

REVIEW ARTICLE

Medical Evidence: Corroborative or Decisive Factor Based on a Case Series

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ABSTRACT

In all Medico-legal cases and sudden suspicious deaths, an Autopsy is done to establish the cause of death. An Autopsy examination is compulsory in all cases of homicides to fix the probable cause of death, time since death, nature of injuries, and the probable weapon used. Sometimes, problems may arise when there is a conflict between the Doctor's opinion and the eyewitness testimony. In such cases, there arises the question of whether the court will admit the doctors' evidence or the eye witness testimony. In the present case series, we have examined five cases of homicide with the court verdict and found that in some cases the verdict was delivered based on the post-mortem report and in some cases it was based on both the post-mortem report and the eyewitness testimony. In a few cases, it was based only on the eyewitness testimony. In cases of where there was a conflict of opinion, the testimony of eyewitnesses was considered superior.

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INTRODUCTION

Homicide may be defined as the killing of one human being by another.¹ As per the Indian Legal System, homicide may be of two types: Lawful Homicide & Unlawful Homicide. The Unlawful Homicide may be again sub-classified into 1. Culpable Homicide Amounting to Murder, under Sec. 300, Indian Penal Code (IPC); and 2. Culpable Homicide Not Amounting to Murder, under Sec. 299, IPC. Sec. 302, IPC prescribes punishment for murder as life imprisonment or death sentence

with or without a fine. Sec. 303, IPC is about the punishment of murder by a life convict person and it is in the form of a death sentence. Sec. 304, IPC prescribes punishment for culpable homicide not amounting to murder in the form of life imprisonment or fine, or both. Sec. 304-A, IPC is about death caused by gross negligence and punishment is in the form of imprisonment for 2 years or fine, or both. Sec. 304-B, IPC is punishment for the death of a woman in relation to dowry demand and punishment

is minimum imprisonment of 7 years which may be extended to life imprisonment. In such cases of culpable homicides, post-mortem examination is required as per law.¹⁻³ Post-mortem examination plays a vital role in establishing the cause of death, time since death, determining the manner of death, etc. In case of deaths due to injuries, the nature of the injury, age of the injury, and probable weapon used may also be established during the post-mortem examination.⁴ Though the evidence of an eyewitness is considered positive and bears more value than the evidence of a Forensic expert as per Indian Law, a Post-mortem report will definitely help the legal system not only to identify a criminal but also to exempt a suspect or an innocent person from the involvement of crime by corroborating these facts with the ocular evidence.

However, in some cases, this post-mortem report may be poorly documented due to a lack of knowledge or negligence of the Doctor who has conducted the Autopsy. Such things are often seen where there are multiple injuries on the body. Sometimes, the victim might have been examined by different doctors and accordingly, there might have been different conflicting reports of body injuries. Occasionally, such differences in the injury report may be seen in reports prepared by the police investigating officer and autopsy doctors. The non-concordance may also be in the statements deposited by eyewitnesses. In case of any doubt or conflict in autopsy findings or police findings or eyewitness statements, the benefit of the doubt ultimately goes in favor of the accused. This will reduce or alter the quantum of punishment of the accused. The present case series study was conducted as a part of the Ph.D. thesis work of one of the three authors. Here we have examined the relevance and futility of autopsy findings in five cases of Homicide and their Judgement.

CASE NO. 1

Around 5 am, a lady found her husband's dead body lying in a pool of blood in a nearby field with a cut injury over his head. As per the informant's statement, the victim left home

by 10 pm the previous night to irrigate of his field. There was a history of enmity due to a land dispute between the victim and the family of the suspected women. The accused was seen running out of the field with an aruval (a type of billhook machete type of weapon traditionally used in Kerala & Tamil Nadu states of India) by three witnesses who were also working in the nearby fields.

An autopsy was done in a nearby civil hospital & autopsy findings were as given below:

There was a cut injury over the scalp exposing bone & brain matter. Both occipital and temporo-parietal bones were fractured with the laceration of the overlying scalp, size being 10x5x2 cm. There was an intracerebral clot of about 7x5x3 cm in size. Other findings were insignificant and chemical analysis reports of viscera were also non-informative. According to the Autopsy report the individual died due to Intracranial Hemorrhage and Shock. The District Session Court (highest criminal court in a district) convicted the accused under Sec. 302, IPC with an imprisonment for life and a fine of Rs. 2000.

CASE NO. 2

A Middle aged male complained that his daughter was found dead on the banks of a lake near the village school. The offence was said to be committed by seven accused who were his brothers-in-law and his sister-in-law. The motive of the murder was a land dispute between the man and the accused. The incident was witnessed by two villagers who later on deposited their statements in the Court of Law.

