



Medico-legal Aspect Of Death And Evidentiary Evaluation Of Autopsy Report In Criminal Investigation

Author Dr. Nayana Jashubhai Patel

Assistant Professor

M.S.Bhagat & C.S.Sonawala Law College, Nadiad.

Sardar Patel University Vallabh Vidhyanagar

Abstract

Forensic science plays an vital role in the criminal justice system. Criminal investigations are performed through technical assistance to decide whether a crime has been committed, when how and by whom. In many cases of death, the determination of time, cause and form of death are important. The postmortem examination report becomes pivotal as evidence on which the entire case is dependent. As an evidentiary rule, the judicial approach is tented towards accepting medical evidence only in case of consistency with the prosecution case. The aim of this article's post-mortem examinations in the confirmation, clarification, and importunate of the diagnoses , as well as the evidentiary evolution of post- mortem report in criminal justice system.

The paper throws highlight upon the circumstances in which the post mortem examination report shall be considered as evidence in court and judicial approach is critically assessed. The value of the post mortem examination in court proceedings has been determined through this research paper. The aim of the paper has to death of manner ,cause of death and the evidentiary evaluation of autopsy and as well as the approaches of the Judicial regarding the report of the autopsy. Forensic Science as pivotal role in the recent era in Criminal investigation and judicial system.

Keywords: Medico-legal study ,Forensic evidence ,Autopsy, Criminal Investigation.

Research Methodology: This research paper explores the The aim of this article's post-mortem examinations in the confirmation, clarification, and importunate of the diagnoses , as well as the evidentiary evolution of post- mortem report in criminal justice system , analysing its impacts, and considering the various perspectives surrounding this phenomenon.

1 Introduction : The term “forensic” is derived from the Latin word “*forēnsis*,” which means *of or before the forum*. The history of this word dates back to Roman times, during which the person accused of a crime was presented before a group of individuals in the forum.¹

In modern times, forensic science refers to the various scientific techniques that are used to solve crimes. This involves collecting, analyzing, and presenting evidence in order to solve a crime or successfully convict the offended. Forensic Science is one of the important aspects of criminal justice. It deals with the scientific examination of physical clues collected from the crime scene. During an investigation, the evidence is collected at a crime scene or from a person, analysed in a crime, laboratory, and then result presented in court. Each crime scene is unique, and each case present its challenges. Forensic science plays a vital role in the criminal justice system by proving, scientifically based information through the analysis of physical evidence, the identity of the culprit through personal clues like fingerprints, footprints, blood drops, or hair. It links the Criminal with the crime through objects left by him at the scene and with the victim or carried from the scene and victim.²

The object of this paper is to explain the importance of postmortem report as a evidence and to understand the medico legal aspects of death and its practical implication in the court of justice. In this paper will give an outline as to what are the modes of death, manner of death, cause of death , postmortem report, legal process and evidentiary value of postmortem report in investigations. This paper, the concept of post mortem examination is understood in detail. The procedure of post mortem examination under a criminal justice system is analyzed and the necessary precautions to be maintained in due course have been highlighted. The importance of death scene before investigation to the post mortem examination has been inferred to smoothen the process of the examination. The aspect of post mortem examination under criminal justice system has been examined and the reliability of the post mortem report has been analyzed by assigning the authorities case laws. The statement given by forensic expert in court has been discussed. The legal perspective of the post mortem examination has been considered in the paper. Under the criminal justice

¹ www.WIKIPEDIA ,https://en.wikipedia.org/wiki/Forensic_science

² Dr.Nuzhat Parveen Khan,& Ms. Bhavana Sharma Forensic Science &Indian Legal System,Central Law Publication,2022, Page no,4

