes that are thought to be related to one another.

Medical jurisprudence and Forensic science go hand-in-hand. It is the application of medical science to legal problems. It is typically involved in cases concerning blood relationship, mental illness, injury, or death resulting from violence. Autopsy is often used to determine the cause of death, particularly in cases where foul play is suspected. Medical records are medico-legal documents and a doctor can be cross-examined against the same. However, it is a strong evidence of proof of administration of standard medical care provided documentation is complete.

Thus, medical evidence is a legal means to prove or disprove any medical fact under inquiry. Medical evidence can be classified in the following types, namely:

- 1) Medical Certificates
- 2) Medico-legal reports
- 3) Dying Declarations
- 4) Chemical Examiner's report

MEDICAL CERTIFICATES:

Medical evidence may be of two types –

- 1) Oral Evidence
- 2) Documentary Evidence

Documentary evidence comprises of all documents, written or in tangible form which need to be produced before the court of law during the course of trial or civil proceedings. Medical certificates are documentary evidences.

PURPOSE:

Medical certificates are sometimes required to obtain certain health benefits from an employer, make an insurance claim, for tax purposes, or for certain legal procedures. Medical certificates are used to indicate eligibility of activity, such as the use of disabled parking. Medical certificates can also be used to describe a medical condition a person has, such as blindness. Medical certificates are often used to certify that someone is free of contagious diseases, drug addiction, mental illness, or other health issues.

Health criteria are often required when making an application for something, such as an eye examination to get a driver's license. Other times medical criteria are presented voluntarily by an applicant in a self-assessment, without either a doctor or access to the person's medical record. Specific health criteria or medical history are required for certain jobs.

In the United States, the majority of pilots are required to possess a valid medical certificate that certifies sound health as part of the requirements for piloting an airplane.

This is the simplest form of documentary evidence. It includes certificates such as sickness certificate, certificate of pregnancy, vaccination certificate, and death certificate and so on. It is given to a patient when he or she requests the medical officer to do so.

For instance, if a woman has been found pregnant by a doctor, he may be requested by the woman to give her a certificate to that effect. She might need it to produce it in her office to get maternity leave or may be some advance. The doctor may be called in court to verify on oath that what he had written in the certificate was correct. He may be cross questioned on that too.

Medical Certificates are different from Medico-legal reports. This is a document prepared by a medical man in response to a request from some investigating authority, either a police officer or a magistrate. Medico-legal reports are usually made in criminal cases, and are meant for the guidance of the investigating authority. Most commonly the doctors would find themselves making injury reports in the casualty, which is a kind of medico-legal report (MLR). Other kinds of MLR are post-mortem reports, age reports, certificate of mental illness, certificate of drunkenness, certificates relating to impotency, sexual assault and so on. The basic difference between medical certificates and the MLR is that the former is made on the request of the patient, while the latter is made on the request of the investigating authority.

Some of the most important Medical Certificates are as follows:

- 1) Sick Certificate
- 2) Birth Certificate
- 3) Death Certificate
- 4) Vaccination Certificate
- 5) Medical Fitness Certificate
- 6) Mental Fitness Age Certificate
- 7) Pension or Disability Certificate

While the following are some examples of a Medico-legal Report:

- 1) Injury/wound Certificate
- 2) Age Certificate
- 3) Potency/Impotency Certificate/Report
- 4) Drunkenness Certificate
- 5) Examination of victim/Rape Accused Report
- 6) Post-Mortem Report

Both the Documentary evidences can be overlapping. The purpose however remains to prove or disprove a fact-in-issue or a Relevant Fact. Since medico-legal reports are often ordered by authority to be prepared for investigative purposes, they are usually prepared with caution and a sense of responsibility. However the same is not true of a medical certificate. These certificates should not be given lightly, but with a due sense of responsibility towards the opinion expressed in them. They are not accepted in a court of law unless they are issued by a registered medical practitioner under the Provincial Medical council Act.

In giving a medical certificate, the medical man should mention the exact nature of illness, and preferably should take at the bottom a thumb-mark impression or signature of the person to whom it is concerned.

A medical man should remember that, on the occurrence of the death of a person whom he has been attending during his last illness, he is legally bound to issue a certificate stating, "To the best of my knowledge and belief..." the cause of death, for which he is not allowed to charge. However, he must decline to issue a certificate if he is not sure of the causes and reasons (say, of Death). Civil surgeons and superior medical officers are sometimes called upon to counter-sign medical certificates upon examination of the corpse. However, it should not be done without properly acquainting oneself with facts of the death or any other medical exigency.