The post-mortem was conducted in the nearby Civil Hospital and the findings were:

About 12x10x5 cm laceration seen on the temporo-parietal region of the head extending on both sides exposing the underlying brain matter. Another 20x10x10 cm laceration, placed horizontally, was seen from the left pinna to 4cm behind the right pinna exposing the brain matter. There was a crush injury of the left thumb with about 8x5x10 cm laceration over the left wrist. About 15x10x6

cm laceration was seen on the back of the left elbow exposing the muscles, tendons & bones. Another 4x3x2 cm laceration was seen on the left side of the back of the chest. The abdomen was slightly distended due to the accumulation of gas from decomposition, the stomach was empty and the liver, kidney, spleen & other internal viscera were found to be normal. As per the autopsy report the death was due to injury to the brain and hemorrhagic shock. The District Sessions Court convicted the accused under section 302, IPC for life imprisonment with Rs. 1000 fine, under section 498-A, IPC for three years of rigorous imprisonment with a fine of Rs. 1000.

CASE NO. 3

When both the husband and wife were returning home after their work in the evening, they were run over by a TATA Sumo car. It was not a case of a simple road traffic accident but turned out to be a case of planned homicide. The reason behind the homicide was that she was forced to have an illicit relationship with the accused. When the relatives came to know about the illegal affair between them, the families gathered and warned them. Both the victim and accused were neighbors.

The post-mortem was done in a nearby Government Hospital. There was a lacerated wound 5x0.25 cm in size over the right parieto-temporal region of the head, multiple linear abrasions over the lower abdomen, fractures of both the thigh bones, and a laceration over the dorsum of the right foot (dimensions of some injuries were not mentioned in the original autopsy report). Internally an extradural hematoma of 5x0.5cm size (dimension as per original autopsy report) was found over the right parieto-temporal area. Other findings were normal. The Intracranial hemorrhage and the hemorrhagic shock due to road traffic accident was found to be cause of Death.

The case was fought in the District Sessions Court. The Autopsy report given by the doctor during his deposition was used as corroborative evidence only in this case. The accused was convicted under Sec. 302, IPC based on the statements given by six eye

witnesses.

CASE NO. 4

On the day of their 12th wedding anniversary, the daughter of the couple who was about two and a half years old, was playing around and she was wearing a gold chain of about 5 sovereign gold (1 sovereign is equal to 7.98 g). On seeing this, two people who were also attending the function hatched a plan to abduct and rob her of her gold chain.

With the intention to rob the ornaments the accused abducted the child and took her to a nearby house. They were removing the ornaments and as the child cried out loudly, in an intention to stop the cry they laid the child on the floor and tightly closed the mouth and the airway leading to her death. In order to hide the murder both the accused put the child into a nylon sack and tied it with the nylon rope and threw it on the seashore.

The dead body was recovered and a post-mortem was done in a nearby government hospital. The post-mortem findings were 4x4 cm dried abrasion over the right knee, 3x3 cm dried abrasion over the left side face below the ear, 3x3 cm contusion over the left side of the neck below the ear, 1x1 cm dried abrasion below the left eye and a 1x1 cm dried abrasion over the left forehead. Internal findings were insignificant. The post-mortem report concluded that the deceased would appear to have died due to smothering.

Later on, the nylon rope, which was used to tie the sack in which the child was kept before the disposal, was recovered with the help of a police sniff dog. Based on the chain of circumstantial evidence the two accused were arrested and convicted by the court under sec. 302, IPC.

CASE NO. 5

A married woman was frequently abused and harassed by her husband on the mere ground that she was older than him. There were frequent fights between them and many times she was asked to leave him so that he can

marry another girl of a younger age group.

One day, in a fit of rage, her husband hit her in the abdomen multiple times and she died on the spot. To disguise the crime as a suicidal hanging her husband tied a saree around her neck and hung her from a ceiling fan.

A police case was registered and the dead body was sent to a nearby Government Hospital for autopsy. During the autopsy, one faint ligature mark was seen around the neck (details about the ligature were not mentioned in the original autopsy report). Internal examination revealed a 10x6x4 cm size laceration of the liver, laceration of the large bowel, and rupture of the omentum with multiple small bowel contusions. There was a collection of about 3 liters of fluid and clotted blood in the peritoneal cavity. The cause of death was found to be hypovolemic shock, cardiorespiratory arrest (blunt injury to the abdomen).

After considering all the evidences, the Honorable Court convicted the accused (the husband of the deceased) under Sec. 302 and Sec. 201, IPC.

DISCUSSION

In our study, we have included five cases of homicide. The cases include one sharp and blunt weapon injury, one case of homicide by vehicle runover, one case of murder by smothering, and one by blunt abdominal injuries disguising as a suicidal hanging.

In Case Report No.1, the opinion given regarding the cause of death was found to be consistent with the injuries present in the body but the alleged weapon used and the nature of the injuries described in the post-mortem report was not consistent. How an aruval, a sharp cutting heavy weapon, can cause the mentioned lacerated injury on the head? If the weapon used was an aruval then the injury must be an incised or chop wound. If it was a hard, blunt, and heavy weapon then the injury described in the autopsy report might be possible. Thus, injuries described in the autopsy report were not consistent with the weapon used as per history. In his retrospective studies of 10 years, OngBB⁵ observed different cases

of homicides where there were chop wounds over the head region. A similar observation was also reported by S Bhupinder et al.⁶ Most interestingly, there was no direct eyewitness in this case and the autopsy report was also not so informative. The judgment was delivered considering the circumstantial evidence.

