

## Interpretation of an Injury produced by a Dangerous Weapon by a Medicolegal Expert: A Discussion

Dey Arijit<sup>1</sup>, Sharma Neha<sup>2</sup>, Prasad Kulbhushan<sup>3</sup>, Yadav Abhishek<sup>4</sup>, Gupta Sudhir<sup>5</sup>

### How to cite this article:

Dey Arijit, Sharma Neha, Prasad Kulbhushan et al. Interpretation of an Injury produced by a Dangerous Weapon by a Medicolegal Expert: A Discussion. RFP Journal of Hospital Administration. 2020;4(1):9-12

### Abstract

When there is an incidence of crime or suspected crime in the form of scuffle, body harm, accident, homicide, resulting into simple, grievous, dangerous injury, or death of human being it become a subject matter of criminal investigation and is treated as medico legal case or in very common word a police case. The legal investigation begins with when, where, how this happened and who are the accused and the priority of the investigator any responsible citizen who are at the scene of incident is to transfer the injured to the nearest suitable hospital. In accordance with Section 39 of Criminal Procedure Code of India it is legal duty of the treating doctor to inform the nearest police station as soon as he/she completes his primary care. The idea is the earliest legal proceeding so that the maximum evidences could be collected by the police officer as well as minimum destruction of evidences, site of occurrence, could be possible knowingly or unknowingly by any party. The duty of the attending doctor is to record all the injuries, its dimension as far as possible, and the body parts where the injuries are located the nature of injury whether simple or grievous, caused by sharp/blunt object, age or duration of injury and with other vital parameters of the patient, so that specific answers may be given for legal investigation and to book a case under law of land. Introduction

**Keywords:** Grievous Hurt; Dangerous Weapon; Endangering life; Forensic Expert; Medicolegal opinion.

### Introduction

**Hurt (Section 319 IPC):** Whoever causes bodily pain, disease or infirmity to any person is said to cause hurt. In day to day medical practice, the

### Authors Affiliation:

<sup>1</sup>Senior Resident, <sup>2-4</sup>Senior Medical Officer, Associate Professor, Professor and Head, Department of Forensic Medicine & Toxicology, AIIMS, New Delhi

**Correspondence and Reprint Requests:** Dey Arijit, Senior Resident, Department of Forensic Medicine & Toxicology, AIIMS, New Delhi

**E-mail:** arijit.forensic@gmail.com

**Received on** 07.02.2020; **Accepted on** 16.03.2020

doctor frequently makes the medicolegal report of criminally injured person, who has suffered bodily pain and wounded due to mechanical injury, chemical injury, thermal injury or torture injuries, which has been defined as any harm, whatever illegally caused to any person in the body in Section 44 of IPC. Hence, he has to make a certificate in the form of Medicolegal report, about the nature of injuries and weapon used, with duration of injuries. Section 319 of IPC defines separately hurt as bodily pain, disease or infirmity, which is also a physical harm, which is included in legal definition of injury. Hence, it can be said that physical injury caused illegally and hurt have the same legal meaning.

### Grievous Hurt (Section 320 IPC)

The following kinds of hurt only are designated as 'Grievous'-

*Firstly-* Emasculation.

*Secondly-* Permanent privation of the sight of either eye.

*Thirdly-* Permanent privation of hearing of either ear.

*Fourthly-* Privation of any member or joint.

*Fifthly-* Destruction or permanent impairing of powers of any member or joint.

*Sixthly-* Permanent disfiguration of head or face.

*Seventhly-* Fracture or dislocation of a bone or tooth.

*Eighthly*- Any hurt which endangers life or which causes the sufferer to be during the space of twenty days in severe bodily pain, or unable to follow his ordinary pursuits.<sup>1-4</sup>

### Discussion

Clause 8 of Grievous Hurt has three independent components means one component is sufficient to qualify to be called as Grievous hurt, which are

- i. Any hurt which endangers life or
- ii. Any hurt which causes the victim to be in severe bodily pain or
- iii. Any hurt which causes the victim to be unable to follow his ordinary pursuits for a period of 20 days.

**Explanation for Component i: Any hurt which endangers life:** An injury is said to endanger life, if it is such that it may put the life of the injured in danger. An injury caused on the vital part cannot be called a grievous injury unless the nature and dimensions of the injury or its effects are such that the doctor is of the opinion that it actually endangers the life of the victim. To designate the injury as grievous hurt, danger to life should be imminent. Dangerous injuries are those which cause imminent danger to life, either by involvement of important organs or structures or extensive area of the body. If no surgical aid is available, such injuries may prove fatal. Some examples of injuries which endanger life are – stab on the abdomen or head or vital part, hurt causing rupture on spleen, squeezing testicles, incised wounds on the neck, compound fracture of the skull, rupture of an internal organ, and injury of a large blood vessel. Danger to life should be imminent to be certified as dangerous injury. There is a fine distinction in the degree of bodily injury between dangerous to life and likely to cause death. Another type of bodily injury which is sufficient in the ordinary course of nature to cause death is also to be recognized. However, the injuries which prove fatal remotely by incurrent diseases such as tetanus, should not be considered dangerous. If an opinion as regards the nature of a particular injury cannot be formed at the time of the examination, as in the case of an extensive swelling of a limb when its fracture cannot be detected, or in the case of a head-injury where the symptoms are obscure, the injured person must be either re-examined 24–48 hours after the initial clinical examination; or he should be admitted under observation until a definite opinion can be formed and police should be notified of this.