LEGAL FUNDAMENTALS WHILE ISSUING MEDICAL CERTIFICATES:

A medical certificate (sometimes referred to as a doctor's certificate) is a statement from a physician or other health care provider that attests to the result of a medical examination of a patient. It can serve as a "sick note" (documentation that an employee is unfit for work) or evidence of a health condition.

Therefore, following precautions and measures need to be observed in order to make it a legally viable & acceptable document:

- 1) Having it written in legible text, in the doctor's handwriting, and without "abbreviations or medical jargon".
- 2) Should only include facts or observations made by the doctor, and each should be justified.
- 3) Should include the date of appointment, how sick the patient is, the date they can go back to work, be addressed to the recipient of the certificate (boss etc.),
- 4) Should only be for something "observed by the doctor" or "reported by the patient and deemed to be true by the doctor".
- 5) Can be issued after the patient has taken sick leave, but it must include the date of appointment, and the length of time the employee should be out of work for.
- 6) Should consider if the patient can return to work before they have fully healed, but with "altered duties".
- 7) If more than one copy has to be issued, the copies must be marked duplicate.
- 8) Medical Certificates must be made only on the letterhead of the doctor, if not, with complete address and qualifications.
- 9) Date, time and place of issue of the certificate are to be mentioned in the Medical Certificate.
- 10) Medical Certificates should be made for legitimate purposes and only when necessary.
- 11) Medical Certificates must be true, clear, unambiguous, clearly worded according to specific purpose for which it is issued.
- 12) Medical Certificates must be limited to the actual period when a person has been under doctor's observation.
- 13) Medical Certificates must not disclose the diagnosis without the patient's express consent unless required by law.
- 14) Respect "rights to confidentiality" and consent of patient (sometimes, the reason for sick leave may be personal and the patient may request it taken off the certificate, in which case "it should be made clear to the patient that the information provided on the certificate may not be sufficient to attract sick leave and that an employer has the ultimate right to accept or to reject a certificate".

LEGAL FUNDAMENTALS FOR ISSUING DEATH-CERTIFICATES:

- 1) A Death Certificate with cause of death must be issued only when the Medical Practitioner is completely satisfied with the cause of death.
- 2) In case the Medical Practitioner is not satisfied with the cause of death, then s/he must only certify the fact of death and inform the Police/ Magistrate.
- 3) Death Certificate must be issued free of cost.
- 4) Death Certificate must not be withheld for pending professional fees from the deceased patient.
- 5) Refusal to issue a legitimate Death Certificate is a punishable offence.
- 6) Only single copy of a Death Certificate must be issued to the relatives of the deceased. If a second copy is issued, then the copy must be marked as DUPLICATE.
- 7) A signed blank Death Certificate must never be issued.
- 8) Death Certificate must be handed over to the nearest relative of the deceased after recording the thumb impression of the person receiving, his/her relationship with the deceased and signatures on the Doctor's Copy.
- 9) A duplicate copy of every Death Certificate issued, must be with the doctor in his/her records.
- 10) Death Certificate is essential even in case of a stillborn or premature newborn or normal newborn.
- 11) The other requisites for issuance of Death Certificate are the same as for a Medical Certificate.

EVIDENTIARY VALUE OF MEDICAL CERTIFICATE:

Medical records are acceptable as per Section 3 of the Indian Evidence Act, 1872 amended in 1961 in a court of law. These are considered useful evidence by the courts as it is accepted that documentation of facts during the course of treatment of a patient is genuine and unbiased. Medical Records that are written after the discharge or death of a patient do not have any legal value. Erasing of entries is not permitted and is questionable in Court. In the event of correction, the entire line should be scored and rewritten with the date and time.

Medical records are usually summoned in a court of law in the following cases:

1. Criminal cases for proving the nature, timing, and gravity of the injuries. It is considered important evidence to corroborate the nature of the weapon used and the cause of death
2. Road traffic accident cases under the MACT Act for deciding on the amount of compensation
3. Labour courts in relation to the Workmen's Compensation Act
4. Insurance claims to prove the duration of illness and the cause of death
5. Medical negligence cases- these can be in criminal courts when the charge against the doctor is for criminal negligence or under the Consumer Protection Act for deficiency in the doctor's or hospital's care

It is usual to summon a doctor to appear in court to testify and to bring all the medical documents. When the court issues summons for medical records, it has to be honoured and respected as it is a constitutional obligation to assist in the administration of justice. The records can also be produced in court by the medical records officer of the hospital. If the doctor is required to be present for giving evidence based on the medical records, he has to be present in the court to give evidence. The court may require these documents to be submitted for which a record is issued by the court. However, if the records are required for continuation of the medical treatment of the patient, copies can be kept by the hospital.

