

Who is the Second Victim in a Medico-Legal Case?



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In a Medico-Legal case, the victim is always the patient and the party at fault will be the healthcare provider. Whether such cases are disputed within the court system or settled outside, the statistics show that the healthcare provider is usually the party at fault and due justice will prevail most often in favour of the plaintiff [the patient]. After months to years of legal arguments, the defendant [the healthcare provider] will have to pay the plaintiff accordingly, once found guilty after exhausting all avenues of appeal.

The victim or the next of kin who may have suffered from the act of negligence or misconduct of the healthcare provider, will get some measure of satisfaction once the verdict is passed by the court, even though the suffering of the patient could be beyond what can be compensated by financial means alone.

But then who is the second victim? This is often not thought of and most societies around the world would rather not address this group who do also suffer in the process of serving good justice to the main victim.

Second victims are the health care providers who carry the blame of the entire medical mishap. It could be the treating doctor, nurse, pharmacist or any health care provider. The psychological trauma of facing the complaint and then the various levels of investigations and repeated questioning from hospitals to ministerial committees. The mental agony becomes even more unbearable while facing medical council hearings which could last for months and years without accounting for the constant postponements.

Medical care providers will suffer further in silence when these cases are presented in court and names are published in the media. The agony of facing the judgement passed by the media and these days by social media could have lasting effects.

Doctors and nurses who still have to make a living are forced to face the criticism of colleagues within hospitals and the fraternity.

There will only be negative assumptions and everyone will choose to be judgmental on the case.

We know that no medical care provider in most instances will 'plan' to be negligent or make an error. Medical errors are mostly committed unintentionally and are largely un-avoidable. There are two victims in Medico-Legal – the patient and the second victim, the healthcare provider – and we have to deal with both the victims.

What Should We Do with the Second Victim?

The main victim [patient] has many avenues to get medical and legal assistance. The courts will dictate the course of action and it has to be complied with. Medico-legally the case will be deemed to have been settled and depending on their circumstances patients will move on, although there may be times when the traumatic thoughts and /or physical damage would remain.

Will it be the same for the 'convicted' health care provider as the case closes? Can he or she continue to practice in the same frame of mind? Will the guilt and shame persist forever? Will it ever be forgotten? Do we leave this group of 'wrong doers' alone and say 'serve you right'? A health care provider may have had an impeccable success record and the best results treating patients but just one incident ruins the entire success story he or she had.

Many second victims may just move on to another life and leave clinical medicine. They would just accept it as fate and unfortunate. To have an excellent healthcare provider leave everything because of one case, would be very unfair. We know these second victims suffer a great psychological trauma and many have gone into depression and a few resorted to suicide.

Some may pick themselves up and get going into their practice and ignoring the incident but accepting it as a lesson learnt provided they were not barred from practice by the authorities.

Whilst not condoning the medico-legal errors, we in the healthcare fraternity should have support groups to help second victims. Let's leave the mistakes aside and give these second victims space to get back to life. The mental anguish and self-blame will reduce if their peers could encourage these second victims to get back to work and move on.

Justice to the patient must be served in accordance to the law, but the processes should be done quicker as lengthy trials and enquiries will frustrate the healthcare provider and the patient. A prolonged time to reach a verdict is damaging and frustrating to all parties as everyone wants a quick closure.

Medical colleagues should have empathy and be supportive of the second victim. No one in the medical world can be immune to the potential risk of a medico-legal battle. Patients and their lawyers will use all avenues to be compensated should there be an error, and the healthcare provider has an equal opportunity to defend legally. But the social and emotional trauma should not be aggravated, particularly by the same profession. We must remember that anyone within the profession could be the next victim.

Hospitals should have policies to govern remedial actions to address the grievances of patients, and this is usually done well. However, at the same time, due consideration should be given to the second victim without compromising the rights of the patient.

In conclusion, the second victim is a victim like the patient in the entire incident and moving forward, it's imperative that we do not ignore them.