Examples of injuries which endanger life are:

- Penetrating cavity deep stab or firearm missile on abdomen, chest, head or neck.
- Compound fracture of the skull with brain injury.
- Rupture of an internal organ leading to massive bleeding.
- Injury of a large blood vessel leading to massive bleeding.
- A wound of an artery leading to massive bleeding
- Rupture of some internal organ such as the liver that leads to massive bleeding.

**Explanation for Component ii: Severe bodily pain for a period of 20 days:** When any person is complaining of severe body pain due to any criminal injury or hurt, then for ordinary doctor, it is very difficult to certify that an injured person is in severe bodily pain for 20 days. Hence, in such type of cases, the visible injuries, complaints, signs and symptoms should be noted in MLR and nowadays to diagnose severe pain, score in the Pain Assessment Scale is being used and these types of cases should be referred to a specialized pain clinic. However, these types of cases are rarest of rare, in legal investigation and mostly seen in combination with body pain and the component iii.

**Explanation for Component iii: Unable to follow his ordinary pursuits for a period of 20 days:** The length of time during which an injured person is in pain, disease, or is not able to pursue his ordinary daily routine work. Ordinary pursuits mean going to toilet, taking a bath, wearing clothes, using tooth brush, shaving beard, eating and daily day-to-day activities. It is employed not only in cases where violence has been used, but also in cases where hurt has been caused without any assault, e.g., by administration of drugs or poison. A mere stay of 20 days in the hospital does not make an injury grievous unless the person was in severe bodily pain or unable to follow his ordinary pursuits for a period of 20 days. To certify the injuries in this clause, doctor must observe the patient very carefully and closely and if consented by the patient, police or authority, the CCTV recording of the hospital stay and activity of 20 days should be made a part of report.

### **Weapon used for causing Injuries on human body:**

There is only one weapon as dangerous weapon has been defined in the Indian Penal Code which is dangerous weapon which is called generally by doctor as sharp force and any other weapon than dangerous weapon is simple weapon or generally it is called by doctor as blunt force. The IPC 324

defines the dangerous weapon as-“Any instrument for shooting, stabbing, or cutting, or any instrument which, used as a weapon of offence, is likely to cause death or by means of fire or any heated substance, or by means of any poison, or any corrosive substance, or by means of any explosive substance, or by means of any substance which is deleterious to the human body to inhale, to swallow, or to receive into the blood, or by means of any animal, shall be punished with imprisonment of either description for term which may extend to three years, or with fine or with both.”

**Explanation:** Dangerous weapon means any weapon or instrument used for cutting, shooting, stabbing. The dangerous weapons are generally referred by the doctor preparing the wound certificate as sharp weapon or sharp force. Some of the photographs and elaboration of these dangerous weapons (sharp force/ weapon) are given below-

- a) Light weight sharp cutting weapon- like knife, scalpel, razor
- b) Heavy weight sharp splitting weapon- like axe, hatchet, saber
- c) Pointed weapon- like dagger, needle, arrow, ice pick, sword
- d) Firearm.- like shotgun, rifle, revolver and pistol
- e) Poisons- like organic and inorganic
- f) Corrosives- like acids and alkalis
- g) Explosive materials, bombs
- h) Fire or any heated substance
- i) Bitten by trained animal- snake, dog.

#### ***Nature of injury produced by weapons<sup>5</sup>***

Injury has been defined in section 320 of IPC as grievous hurt in eight clauses, other than these injuries are treated as simple injuries. The Indian Penal Code has Sections 323,324,325 and 326 dealing with these injuries in combination with types of weapons used causing simple or grievous hurt which can be:

- a) Simple hurt caused by simple weapon or non-dangerous weapon for other than a Government official on duty, it is punishable under Section 323 IPC, which states verbatim as “Whoever, except in the case provided for by section 334, voluntarily causes hurt, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine which may extend to one thousand rupees or with both.”

- b) Simple hurt caused by dangerous weapon, is punishable under Section 324 IPC, which states that “Whoever, except in the case provided for by section 334, voluntarily causes hurt by means of any instrument for shooting, stabbing, or cutting, or any instrument which, used as a weapon of offence, is likely to cause death or by means of fire or any heated substance, or by means of any poison, or any corrosive substance, or by means of any explosive substance, or by means of any substance which is deleterious to the human body to inhale, to swallow, or to receive into the blood, or by means of any animal, shall be punished with imprisonment of either description for term which may extend to three years, or with fine or with both.”
- c) Grievous hurt caused by simple weapon or non-dangerous weapon is punishable under Section 325 IPC, which states that “Whoever, except in case provided for by section 335, voluntarily causing grievous hurt, shall be punished with imprisonment of either description for term which may extend to seven years, and shall be liable to fine.”
- d) Grievous hurt caused by dangerous weapon is punishable under Section 326A IPC, which states that “Whoever, except in the case provided for by section 335, voluntarily causes grievous hurt by means of any instrument for shooting, stabbing, or cutting, or any instrument which, used as a weapon of offence, is likely to cause death or by means of fire or any heated substance, or by means of any poison, or any corrosive substance, or by means of any explosive substance, or by means of any substance which is deleterious to the human body to inhale, to swallow, or to receive into blood, or by means of animal, shall be punished with imprisonment for life, or with imprisonment of either description for term which may extend to 10 years, and shall also be liable to fine.”