In Case Report No.2, the victim was initially attacked with a heavy wooden club, and later on, a moderately large stone was used to smash the victim. The injuries described in the autopsy report such as lacerated wound with underlying fracture of bones in the temporo-parietal region of the head, crush amputation of the left thumb, and laceration of 20x10x10 cms in size starting from left pinna to 4 cm behind the right pinna exposing brain were consistent with the history of use of moderately large stone as a weapon. Other injuries were consistent with the use of moderately heavy wooden clubs as a weapon. In this case, there were twoeyewitnesses, and finally, the accused was convicted based on the autopsy report, eyewitness statements, and other circumstantial evidence. In cases of murder, blunt force injuries are commonly seen in the head region. A similar observation was reported by other authors also.⁷⁻⁹

In Case Report No. 3, we found some lacunae in the post-mortem report. There was a history of knockdown by a TATA Sumo car while the victim was returning home with her husband. Many of the injuries mentioned in the post-mortem reports were not consistent with the available history. Generally, in the case of RTA, if the person is a pedestrian, there will be a primary impact injury commonly in the form of a fracture of the upper end of the tibia, sometimes in the form of a contusion or a laceration.¹⁰⁻¹² In the present case, there was no such injury. However, the accused was convicted based on the statements deposited by six eyewitnesses.

Case Report No. 4 was that of a smothering. Homicidal smothering is very difficult to detect during autopsy.¹³⁻¹⁵ As the victim was a child there might not be a strong resistance and struggle. Abrasions present over the face and a contusion in the neck might go in favour of death due to smothering. However,

post mortem report did not mention the presence of features of asphyxial death such as cyanosis, petechial hemorrhages, and organ congestion, etc. In such difficult cases, it is necessary to interpret the autopsy findings with the available history, crime scene visit, and other circumstantial evidence. Abhishek Y et al¹⁵ expressed a similar opinion during their case report “An Interesting Case of Accidental Smothering in an Unusual Place.” However, in the present case, the accused were convicted considering the autopsy report, circumstances evidence, and confessional statements of the accused.

Case Report No. 5 was that of an assault disguised as a suicidal hanging. As it was a post-mortem hanging and a saree was being used, the ligature mark around the neck was very faint and didn't show features of an ante mortem wound. Except for a faint ligature mark, there was no external injury on the body. But internally there were visceral injuries with the collection of fluid and clotted blood inside the peritoneum. It is quite possible that as the abdomen is a soft and yielding area there may not be external injuries especially when blunt and soft weapons like fists or legs are used. Ananda Rao B V S et al¹⁶ observed the liver to be the most frequently involved organ in blunt abdominal injury cases. Spleen, small intestine, mesentery, etc. are also vulnerable organs in blunt abdominal injury cases. So, it was established a case of death from blunt abdominal trauma and the hanging was post-mortem in nature and accordingly, her husband was convicted under Sec. 302, IPC.

The value of medical evidence is only corroborative. The evidence given by an eye witness will be considered positive and will bear a greater value. In the case of Mani Ram Vs. the State of Uttar Pradesh,¹⁷ the Honourable Court reiterated the secondary nature of medical evidence, the oral evidence of an eyewitness has to get primacy as medical evidence is basically opinionative. This is applicable whenever there are gross opinion differences between statements of eyewitness

and expert opinion. In *S. Gopal Reddy vs The state of Andhra Pradesh*,¹⁸ the court explained that expert evidence is opinion evidence and it can't take the place of substantive evidence. It is a rule of procedure that expert evidence must be corroborated either by clear direct evidence or by circumstantial evidence. It is not safe to rely upon this type of evidence without seeking independent and reliable corroboration.

In another landmark judgment, in *Abdul Rahman Sheikh Vs the State of Madhya Pradesh*,¹⁹ the court has observed that “the post-mortem report is the findings of an expert on the basis of which the opinion is given about the cause of death, nature of the injury and its effect or connection with the death. Such opinion evidence is admissible under section 45 of the Evidence Act and it could not be disputed that an opinion could not be admitted in evidence without the evidence of the expert. The genuineness of the post-mortem report may not be disputed, but the contents thereof i.e. facts observed by the doctor and the opinion as to the cause of death, nature of the injury, and the effect of injury are matters which could only be admitted in evidence under section 45 of the Evidence Act. And under section 45 the opinion could only be admitted in evidence if the expert is examined in Court as the mere certificate is not evidence.”

CONCLUSION

A Post-mortem Report is a Medico-legal document and the doctor must prepare it meticulously. Though the law considers it as a corroborative evidence and inferior to eyewitness testimony, it is helpful in the Court to deliver its verdict. Even if it is not a substantive evidence, the post-mortem report will remain as a crucial evidence in all Homicidal cases.

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