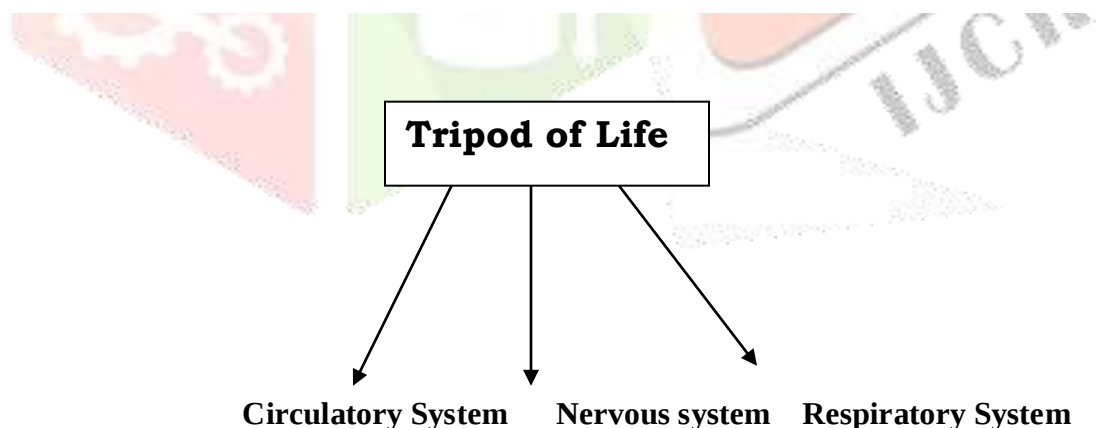
system, evidence is essential for determination of guilt of the accused. The paper throws highlight upon the circumstances in which the post mortem examination report shall be considered as evidence in court and judicial approach is critically assessed. The value of the post mortem examination in court proceedings has been determined through this research paper.³

2 Death and Medico-Legal Aspect: A forensic autopsy is normally requested by the police, the coroner or in the Latin Countries by that quaint institution 'the Investigating Judge'. They may in some countries be requested by insurance companies as well. They are an important part of the police investigation of suspicious deaths. Such deaths must be reported by the physician attending the death according to the local rules and regulations. In India ,all deaths that may be caused by a criminal act(homicide), accidents and suicides people found dead unattended, sudden unexpected deaths due to suspected medical malpractice and deaths in prisons and so on, must be reported to the police. They will decided if an examination by the medial officer and the police is warranted and will in return decided if a forensic autopsy is necessary.⁴

(I) Definition of Death:

Death is defined as permanent and irreversible cessation of the functioning of three vital systems of the body, Nervous system, Circulatory system, and Respiratory system.

Bishop's Tripod of life: The three vital systems of the body, nervous system, circulatory system, and respiratory system known as tripod of life are essential for life. if any one of these systems fails, the other two will also stop subsequently.



According to Black's Law dictionary, death means ' cessation of life or ceasing to exit'.

Legal Definition of Death:Section2(b) Registration of Birth and Death Act states that, "Death is defined as permanent disappearance of all evidence of life at any time after live birth has taken place."

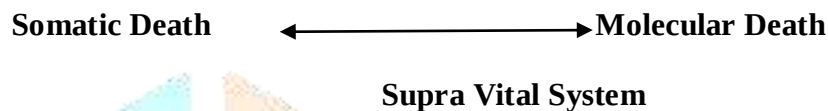
Section 46 IPC states that," Death denotes the death of a human being unless the contrary appear from the context.⁵

(II) Stages of death : Death may be divided into following two stages:

i Somatic/ Clinical Death : Somatic death is also called Clinical Death or legal Death. There is permanent and irreversible cessation of three vital system of body. Somatic death corresponds with permanent stoppage of function of heart, lungs and brain.

ii Molecular/Cellular Death: After the occurrence of somatic death, with the passage of time , death also occurs at the level of tissues in the body. Permanent cessation of life at tissues level is called molecular or cellular death.

The difference between the somatic and molecular death become important for the purpose of organs transplantation.



There is a short time period after Somatic death when life is still present in the organs. During this time ,they can be retrieved and utilized for transplantation into a living person. Thus, distinction between somatic and molecular death is very signification for the purpose of cadaveric organ transplantation.³



Between the somatic and molecular death that situation is called Supra vital System. If any injury occur during the organ transplantation, it is called 'Perimorten' injury.

