

The Distinction Between Simple Hurt and Grievous Hurt: A Forensic and Jurisprudential Study

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Abstract

In a criminal trial for the offences against the human body, opinion of an expert of forensic medicine becomes necessary in order to ascertain the nature of the injuries, duration of the injury, weapons etc., which have been probably used to cause the injury. The medico legal work has a great contribution in the administration of criminal justice. An injury report (wound certificate, medico legal certificate, and medico legal case (MLC) is a document prepared by the doctor in all medico legal cases. A medico legal report needs to be prepared in duplicate, with utmost care providing all necessary details. While making injury report, it is necessary to mention against every injury whether it is simple or grievous in nature but if the nature of injury cannot be immediately ascertained and some investigations are required then in that situation the patient should be kept under observation and entry to this effect should be made in the relevant column of the medico legal report. However, it is not always possible to state precisely whether the nature of injury is simple or grievous. The purpose of the present review paper is to identify the pitfalls to the medico legal experts in identifying the nature of injuries.

Keywords: Forensic Medicine, Medico-Legal Report, Injury Classification, Simple Hurt, Grievous Hurt, Criminal Justice, Forensic Evidence, Medico-Legal Case (MLC).

1. Introduction:

According to *Black's Law Dictionary*, the concept of "hurt" extends beyond physical injury and may also encompass mental suffering or annoyance caused to another person. Under Section 319 of the Indian Penal Code, 1860, a person is said to cause hurt when he or she inflicts bodily pain, disease, or physical infirmity upon another individual. While all forms of bodily injury fall within the scope of hurt, the law recognizes certain injuries as being of a more serious nature. Accordingly, Section 320 of the Indian Penal Code specifically enumerates the categories of injuries that are treated as grievous hurt due to their severity and long-term impact on the victim.¹

¹ Indian Penal Code, 1860, s.44 reads: "Injury" The word "injury" denotes any harm whatever illegally caused to any person, in body, mind, reputation or property.

- i. Emasculation.
 - ii. Permanent privation of the sight of either eye.
 - iii. Permanent privation of the hearing of either ear.
 - iv. Privation of any member or joint.
 - v. Destruction or permanent impairing of the powers of any member or joint.
 - vi. Permanent disfiguration of the head or face.
 - vii. Fracture or dislocation of a bone or tooth.
 - viii. Any hurt which endangers life or which causes sufferering during the space of twenty days in severe bodily pain, or makes him unable to follow his ordinary pursuits.
- Although, in BNS Any hurt which endangers life or which causes sufferering during the space of fifteen days in severe bodily pain, or makes him unable to follow his ordinary pursuits.

The provisions relating to grievous hurt are exhaustive in nature and must be interpreted strictly, as they create criminal liability and prescribe punishment. Under Section 320 of the Indian Penal Code, 1860, only those injuries specifically enumerated therein are treated as grievous hurt. Consequently, no injury can be classified as grievous merely on the basis of its resemblance to the listed injuries or because it produces similar consequences. Any bodily injury that does not fall within the categories expressly mentioned in Section 320 IPC is regarded as simple hurt. The same principle has been retained under the Bharatiya Nyaya Sanhita, 2023, wherein Section 116 defines and enumerates the various forms of grievous hurt. Accordingly, the distinction between simple and grievous hurt continues to depend upon statutory classification rather than judicial analogy or medical opinion alone. The present study is confined to the legal and forensic dimensions of voluntarily causing simple hurt and grievous hurt under the IPC and the Bharatiya Nyaya Sanhita, 2023.²

Legal Framework Governing Simple and Grievous Hurt

The criminal law distinguishes between ordinary hurt and aggravated forms of bodily injury based on the nature of the harm caused and the means employed. Under Section 324 of the Indian Penal Code, voluntarily causing hurt by means of dangerous weapons or instruments constitutes a distinct offence, even where the injury caused amounts only to simple hurt. The corresponding provision is contained in Section 118(1) of the Bharatiya Nyaya Sanhita, 2023. This offence is separate from grievous hurt, which involves injuries of a more serious character specifically recognized by law.³

Section 325 IPC prescribes punishment for voluntarily causing grievous hurt, while Section 117(2) of the BNS contains the corresponding provision. A further aggravated offence is contemplated under Section 326 IPC, which deals with voluntarily causing grievous hurt by dangerous weapons or means. The equivalent provision under the BNS is Section 118(2). These provisions impose enhanced criminal liability because of both the seriousness of the injury and the dangerous nature of the instrument or means employed.⁴

² IPC, 1860 (BNS, 2023), s. 321 reads: Voluntarily causing hurt.—whoever does any act with the intention of thereby causing hurt to any person, or with the knowledge that he is likely thereby to cause hurt to any person, and does thereby cause hurt to any person, is said “voluntarily to cause hurt.”