Justice M. Venugopal astutely observed: "Documents marked before lower courts during the hearing of a case do not have any evidentiary value unless their authors have been examined. Marking of a document is one thing and proving its contents is another in the eye of law."

In India, we have adversarial system of justice administration and ordinarily medical evidence is admitted only when the expert gives an oral evidence under oath in the courts of law except under special circumstances like:

- a) When evidence has already been admitted in a lower court;
- b) Expert opinions expressed in a treatise;
- c) Evidence given in a previous judicial proceeding;
- d) Expert cannot be called as witness;
- e) Hospital records like admission/discharge register, birth/death certificates etc.

The definition of an expert may be referred from the provision of Sec.45 of Indian Evidence Act that an 'Expert' means a person who has special knowledge, skill or experience in any of the following --

- 1) Foreign Law,
- 2) Science
- 3) Art
- 4) Handwriting or
- 5) Finger impression

and such knowledge has been gathered by him—

- a) by practice,
- b) observation or
- c) proper studies.

For example, medical officer, chemical analyst, explosive expert, ballistic expert, fingerprint expert etc.

Duty of the expert:-

- a) An expert is not a witness of fact.
- b) His evidence is of advisory character.
- c) An expert deposes and does not decide.

d) An expert witness is to furnish the judge necessary scientific criteria for testing the accuracy of the conclusion so as to enable the judge to form his independent judgment by application of the criteria to the facts proved by the evidence.

Value of expert opinion:-

The Expert evidence has two aspects ---

a) Data evidence [it can't be rejected if it is inconsistent to oral evidence]

b) In *Arshad v. State of A.P.* the Honourable High Court set the following precedent, Opinion evidence - it is only an inference drawn from the data and it would not get precedence over the direct eye-witness testimony unless the inconsistency between the two is so great as to falsify the oral evidence.

In *S.Gopal Reddy v. State of A.P.*, the court explained that Expert evidence is opinion evidence and it can't take the place of substantive evidence. It is a rule of procedure that expert evidence must be corroborated either by clear direct evidence or by circumstantial evidence. It is not safe to rely upon this type of evidence without seeking independent and reliable corroboration. The value of Medical evidence is only corroborative. A doctor acquires special knowledge of medicine and surgery and as such he is an expert. Opinions of a medical officer, physician or surgeon may be admitted in evidence to show--

a) Physical condition of the a person,

b) Age of a person

c) Cause of death of a person

d) Nature and effect of the disease or injuries on body or mind

e) Manner or instrument by which such injuries was caused

f) Time at which the injury or wounds have been caused.

g) Whether the injury or wounds are fatal in nature

h) Cause, symptoms and peculiarities of the disease and whether it is likely to cause death

i) Probable future consequences of an injury etc.

Again, in *Mani Ram v. State of U.P.*, the court re-iterated the secondary nature of medical evidence and observed that when there is a conflict between the medical evidence and ocular evidence, oral evidence of an eye witness has to get primacy as medical evidence is basically opinionative.

Where the direct evidence is not supported by the expert evidence, the evidence is wanting in the most material part of the prosecution case and therefore, it would be difficult to convict the accused on the basis of such evidence. If the evidence of the prosecution witnesses is totally inconsistent with medical evidence, it is the most fundamental defect in the prosecution case and unless this inconsistency is reasonably explained, it is sufficient to discredit the evidence as well as the entire case.

The court in *Piara Singh v. State of Punjab* astutely observed that where the opinion of one medical witness is contradicted by another and both experts are equally competent to form an opinion, the court will accept the opinion of that expert which supports the direct evidence in the case. The law was clearly explained by Allahabad high Court in *New India Assurance Company Limited v. Satanand Tripathi*;

"If there is an application under section 163-A or 166 of the Motor Vehicles Act, 1988, then at least some clue is available before us to analyse the evidentiary value of the medical certificate. Section 2(i) of Workmen's Compensation Act, 1923, provides a definition of 'qualified medical practitioner' as follows : "qualified medical practitioner" means any person registered under any {central Act, Provincial Act or an Act of the legislature of a (State)} providing for the maintenance of a register medical practitioners, or, in any area where no such last-mentioned Act is in force, any person declared by the State Government, by notification in the official gazette, to be a qualified medical practitioner for the purposes of this Act."

