

# ‘Medical negligence’: Four years on, court orders probe into child’s death

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New Delhi: More than four years after losing their two-year-old son due to alleged medical negligence, the parents who have been struggling to get a complete set of hospital records related to their child’s treatment have got a favourable order from Delhi High Court. The court observed that, from the report of the Maulana Azad Medical College (MAMC) medical board constituted to give expert opinion on the case, it was “evident that many of the hospital records were not available to it”.

It also directed the police to register an FIR under IPC sections dealing with causing death by negligence (304A) and conspiracy for the purpose of cheating (405), with no bars and to investigate the matter.

“For discovery of the truth of the matter, considering the various discrepancies in the hospital’s records (observed as of no use and limited capacity of the complainant, this court is of opinion that the present matter required a thorough investigation,” stated the court.

“Still don’t have the complete medical records and no authorities supported me when I pointed out that they were incomplete. Finally, the court has upheld what I was saying. Without the medical records how can I fight the case of medical negligence. They are deliberately using delaying tactics expecting me to give up,” said Harmanu Singh, the father.

## COURT SAYS

**For discovery of the truth of the matter, considering the various discrepancies in the hospital’s record and limited capacity of the complainant, this court is of opinion that the matter required a thorough investigation**

The law says a patient has to be given complete set of medical records and a detailed bill within 72 hours of discharge. The hospital gave several sets of records to the father, each time claiming that it was the “complete” set, when it was not. Till now, none of the regulatory authorities—Delhi Medical Council (DMC), or director general of health services (DGHS) of Delhi—has taken any action against the hospital for violating this law, despite the parents’ complaints.

Harmanu Singh, aged 42, lost his 2-year-old three-month-old son admitted to Max Super Speciality Hospital for dysentery on Feb 6, 2020. His condition deteriorated and he had to be transferred to Max Super for a liver transplant. However, he died on April 9 before the transplant.

“Prime fact is, there appears to be various discrepancies in the records maintained by the hospital. It is not clear from the record whether the repeatedly advised

tests were conducted, and if not, then for what reasons,” stated the district court order. It added that Max Super Speciality Hospital, Shalimar Bagh, owed an explanation as to why it took years to provide complete medical records of the child to his parents and whether any more documents have been withheld by it.

The MAMC medical board was set up on the directions of Delhi High Court. Earlier, the father argued that DMC was just a professional regulatory body elected by doctors and that its opinion could not be construed as expert opinion. He said he had no faith in DMC and expressed the apprehension that his hospital’s records could be tampered with. He pleaded for “a credible expert opinion” from any govt hospital which the high court granted. The high court also asked for a complete set of medical records to be made available to the MAMC medical board. Yet, the board’s report showed that they did not get a complete set of medical records.

In 2020, Singh had first complained to DMC about incomplete medical records after which the hospital provided a “complete” set. Singh also got “complete” sets of medical records by complaining to DGHS. As Singh repeatedly pointed out that several specific records were missing, the “complete” set of medical records were from 36 pages given on Feb 16, 2020 to 80 pages in March, to 150 pages in May and finally 189 pages in Sept.