

MEDICO-LEGAL ASPECT OF GRIEVOUS HURT – A REVIEW STUDY

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ABSTRACT

In Medico-legal cases there are different types of injury cases come in the hospital. The doctor inform to police or police come with accused or victims for making injury report. The injury may be suicidal or accidental or homicidal or fabricated etc. The registered medical practitioner treat the patient carefully and examine to opine regarding injury and fill the injury report form. The RMP is opining whether it is simple injury or grievous injury. Sec. 320 IPC defines the grievous hurt, grievous hurt is hurt of a more serious in nature. There are 8 clauses in the definition of grievous hurt. Simple injury or hurt is an injury which is neither extensive nor serious. On the bases of only medico-legal reports the facts comes out and play a very important role to prove or disprove any injury related case. This article is mainly based on the grievous hurt & it's medico legal aspect.

KEYWORD: Medico Legal, Injury, Doctor, Grievous, Sec 320 IPC.

INTRODUCTION

Forensic medicine is defined as a branch of medical science that deals with the application of medical knowledge for the administration of law and justice.^[1] The word hurt and injury are similar in many ways but hurt is defined according to sec.319 IPC and injury is defined according to sec. 44 IPC. According to Sec-319 IPC hurt means bodily pain, disease or infirmity caused to any person. Injury is defined by legally and medically.^[2] Legally it is defined according to Sec-44 IPC, injury is any harm, whatever illegally, caused to any person in body, mind, reputation or property. Medically an injury or hurt literally means any physical harm

(trauma) which caused structural changes in the body of a person.^[3] It is two types based on the severity (legally) simple and grievous hurt.^[4]

A grievous injury is one

1. Which is extensive or serious
2. Which does not heal rapidly and
3. Which leaves a permanent deformity or disfiguration.^[5]

Sec.320 IPC defined the Grievous hurt and there are eight clauses in the definition of grievous hurt. Clause has further 3 sub clauses.^[6,7,8]

Table 1: Clauses of Grievous Hurt.

Clause	Kinds of hurt
First	Emasculation.
Second	Permanent privation of the sight of either eye.
Third	Permanent privation of the hearing of either ear.
Fourth	Privation of any member or joint.
Fifth	Destruction or permanent impairing of the powers of any member or joint.
Sixth	Permanent disfiguration of the head or face.
Seventh	Fracture or dislocation of a bone or tooth.
Eighth	Any hurt which endangers life, or which causes the sufferer to be during the space of 20 days in severe bodily pain or unable to follow his ordinary pursuits.

1. Emasculation:- Deprivation of a male of his masculine vigor by castration or by causing injury to testes or spinal cord at the level of L2-L4 vertebrae resulting in impotence. It covers both sterility and

potency in a male impotency caused must be permanent for injury to be called grievous.

-Only male castration comes under this clause. Female castration can however be a grievous hurt under clause 4 or 8.

-If only one testis gets damaged or removed and other testis with intact male organ is present then it is not considered as emasculation. However, it is still a grievous hurt under clause 4, which is, privation of any member or joint.

-Erectile dysfunction may occur following treatment for lower limb fractures (due to perineal neurovascular fraction injury) and spinal cord injury with complete upper/lower motor lesions.

2. Permanent privation of the sight of either eye – privation means even partial loss of sight operation interference is not to be taken into account.

eg – 1. Retinal detachment.

2. Gouging out eyes
3. Dislocation of lens
4. Optic disk laceration

3. Permanent privation of healing of either ear-it should be permanent deafness it can be due to blow on the head or ear ossicles or auditory nerves, or injury by foreign body. it may be noted that tympanic membrane perforation may heal spontaneously.

4. Privation of any membrane or joint – A membrane is any part of the body, which is capable of performing a distinct function, and is not able to regrow. hands, feet, are members. but not nails and hairs, joint may be both small or big ones.

5. Destruction or permanent impairing of the power of any membrane or joint: Use of limbs and joints are vital for discharge of normal functions of the body.

