

Thursday, January 23, 2014



**Anuradha Saha died after doctors recommended higher than recommended dose of medicines.**

**Source: PBT**

Dr Kunal Saha's wife Anuradha died due to medical negligence in 1998. He pursued the case for 15 years through various courts until Supreme Court passed a historic order three months back. It not only awarded the highest compensation so far in a medical negligence case but also questioned the treatment of doctors, a first in Indian legal history. Here Dr Saha talks about the shortcomings in law and his plans ahead to help other victims of medical negligence.

**Q The guilty doctors in your case still enjoy a good professional status. One of them is a chief advisor on health issues to the West Bengal government. What do you think about this?**

It is sheer atrocity and grave travesty of justice that out of the three primary culprit doctors, Sukumar Mukherjee, Baidyanath Halder and Abani Roychowhury, who were responsible for the untimely and wrongful death of my wife in 1998, two of them (Dr Halder and Dr Roychowdhury) are dead today. Both died from natural cause at an advanced age (around 80 or more) while the third doctor, Dr. Mukherjee, is also around 80 but still enjoys the limelight as he was appointed the “chief advisor” to the Mamata Banerjee government in 2011 despite being convicted by the Apex Court.



**Dr Kunal Saha**

Even worse is the fact that Dr. Mukherjee was also found guilty for medical negligence by the Medical Council of India (MCI) that ordered suspension of his medical licence in 2011 but that order has also been turned into a joke. Dr Mukherjee was able to obtain a stay from Calcutta High Court on a technical ground about MCI's jurisdiction as the case is languishing in the High Court since 2011 despite my best efforts to expedite justice. Although I wish a long and healthy life for Dr. Mukherjee, if he dies tomorrow from any natural cause just like the other two doctors, my 16-year long battle for justice will also die with him. Can anyone really call this “Justice”?

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**Q The Supreme Court dismissed the criminal case against accused doctors despite them being proven guilty of medical negligence. Do you think we need changes in law to deal with such anomalies?**

Supreme Court dismissed the criminal case (under Section 304A) against the three senior doctors but only on the ground of “cumulative negligence” since there were two more doctors involved with my wife’s treatment who had not been listed as accused in the criminal case. Although SC dismissed the criminal case on the ground of “cumulative negligence”, it by no means endorsed the verdict of Calcutta HC which had dismissed the criminal case. In fact, SC severely criticised Calcutta HC judgment and its baseless observation so much so that I was able to move a “criminal defamation” case against the Calcutta HC Judge, retired justice G.C. De.

The only way to change the present picture is to seek proper guidelines for establishing criminal negligence against doctors. [People for Better Treatment](#) (PBT) is preparing a new public interest litigation (PIL) in this regard. The fact that not a single bona fide allopathic doctor has ever been convicted for criminal negligence in India underscores a gaping hole in our justice delivery system. Compare this with UK and US where several such cases can be found despite having better healthcare standards than India.

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**Q Since the verdict, you have been trying to increase the PBT's network. What kind of help will be provided to layperson in pursuing their cases and how do you see the process functioning?**

Since its inception in 2001, PBT has been working hard to stop healthcare corruption and help the victims of medical negligence. We have already brought major changes in the

grossly flawed medical regulatory system in India. For example, our PIL in the Apex Court (W.P. No. 317/2000) resulted in the introduction of new provisions in the MCI “Code of Ethics & Regulations” in 2004 in the form of Section 8.7 (complaints against doctors must be decided within a time-limit of 6 months) and Section 8.8 (victim aggrieved by the decision of a state medical council may appeal to the MCI) that have already brought new hope for justice for many victims of medical negligence.

Since the historic SC verdict in Anuradha’s case delivered on 24th October, 2013, there has been a huge surge in public interest to learn more about patients’ rights and medical negligence. Countless victims of medical negligence across India have seen a glimpse of hope with this historic verdict as for the first time they feel that even if one has to wait for 15 years or longer, justice may prevail against the powerful doctors and hospitals in the end. While PBT’s head office remains in Kolkata, we have now opened support centers in different parts of India including Delhi, Chennai, Hyderabad and Ahmedabad.

PBT will help every victim of alleged medical negligence by guiding him/her on how to proceed against negligent doctors and hospitals. Although individuals may still have to find their own advocates to file a case in the court, we would provide them support and keep an eye on the unscrupulous lawyers as in many cases, a victim of medical negligence is victimised for the second time by the unprincipled lawyers.

PBT is also fighting numerous PILs to improve the healthcare delivery system. And we are deeply dedicated to spread public awareness on this issue. Knowledge is power and with proper knowledge about patients’ rights, we would be able to prevent many cases of medical negligence and bring justice to the victims.

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**Q Who are the partners you are looking at for support? PBT recently talked to AAP about corruption in healthcare.**

Over the past 12 years, PBT has been fighting a lone battle. We have numerous members (all volunteers) all across India who are working with us to eradicate corruption from the highly influential medical groups like IMA and hospital associations which is a daunting task by any standards.

We welcome citizens' groups from all specters of life to join us in this battle for humanity because corruption in the healthcare delivery system literally deals with the question of life and death. There are many "good" doctors in India – many of them are my personal friends from my medical school days in Kolkata who are practising medicine in India (although I've been permanently settled in USA for the past almost 25 years). Unfortunately, with the "corrupt" medicos running the healthcare system, the honest ones have remained silent on the sideline. They must step forward and challenge this scenario.

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Above all, we seek support from an honest and efficient government because government must realise that playing dirty games with the healthcare system will ultimately prove fatal no matter which political party is in power. In this regard, like the rest of the country, we do have great hope and expectations from AAP. I personally met Delhi's health minister during my visit in January 2014. We share the anti-corruption view of AAP and we hope that they will take up the challenges in the medical system on a priority basis for the sake of the ordinary people of India.

### **Q. How can readers of this interview join the cause?**

We invite all conscientious citizens to join PBT by simply downloading application form from our website [www.pbtindia.com](http://www.pbtindia.com) and mail it to PBT's head office in Kolkata. They can also obtain all pertinent information by calling our head office at 9831983670/9038083120.