³ *Gurmeet RamRahim v. Central Bureau of Investigation* CRM-M No.45571 of 2018 in the High Court of Punjab and Haryana at Chandigarh.

⁴ Ibid.

The question whether a particular object constitutes a dangerous weapon depends upon its nature, manner of use, and the likelihood of causing serious bodily injury. Certain instruments, such as medical injections, are ordinarily not regarded as weapons unless used in circumstances that transform them into a means of causing harm. A special category of grievous hurt is recognized in cases involving acid attacks. Section 326A IPC, now substantially reflected in Section 124(1) of the Bharatiya Nyaya Sanhita, 2023, criminalizes the act of causing permanent or partial damage, deformity, burns, maiming, or disfigurement through the use of acid. The severe punishment prescribed under these provisions demonstrates the legislative recognition of acid as a highly dangerous and potentially lethal substance. Consequently, acid attacks are treated as one of the gravest forms of bodily harm within the framework of criminal law.⁵

Comparative Analysis of Simple and Grievous Hurt

The distinction between simple hurt and grievous hurt has long posed challenges in criminal jurisprudence. While drafting the Indian Penal Code, the Law Commissioners acknowledged the inherent difficulty in drawing a precise boundary between minor and serious bodily injuries. They observed that although it is impossible to formulate a perfectly accurate distinction, a legal classification is nevertheless essential to ensure that trivial injuries are not treated on par with grave offences involving severe bodily harm. Consequently, the law differentiates between simple and grievous hurt on the basis of the nature and seriousness of the injury suffered by the victim.⁶

This distinction is reflected in the differing punishments prescribed for the two offences. Voluntarily causing simple hurt attracts a comparatively lesser punishment, whereas voluntarily causing grievous hurt is punished more severely owing to the greater degree of harm involved. The difference between simple and grievous hurt is therefore not merely one of degree but also of legal significance, as grievous hurt encompasses injuries that have serious and lasting consequences for the victim. Accurate classification of injuries is thus indispensable for ensuring proportional punishment and the effective administration of criminal justice. Courts, investigating agencies, and medical experts must carefully assess the nature of the injury so that the appropriate legal provisions may be applied.⁷

Duties and Obligations of a Medico-Legal Expert

The determination of whether an injury amounts to simple hurt or grievous hurt must be based on its nature and probable consequences at the time it was inflicted, rather than on the condition of the injury after medical treatment has been administered. The fundamental criterion is to assess whether, if left untreated, the injury would be likely to produce any of the consequences recognized by law as constituting grievous hurt. Thus, the medico-legal expert must evaluate the original severity of the injury and not merely the outcome resulting from subsequent medical intervention. In the course of criminal investigations, the alleged weapon used in the commission of the offence is often recovered and forwarded to the medico-legal expert for examination. A careful inspection of the weapon for traces of blood, tissue, hair, or other biological material may assist in establishing its connection with the injury.⁸ Correlation between the characteristics of the wound, the nature of the weapon, and the condition of the victim's

⁵ Ibid.

⁶ Ratanlal and Dhirajlal, *The Indian Penal Code 600*, (Wadhwa & Company, Nagpur, 30th edn.)

⁷ Ibid.

⁸ Gautam Biswas, *Review of Forensic Medicine and Toxicology (Including Clinical & Pathological Aspects)* (Medical Publishers Pvt. Ltd. New Delhi, 2019).

clothing frequently enables the expert to form a reliable opinion regarding the manner in which the injury was caused, particularly in cases involving stab wounds or incised injuries.

