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## CASE COMMENTARY – PARAMANAND KATARA VS UNION OF INDIA

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### I. ABSTRACT

Human life is filled with uncertainties. One such uncertain thing in anyone’s life is an accident. We humans always hope to avoid such situations that would cost our future. In India the victims of road accidents do not receive the help needed by them by their fellow citizens. Doctors being in a state to save a person’s life there was a time that even the doctors refused to act accordingly. Doctors were afraid to treat a road accident case stating they are not entitled to do without filing a FIR. In this Article the Author throws light on a case filed in The Hon’ble Supreme Court of India. The case that entitles the Doctors to treat road accidents cases without filing an FIR and makes sure the life of a human being is more than any law.

**II. KEYWORDS** – Medico-legal cases, negligence, emergency, prosecuted, publicity.

<b>Case Title</b>	Paramanand Katara Vs Union Of India
<b>Case Number</b>	Writ Petition (Criminal)
<b>Date of order</b>	28/08/1989
<b>Citation</b>	1989 AIR 2039, 1989 SCR (3) 997
<b>Court</b>	Hon’ble Supreme Court of India
<b>Bench</b>	Justice Misra Rangnath
<b>Author of the Judgement</b>	M Rangnath
<b>Appellant</b>	Paramanand Katara
<b>Respondent</b>	<ul style="list-style-type: none"> <li>• The Secretary</li> <li>• Ministry of Health</li> <li>• Family Welfare of Union of India</li> <li>• The Indian Medical Association</li> </ul>

	<ul style="list-style-type: none"> <li>The Medical Council of India</li> </ul>
<b>Provisions</b>	<ul style="list-style-type: none"> <li>Article 21 of the Constitution</li> <li>Clause 12 and Clause 13 of Medical Ethics, 1970</li> </ul>

### III. INTRODUCTION AND JUDGEMENT

The Case of Parmanand Katara Vs Union Of India Focused on jurisprudence of emergency medical care in India. The case simply conveyed the life of a human being should be considered as the most important in any kind of situation beyond anything and there cannot be any law greater than that. The judgement passed by the Hon'ble Supreme Courts for the case did not allow any Medical observer from not treating a victim of a road accident with the reason of legal formalities. There is always fear among the people in helping a victim of a severe road accident. This is because there's an assumption that it may take them into legal formalities in which people are afraid to enter. The Judgement made a substantial right for road accident victims to get immediate medical assistance.

### IV. FACTS

Pandit Paramanand Katara, claims himself to be Human Rights Activist, approached the Hon'ble Supreme Court of India and filed a Public Interest Litigation under Article 32 of the Constitution of India. Paramanand Katara filed the Public Interest Litigation based on a newspaper published by Hindustan Times titled 'Law helps the Injured to Die'. The discussion of facts in such a report is that a Scooterist was knocked down by a speeding Car. Then the scooterist was taken to the nearest hospital and the doctors refused to attend the scooterist substantiating that they or not authorised to handle Medico-legal Cases and they suggested a hospital which is allowed to attend medico-legal cases which is 20 Kilometres away. In the way of transportation of the scooterist to the hospital which is authorised to handle medico-legal cases the scooterist died.

### V. ISSUES RAISED

- A. Whether a victim of a road accident will be allowed to get immediate medical assistance by any medical professional or any hospital without any legal formalities?
- B. Discussion of status of Medico Legal Cases.

### VI. ARGUMENTS

#### A. Arguments by the Petitioner

On the basis of the NewsPaper report published the Petitioner filed Writ on Public Interest before Hon'ble Supreme Court Of India. The Petitioner made a direction to make an order that the Union of India take supervision of injured persons in any kind of accidents and such person should get an immediate effective medical assistance by a medical professional or a medical practitioner without any delay. The Criminal Procedure should stay away from any such kind of assistance and should Act accordingly to avoid negligent death. The petitioner further added that any kind of action that can be taken for negligence, suitable compensation should be provided.