The court further observed - "Even on ascertainment of amount of compensation under section 4 therein, again the word qualified medical practitioner is incorporated without specifying the issue, whether certificate will be issued by the Chief Medical Officer or not. However, it is desirable that in such circumstances of the case, the genuinity of the certificate will be examined. If it is done by the office of the Chief Medical Officer with the counter signatures of other medical practitioner, then it will carry more weight in the eyes of law. In this case, an orthopaedic surgeon being member of specialist sitting in the office of the Superintendent Community Health Centre, Mauranipur, Jhansi issued the certificate counter signed by other medical practitioner/s. It is well known that Community Health Centre runs under the control of District Health Office. Therefore, such certificate cannot be said to be of no force. Moreover, poor people of having lower income group may or may not travel up to the district head quarters to avail such certificate due to various contingencies. Therefore, taking into account such aspect of the matter, we cannot hold and say that the medical certificate issued by an orthopaedic surgeon along with other members of such Community Health Centre, is not genuine. Where a medical certificate is issued by any Government authority it carries status of public document. The other aspect is different between a certificate given by the single medical practitioner and by a board of medical practitioners. Plural includes singular when singular excludes plural. In every sphere of life especially in dis charging noble cause, plurality is respected. Therefore, although there is no hard-n- fast rule is available to obtain certificate from the office of the Chief Medical Officer or from the office of sub-ordinate to Chief Medical Officer. But it is desirable to obtain certificate of such nature, having more value and authentic in nature. We have already gone into this aspect of the matter and we find no reason to doubt the validity and/or genuinity of the medical certificate"

Medical certificates are legal documents. Medical practitioners who deliberately issue a false, misleading or inaccurate certificate could face disciplinary action under the Indian Medical Council (Professional Conduct, Etiquette and Ethics), Regulations, 2002. Medical practitioners may also expose themselves to civil or criminal legal action. Medical practitioners can assist their patients by displaying a notice to this effect in their waiting rooms. It is, therefore, a misnomer to state that medical certificate is "not valid for legal or Court purposes", and should be avoided. Registered medical practitioners are legally responsible for their statements and signing a false certificate may result in a registered medical practitioner facing a charge of negligence or fraud.

The Guidelines for issuing Medical Certificate validated by Delhi Medical Council state that the original medical certificate is given to the patient to provide the documentary evidence for the employer. The duplicate copy will remain in the Medical Certificate book for records. The records of medical certificate are to be retained with the doctor for a period of 3 years from the date of issue.

In *Narayan Chakraborty v. Swapan Debnath*, the Apex Court further clarified the evidentiary value of Medical Certificates. The question was "whether the learned Commissioner was justified in rejecting the claim petition for non examination of the doctors when the validity of disability certificate as well as the discharge certificates issued by them was not challenged by the respondents including the Insurance Company as well as owner of the vehicle."

The Division Bench, after considering the judgments of the various High Courts, finally came to the conclusion that the loss of earning capacity is to be assessed by the qualified medical practitioner and he should be examined to prove the certificate. If there are special reasons, the Division Bench stated, that the Commissioner can accept other evidence to prove the Medical Certificate and that the probative value of the medical certificate has to be adjudged by the Commissioner taking into consideration the other evidence in the proceedings. The Division Bench did not lay down a law stating that the Medical Certificate can only be proved through the doctor who issued it and that in the absence of such oral evidence by the doctor the Medical Certificate cannot be accepted. In this connection,

In *United India Insurance Company Ltd. V. SethuMadhavan*, the learned Judges considered whether a Medical Certificate can be taken into consideration by the Commissioner without the doctor being examined. The Division Bench held that the Medical Certificate can be admitted in evidence without examining the doctor and it will be open to the party interested in challenging the Medical Certificate to apply for steps to examine the doctor which the Commissioner will consider.

This judgment of the Division Bench was in fact respectfully adopted by the later Division Bench in *Achoor Estate v. V. Nabeesa*, The later Division Bench stated in para 10 at page 748:

"... However, it goes without saying that the probative value of the Medical Certificate has to be adjudged by the Commissioner taking into consideration the other evidence in the proceedings. The appellants having not questioned the certificate before the Commissioner cannot at this belated stage contended that the non-examination of the doctor has prejudiced their case. The fact that the appellants did not question Exhibit A-3, the Medical Certificate, can only mean that they have accepted that certificate before the Commissioner. If the appellants really wanted to challenge Exhibit A-3, the Medical Certificate, can only mean that they have accepted that certificate before the Commissioner. If the appellants really wanted to challenge Exhibit A-3, they could have summoned the doctor whom they did not do and under the circumstances the Commissioner was right in accepting Exhibit A-3 and granting the respondent an award on the basis of that certificate."