The assessment of the age or duration of injuries is another important aspect of medico-legal examination and must be based on objective indicators such as the stage of healing and associated clinical findings. Courts often rely upon expert opinion concerning the probable time of infliction, nature of the injuries, and consistency of the injuries with the history provided by the victim or investigating agency.⁹

Medico-legal practitioners encounter a wide variety of injuries, including abrasions, contusions, lacerations, incised wounds, stab wounds, firearm injuries, electrical injuries, and ligature marks. In many cases, multiple types of injuries may coexist, and the victim may either survive or succumb to the injuries sustained. It is therefore essential that the medico-legal expert carefully document all relevant findings and clearly state whether the injuries caused severe bodily pain or rendered the victim incapable of pursuing ordinary activities for the period prescribed by law. While assessing such incapacity, the expert must distinguish between actual physical inability and a voluntary decision by the victim to remain hospitalized. Mere hospitalization does not, by itself, establish that the victim was unable to follow ordinary pursuits.¹⁰ Consequently, any opinion regarding prolonged incapacity should be based on medical evidence and objective assessment rather than assumptions. Above all, medico-legal experts are expected to maintain the highest standards of integrity, impartiality, and professional competence while preparing medico-legal reports, as their opinions often play a decisive role in the administration of criminal justice.¹¹

Evidentiary Role of Medical Witnesses in Criminal Proceedings

Medical witnesses occupy a significant position in the administration of criminal justice, particularly in cases involving bodily injuries, death, sexual offences, and other medico-legal issues. Their testimony assumes greater importance when direct evidence is unavailable, when eyewitnesses are unwilling to testify, or where the credibility of witness testimony is disputed. Through their specialized knowledge and professional expertise, medical witnesses assist courts in understanding technical and scientific aspects of a case, thereby facilitating the discovery of truth and the proper administration of justice.¹²

Under Section 39 of the Bharatiya Sakshya Adhiniyam, 2023 (corresponding to Section 45 of the Indian Evidence Act, 1872), the opinions of persons specially skilled in fields such as science, medicine, foreign law, art, handwriting, and fingerprint examination are recognized as relevant facts whenever the court is required to form an opinion on matters requiring specialized knowledge. Such persons are regarded as expert witnesses. An expert derives authority from professional qualifications, training, experience, and specialized knowledge, enabling the court to obtain assistance on matters that lie beyond ordinary human understanding. The testimony of a medical expert is not intended to replace judicial decision-making but rather to assist the court in reaching an informed conclusion. During trial, the defence or prosecution may challenge the expert's qualifications, methodology, observations, or conclusions in an attempt to test the

⁹ K.K. Agrawal, "Medico legal Cases in Injury Patients and Indian Law", Medilaw, available at: <http://medind.nic.in/iaa/t13/i12/iaat13i12p684.pdf>.

¹⁰ *P.K Ghos v. State*, CrI. Rev. P. No.361 of 2003.

¹¹ *Ram Kumar v. State of Haryana*, Punjab-Haryana High Court CRR No.4224 of 2014. There were specific and positive allegations against the petitioner of having misused his position as a medical practitioner for consideration.

¹² Available at: https://shodhganga.inflibnet.ac.in/bitstream/10603/6648/9/09_chapter%201.pdf.

reliability of the opinion offered. Consequently, the medical witness must present findings in an objective, impartial, and scientifically sound manner.¹³

The Supreme Court of India has consistently emphasized that expert evidence is advisory in nature. A medical expert is expected to place before the court all relevant observations, scientific data, and reasons supporting the opinion expressed. The duty of the expert is to explain medical and scientific principles in a manner that enables the court to appreciate the evidence and independently evaluate its probative value. Although courts attach considerable weight to expert testimony, they are not bound to accept such opinions unquestioningly. The ultimate responsibility of assessing the evidence and arriving at a conclusion rests with the court. Therefore, where an expert opinion appears unsupported, inconsistent, or unconvincing, the court may reject it wholly or partly. In cases involving simple hurt, grievous hurt, and other offences against the human body under the Bharatiya Nyaya Sanhita, 2023, the role of the medical witness becomes indispensable. Accurate medico-legal examination, proper documentation of injuries, and objective expert testimony not only assist in determining the nature and extent of injuries but also contribute significantly to ensuring fairness, accountability, and justice within the criminal justice system.¹⁴

