

**GOVERNMENT OF INDIA
HEALTH AND FAMILY WELFARE
LOK SABHA**

STARRED QUESTION NO:209
ANSWERED ON:15.12.2004
DOCTORS NOT LIABLE FOR DEATH OF PATIENTS
Reddy Shri S.P.Y.

Will the Minister of HEALTH AND FAMILY WELFARE be pleased to state:

- (a) whether the Supreme Court of India has in a judgement observed that the doctor would not be criminally liable if a patient dies due to an error of judgment on the part of the doctor;
- (b) if so, the details thereof;
- (c) whether the Government is aware that the said judgement has created apprehensions in the minds of the public;
- (d) whether the Government proposes to deal with this situation through proper legislative intervention; and
- (e) if so, the details thereof?

Answer

THE MINISTER OF HEALTH AND FAMILY WELFARE (DR. ANBUMANI RAMADOSS)

(a)to(e): A statement is laid on the Table of the House.

STATEMENT REFERRED TO IN REPLY TO LOK SABHA STARRED QUESTION NO. 209 FOR 15TH DECEMBER, 2004

In a judgement dated 4.8.2004 in the criminal appeal No. 778 of 2004, the Hon'ble Supreme Court of India has held that the legal position is almost firmly established that where a patient dies due to the negligent medical treatment of the doctor, the doctor can be made liable in civil law for paying compensation and damages in tort and at the same time, if the degree of negligence is so gross and his act was so reckless as to endanger the life of the patient, he would also be made criminally liable for offence under Section 304-A IPC. For fixing criminal liability on a doctor or surgeon, the standard of negligence required to be proved should be so high as can be described as "gross negligence" or "recklessness". It further held that mere inadvertence or some degree of want of adequate care and caution might create civil liability but would not suffice to hold a doctor criminally liable.

There are provisions available in the Indian Medical Council (Professional Conduct, Etiquette and Ethics) Regulations, 2002, under which any complaint with regard to professional misconduct against a doctor can be brought before the Medical Council of India or appropriate State Medical Council and if the concerned Council after holding an enquiry in the matter comes to the conclusion that the doctor concerned is guilty of conducting the misconduct, the Council may award such punishment as deemed necessary or may direct removal altogether or for a specified period, the name of the delinquent doctor from the Register.

In view of the above, at present, no situation has arisen which would warrant legislative intervention at this stage.