FALSE MEDICAL CERTIFICATE: LEGAL CONSEQUENCES

Following actions can be taken if a medical certificate issued by a lawful authority is found to be malafide and false:

- It is treated as false evidence. It is treated as forging documents or supplying false evidences under the provisions of IPC and CrPC (offences under Section 463, 464 IPC, punishable under Section 465 IPC.)
- When a certificate is submitted in a court of law as evidence, and proved to be false, the one who has issued it is liable for the same punishment as giving false evidence (ranging from three years' imprisonment and fine/ imprisonment for life).
- Wilfully and recklessly issuing a false or fake certificate is a professional misconduct as per Indian Medical Council, punishable by striking the name off the Medical Register.
- Alternations/ additions in certificate with the intention to deceive is punishable by charge of forgery where punishment is of two years' imprisonment and fine.
- A person who suffers damage while acting upon a false Medical Certificate can charge the issuing authority of civil or criminal negligence.
- In *Mahabir Thakur v. Emperor* and *Kumar Choudhuri v. Emperor*, it was held that what Section 197 contemplates is that the certificate should by some provision of law be admissible in evidence as such certificate without further proof. Thus, a medical certificate is not a certificate relating to any fact of which such certificate is by law admissible in evidence. This rule must accordingly be made absolute.

Therefore, if a medical certificate was as it is not admissible in evidence, even if it proves to be false, no legal consequences are attracted.

CONCLUSION

Medical and forensic evidence plays a crucial role in helping the courts of law to arrive at logical conclusions. Therefore, the expert medical professionals should be encouraged to undertake medico legal work and simultaneously the atmosphere in courts should be congenial to the medical witness. This attains utmost importance looking at the outcome of the case, since if good experts avoid court attendance, less objective professional will fill the gap, ultimately affecting the justice. The need to involve more and more professionals in expert testimony has been felt by different organizations. The introduction of medical jurisprudence has immensely benefited both the medical and the legal field of work.

However, despite their vast benefits to the field of law, medical jurisprudential techniques are not treated as primary evidence till date. The present Indian Evidence Act continues to treat technical findings, such as the results of DNA tests, as expert evidence. This situation will continue till legislation is drafted and enacted by the Parliament.

REFERENCES:

- [1] Narayanareddy K.S., The Essentials of Forensic Medicine & Toxicology, 20th edition, 2001, Published by K.Suguna Devi, Hyderabad.
- [2] Apurbanandy, Principles of Forensic Medicine, 2nd Edition, 2001, Published by New Central Book Agency, New Delhi
- [3] Parikh C.K., Parikh's Textbook of Medical Jurisprudence & Toxicology, 7th Edition, 2001, CBS. Publishers, Bangalore.

- [4] Guharaj P.V., Forensic Medicine, Orient Longman Ltd. New Delhi
[5] C.A. Franklin, Modi's Medical, Jurisprudence & Toxicology, 21st Edition, Published by Tripathi Private Ltd, Bombay.

CASES:

- [6] S.Gopal Reddy v. State of A.P. AIR 1996 SC2184 (Para27)
[7] Mani Ram v. State of U.P. 1994 Supp (2) SCC 289,292; 1994 SCC (Cri) 1242
[8] Piara Singh v. State of Punjab AIR 1977 SC 2274
[9] New India Assurance Company Limited v. Satanand Tripathi; 2008-8-215 Case Id: 308002184100
[10] In Narayan Chakraborty v. Swapan Debnath LAWS(GAU)-2007-1-62
[11] United India Insurance Company Ltd. V. SethuMadhavan, 1992 (2) KLT 702
[12] Achor Estate v. V. Nabeesa, 1994 (1) LLN 743
[13] Mahabir Thakur v. Emperor C.W.N. 520 (17) 4 A.I.R. 1917 Cal. 466 : 33 I.C. 316 : 20 C.W.N. 520 : 23 C.L.J. 423 : 17 Cr.L.J. 140
[14] Kumar Choudhuri v. Emperor 16 Pat. 21 (37) 24 A.I.R. 1937 Pat. 467 : 170 I.C. 997 : 16 Pat. 21 : 18 P.L.T. 271 : 38 Cr. L.J. 1011