Conclusion and Suggestions

The interpretation of statutory provisions must evolve in light of contemporary scientific and medical knowledge. The concept of bodily injury cannot be confined merely to visible harm affecting the skin, muscles, or bones. Modern medical science recognizes that injuries may also affect internal organs, the brain, the nervous system, and an individual's psychological and psychiatric well-being. Although the law relating to hurt was originally framed with a focus on physical injuries, contemporary understandings of health suggest that mental and psychological trauma may, in appropriate cases, cause harm comparable to physical injury. Nevertheless, neither Section 320 of the Indian Penal Code, 1860 nor its corresponding provision, Section 116 of the Bharatiya Nyaya Sanhita, 2023, expressly addresses psychological or psychiatric injuries within the ambit of grievous hurt.

Certain categories of grievous hurt continue to raise interpretational difficulties. For instance, the concept of “permanent disfigurement of the head or face” is inherently subjective and may result in inconsistent judicial determinations. The provision focuses exclusively on the head and face while overlooking permanent disfigurement of other exposed parts of the body that may significantly affect an individual's appearance, dignity, and quality of life. Similarly, the clause relating to severe bodily pain or inability to follow ordinary pursuits for twenty days employs expressions that lack objective medical parameters. The assessment of severe pain often depends upon individual perception and external manifestations, while the notion of ordinary pursuits may not adequately capture the impact of an injury on a person's profession, livelihood, or social functioning. Consequently, legislative reform may be required to provide greater precision and objectivity in the classification of grievous injuries.

Another area warranting reconsideration is the treatment of all fractures and dislocations as grievous hurt irrespective of their severity or long-term consequences. Certain dislocations, such as those involving the shoulder, knee, fingers, or toes, may be corrected through simple non-surgical procedures without leaving any permanent disability or deformity. Treating all such injuries uniformly as grievous hurt may not always reflect their actual seriousness. A more nuanced approach, taking into account the

¹³ State of H.P. v. Jai Lal, (1999) 7 SCC 280.

¹⁴ *Milkiyat Singh v. State of Rajasthan* AIR 1981 SC 1579.

extent of impairment, duration of disability, and long-term consequences, would better align legal classification with medical realities.

From a medico-legal perspective, accurate diagnosis is essential before an opinion regarding the nature of injury is rendered. In cases involving suspected fractures or dislocations, radiological investigations, including X-rays from appropriate views, are indispensable. Where necessary, advanced imaging techniques such as computed tomography (CT) scans and digital imaging may provide greater diagnostic accuracy. Similar caution is required in cases involving dental injuries. Before classifying the dislocation or loss of teeth as grievous hurt, the medico-legal expert should consider factors such as the age of the victim, pre-existing dental conditions, oral hygiene, and the overall health of the dentition. The medico-legal expert performs a crucial function in guiding the court regarding the nature and extent of injuries. Since judicial findings frequently rely upon medical evidence, medico-legal reports must contain complete and accurate particulars, including the nature, dimensions, location, age, and classification of injuries. The report should also clearly state the medical reasons supporting the conclusion that an injury is simple or grievous. Such transparency enhances the reliability of expert testimony and assists courts in arriving at informed decisions.

The existing legal framework classifies a wide variety of injuries under the category of grievous hurt, notwithstanding significant differences in their severity and consequences. As a result, injuries with varying degrees of seriousness may attract similar punishments. This raises concerns regarding proportionality in sentencing. The introduction of provisions relating to acid attacks under Sections 326A and 326B of the Indian Penal Code, now reflected in Section 124 of the Bharatiya Nyaya Sanhita, 2023, demonstrates legislative recognition that certain forms of bodily harm warrant enhanced punishment because of their devastating and often irreversible consequences. Acid attacks represent one of the most severe forms of grievous hurt, frequently resulting in permanent disfigurement, disability, psychological trauma, and social exclusion.

The distinction made by the legislature in prescribing stricter punishment for acid attack offences indicates the possibility of adopting a graded approach to grievous hurt more generally. Injuries that endanger life, cause permanent disability, inflict extreme pain, or substantially diminish the victim's quality of life may justify greater punishment than injuries that, although technically classified as grievous, produce relatively limited long-term consequences. A more differentiated sentencing framework would promote proportionality, fairness, and consistency within the criminal justice system.