- It includes cutting (severing) of any tendon, anywhere along its route—at its origin, in between or at its insertion. If it is not repaired, its function is permanently lost. This may cause deformity, loss of movement and weakness.
- It is not necessary that destruction or loss of power should be 100%, e.g. contracture caused by burns involving joint.

6. Permanent Disfiguration of The Head or Face

'Disfiguration' means change of configuration and personal appearance of the subject by some external injury which does not weaken him/her.

A person is 'disfigured' when a reasonable observer would find the altered appearance distressing or objectionable.

- For example, chopping off an individual's ear or nose which would cause disfigurement, without consequential disability, so as to constitute grievous hurt under this clause.

- A large cut on the face or branding may leave a permanent scar causing disfigurement.
- Permanent disfiguration is seen when injuries to the eyes leave residual defects after healing like ptosis, entropion or squint.
- Opinion of disfigurement should be given after complete healing, since the doctor can judge whether disability is permanent or not.

7. Fracture or dislocation of a bone or tooth – Ex. 1. cut on a bone is fracture and thus GH. 2. Dislocation of shoulder – Grievous hurt, because dislocation of a bone occurs. It is also a rare example of grievous hurt which is can be corrected within minutes.

8. Any hurt which

- a) Endangers life.
- b) Causes the victim to be in severe bodily pain for 20 days.
- c) Unable the victim to follow his ordinary pursuits for a period of 20 days.
 - Any hurt which endangers life' means that the life is only endangered and not taken away, i.e. placing a person in danger of death.
 - A mere stay in hospital for 20 days will not constitute grievous hurt.
 - *Ordinary pursuits* signify day-to-day personal acts of an individual, like going to the toilet, having food or taking bath or wearing clothes. It does not include going to work, running, jumping or driving a vehicle.

Dangerous injury has not been defined in the IPC. Dangerous injuries are those which cause imminent danger to life by its direct or imminent effects because of being extensive in nature, involving important structures or organs of the body, and also being likely to prove fatal in absence of medical/ surgical aid. Any tear in dura mater, intracerebral hemorrhages, cerebral edema, laceration of lungs resulting in hemothorax, rupture/perforation of GIT, any rupture of large arteries/veins are examples of dangerous injuries.

- The courts at times have considered an injury described as dangerous to life as an injury envisaged in clause 8 of Sec. 320 IPC (injury which endangers life).
- It is recommended that the medical expert should desist from differentiating injuries endangering life and dangerous injuries.

Dangerous weapon or means: Any instrument used for shooting, stabbing or cutting, or any instrument which if used as a weapon of offence is likely to cause death; or by means of fire or any heated substance, poison or any corrosive substance, explosive or any substance which is harmful to the human body to inhale, to swallow or to receive into the blood or by means of any animal (**Sec.324 and 326 IPC**).

Table 2: Punishment for Grievous Hurt.

S.No.	Section of IPC	Offence	Punishment	Fine
1.	323	Voluntarily causing simple hurt	Upto 1 year	With/without fine (upto `1000)
2.	324	Voluntarily causing simple hurt by dangerous weapons/means	Upto 3 years	With/without fine
3.	325	Voluntarily causing grievous hurt	Upto 7 years	Yes
4.	326	Voluntarily causing grievous hurt by dangerous weapons/means	Upto 10 years	Yes
5.	326-A	Voluntarily causing grievous hurt by use of Acids	10 years to life imprisonment	Yes (paid to the victim)
6.	326-B	Voluntarily throwing or attempting to throw Acid	5-7 years	Yes
7.	331	Voluntarily causing grievous hurt to extort confession, or to compel restoration of property	Upto 10 years	Yes

CONCLUSION

Sec 320 IPC define the grievous hurt & its punishment i.e. 7 year to 10 year and fine under this section. There are 8 clause of grievous hurt and each class explains different types of injury, permanent disfigurement of the body or organs which is endanger to life. Every registered medical practitioner should have proper knowledge about grievous injury. So that they can examine the person to make correct medico-legal reports.

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