The Indian Medical Association, the Secretary, Ministry of Health and Family Welfare of Union of India, and the Medical Council of India were later Implead as respondents of the case. Code of Medical Ethics was made reference by the Medical Council of India where an injured person must be attended by a Medical Professional without waiting for any report or formalities by the Police or any other authority.As dealt in this case Clause 12 and Clause 13 of the Medical Ethics, 1970 that the obligation of a Medical Professional. This was recognised and the Government of India was



requested to make necessary steps to amend the provisions. The petitioner contended the life of a human is more valuable than any legal formalities and no life should be lost on any negligence. The preservation of Human Life is of paramount importance and there can be no second opinion in this regard. Once a life is lost it can never be restored for any cause and that is far behind a human's capacity. The patient may be innocent or have criminal liability under laws of the society, it is the duty of a medical professional or a hospital to preserve the life of the person.

### B. Arguments by the Respondents

The Contention of the respondent included more information with respect to legal field and legal responsibility of a medical practitioner that the medical procedures be done in presence of a police or any other authority. It was contended that the obstacle in The respondent explained the responsibility of a medical professional with respect to the cooperation of a legal procedure. One of the respondents brought two appropriate sections to support their contentions from the Code of Medical Ethics, 1970. The Clauses contended by the respondents were, Clause 10 of the Medical Ethics, 1970 that a medical Professional is not bound to treat every sick person. But in emergency situations it would be the duty of the practitioner. The Clause 13 of the Code of Medical Ethics, 1970 gives the Medical Practitioner the freedom to choose whom to serve and would make them available to them, But this may not be applicable in case of an emergency.

The Respondents also asked the court to ensure that the Medical Practitioners should not be dragged to the Court unnecessarily. And they should not be Harassed before a court and prosecuted for not providing immediate medical assistance. The Respondents also discussed the rising death rate and their reasons. The decisions taken under the chairmanship of Director General of Health Services on various steps. The Medical Officer

should provide the details of the victim to the police when it is a Medico-legal case. The treatment should not be affected for the arrival of the Police officials. Medico Legal cases must be treated in a particular zone irrespective that the hospital is Public or Private. No person shall be denied for treatment in a medico-legal case.

### VII. JUDGEMENT

The said issue was decided by a bench consisting of Hon'ble Justice Ranganath Misra and Hon'ble Justice G L Oza. The writ petition was disposed in nature of Public Interest Litigation by making following observations:

- Article 21 of Indian Constitution protects Right to Life of a Citizen and casts the obligation of the State to preserve life of a Citizen.
- The paramount importance is to preserve a life and there can be no second opinion on that. A lost life cannot be restored as resurrection.
- Any medical professional whether be a Government or Private is obliged to extend his or her service to treat a person in emergency.
- The effort to save a person must be the top most priority of not only the medical practitioner but also for the police or any other citizen who happens to notice an incident of such kind.
- The Advocates and Judges or anyone concerned must be aware that a person in a Medical Profession should not be unnecessarily dragged to court or harassed in name of interrogation or investigation at Police stations.
- The person needs medical assistance be an innocent or a penalised person under laws of the society, the person should receive the medical assistance he needs, the laws of the society do not contemplate loss of a life.
- No State or Laws can intervene in discharge of the obligation of a medical practitioner to save a life. The obligation of the medical professional is absolute.



• The Hon'ble Supreme Court gave directions for publicity of the judgement of the case at National level, also directed the Doordarshan and the All India Radio to publish the order of the Supreme Court. The High Courts and the Sessions court were also directed.

### VIII. CONCLUSION

The Article 21 of the Constitution of India set forth the obligation of the State to preserve life of a citizen. The provision was interpreted and explained by the court. The Parmanand Katara Vs union of India is a landmark case law which upheld the importance of preservation of a life. The Hon'ble Supreme Court directed all the medical institutions whether be a government or any private institution to treat the patients first and later to lay down the formalities. Paramanand Katara used Public Interest Litigation as a tool to bring social change.

### IX. RELATED CASE LAWS

1. Indian Medical Association V. P. Shantha.
2. Bolam V. Friern Hospital Management Committee.
3. Paschim Banga Khet Mazdoor Samity and Others V. State of W.B And Another.
4. Spring Meadow Hospital V. Harijol Ahluwalia, AIR 1998 SC 180.
5. Ratlam Municipal Council V. Vardichand, AIR SC 1622.

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