#### ***Important Court Judgments in relation to hurt and 320 IPC:***

1. It was held in *Atma Ram Vs The State of Punjab*,<sup>6</sup> that the court has to form its own conclusion after seeing the nature and dimension of the injury, its location and the damage that it has caused. Even when an injury is described as to be one which endangers the life, the court has to apply its own mind and form its own opinion in regard to the nature of injury. It was also held that wherever a doctor

describes an injury as 'dangerous to life' and the nature of the injuries is such which could merit such a conclusion, then such an injury has to be treated as 'grievous hurt'. In this case Injury inflicted by accused was opined by the doctor, as dangerous to life and was declared grievous in nature.

2. It was held in *Dev Raj v. State of Punjab*,<sup>7</sup> that the accused was liable to be convicted for grievous hurt and not murder. The accused caused gunshot injuries to his victim, who died one and a half months after the incident. During that period he was operated and for purpose of surgeries several incised wounds were caused. He died due to the second haemorrhage when his arm was amputated.
3. In a free fight between two groups resulting in death of one and injuries to several others, the accused inflicted only one injury on the head of the deceased and was not found responsible for the other fatal injury. His conviction under S. 326 was held to be proper but the sentence of 7 years' rigorous imprisonment was reduced to 3 years.<sup>8</sup>
4. In another case, after taking the medical evidence into consideration and the nature of weapons used on the deceased, the court was of the view that the common object of accused person, was not to commit murder but only to cause grievous hurt, the court altered the conviction of accused under S. 302 to one under S. 326.<sup>9</sup>
5. Injuries not serious enough to endanger life – it was proved that the accused persons caused injuries which led to the victim's death. He did not receive any medical assistance for full four hours. He lost a lot of blood which became the cause of death none of the injuries were on the vital parts of the body. They were not serious enough to endanger life by themselves. The court said that at the highest, the accused persons could be said to be guilty under S 326/34 for causing grievous hurt.<sup>10</sup>

## Conclusion

In the case of multiple injuries inflicted on a person by more than one accused either at the same time or at different time, it is very essential to discover the injury which proved fatal, and whether it was the result of one or more blows, for the defense pleader may admit death, but may plead that it was not due to the wound attributable to that injury. This can be ascertained by examining the wounds individually and noting which of them involved injury to some vital organ or large blood vessel, or led to secondary

results causing death. It is the duty of the medical officer to know the law correctly and apply them in their strict sense while giving expert medical opinion. The medical expert witness is expected to put before the court all scientific facts which led him to the conclusion. Medical evidence is important corroborative evidence in the court of law. Once the expert opinion is accepted by the court it is not the opinion of the doctor but of the court. The investigating officer should thoroughly investigate the case and collect all the available scientific and circumstantial evidences to assist in the logical conclusion in the case. Finally, the judiciary will interpret the law and apply it according to the fact and circumstances of each case and deliver justice.

**Funding:** None

**Conflict of Interest:** None declared

## References

1. Matiharani K, Patnaik AK (2005) *Modi's Medical Jurisprudence and Toxicology. Postmortem Changes and Time Since Death.* (23rd edn). LexisNexis New Delhi, India 423-461.
2. Reddy KSN (2014) *The essentials of forensic medicine and toxicology. Postmortem changes.* (33rd edn). Jaypee Brothers, New Delhi, India 152-178.
3. Mahanta P (2014) *Modern Textbook of Forensic medicine & Toxicology. Thanatology.* Jaypee Brothers, New Delhi, India 184-195.
4. Aggarwal A (2014) *Textbook of Forensic Medicine and Toxicology. Signs of death and changes following death.* Avichal Publishing Company, New Delhi, India 173-199.
5. Ratanlal & Dhirajlal (2016) *The Indian Penal Code.* (34th edition). Lexis Nexis Publishers, Haryana, India 750-76.
6. *Atma Ram vs The State of Punjab (D.B) 1882 (2) CLR 496.*
7. *Dev Raj V. State of Punjab, AIR 1992 SC 950: 1992 Cr LJ 1292: 1992 Supp (2) SCC 81.*
8. *Amrik Singh V. State of Punjab, 1993 AIR SCW 2482: 1993 Cr LJ 2857: 1994 Supp (1) SCC 320.*
9. *Harmant Laxmappa Kukhashiv. State of Karnataka, AIR 1994 SC 1546: 1994 Cr LJ 1422: (1994) 1 SCC 736.*
10. *Prabin V. State of M.P., AIR 2009 SC 745: (2008) 17 SCC 381: Mathai v. State of Kerala, 2005(2).*