Modes of Death

As per Gordan there are 4 modes of death

- . Anoxic anoxia- due to lack of oxygen.
- . Anemic anoxia- due to reduced oxygen carrying capacity of the blood.
- . Stagnant anoxia- due to defective blood circulation.
- . Histotic anoxia- due to defective utilization of oxygen by tissue.

As per **Xavier Bichat**, a French physician, irrespective of what the remote cause of death may be, there are three modes of death.

Coma: Death due to failure of brain function.

Syncope: Death due to failure of heart function.

Asphyxia: Death due to failure of lungs function.

³ Dr. V.P. Singh , Forensic Science , Bharat Law House Pvt. Ltd, second Edition,2022, Page, No, 149.

Modes of Death Typical PM findings

Coma: Congestion of brain and meninges, injury to head, Disease of the brain.

Syncope: anemia, Excessive hemorrhage, Heart contracted, chambers empty, Viscera pale.

Asphyxia: Cyanosis, edema, engorgement of right side of heart, petechial hemorrhage (Tardieu's spot), Viscera congested, increased fluidity of blood.⁷

Coma is a mode of death in which there is irreversible cessation of function of brain. It refers to a state of unconsciousness characterized by complete insensibility, in which there is no response to any stimuli. Amongst the three vital systems of the body, the central nervous system permanently stops initially, followed by the stoppage of the cardiovascular system and the respiratory system.

Syncope is a mode of death in which there is irreversible cessation of functions of heart. Syncope results in hypoxia and hypoperfusion of brain. Cardiovascular system permanently stops initially, followed by cessation of the central nervous system and the respiratory system. Cause of Syncope, such as heart disease, hemorrhage, pathological state of blood, exhausting disease, vagal inhibition etc.

Asphyxia is a mode of death due to irreversible cessation of respiratory system. It may occur due to various reasons that result in impairment of the respiratory system. Respiratory system stops initially, followed by cessation of the central nervous system and the cardiovascular system. Cause of Asphyxia such as, Hanging, Strangulation, throttling etc.⁴

Cause of Death is the reason due to which any individual dies. Cause of death is any injury or disease that produces physiological derangement which results in death of an individual, e.g. head injury, a stab wound in the chest, cancer, coronary atherosclerosis etc. Mechanism of death is the physiological derangement that occurs due to the cause of death. Particular cause of death can lead to one of the several mechanisms of death. For example, head injury is a cause of death, that can lead to one of the several mechanisms of death including intracerebral bleeding, bleeding around the brain, direct trauma to the brain.

In *Satish Rai v State of UP* 2002 (4) Crimes 483, the court held that the time interval between the injuries and death was not material. What was material in this case was the cause of death. The cause of death in the current case was not instantaneous as death occurred after a month, but it did not make any difference as the cause of death was the same injury. The accused was held liable for murder.⁵

⁴ *Supra Note*, at 3, page no, 150-151

⁵ Dr. V.P. Singh, Forensic Science, Bharat Law House Pvt. Ltd, second Edition, 2022, Page no, 152.

3 Legal Process:

Police inquest:

As per section 174 of Cr. P.C., the officer-in-charge, usually sub-inspector of a police station conducts the inquest. The police officer making the inquest is known as Investigation Officer (I.O.). When the officer in-charge of a police station receives information about fatal death, viz. suicide, or homicide, killed by an animal, accident, or has died under circumstances raising a reasonable suspicion he immediately gives intimation about it, to the nearest Executive Magistrate empowered to hold inquests. The Investigation Officer conducts an investigation under section 175 of Cr.P.C. should visit the crime scene or hospital and in presence of two or more witnesses draw up a report of the

investigating police officer and by the *panchas*. If no foul play is suspected, the dead body is handed over to the relatives for disposal after conducting the postmortem report. In cases of suspected foul play or doubt, the body is sent for postmortem examination to the nearest authorized Government doctor together with a requisition and a copy of the inquest. The report is forwarded to the Magistrate. Private medical institutions can undertake medico-legal examination and treatment of the living, but autopsies can be conducted only with the permission of the State Government. apparent cause of death. Then, he prepares a report includes the descriptions of wounds, bruises, fractures, and other marks of injury found on the body, and stating in what manner, or by what weapon or instrument, such injuries appear to have been inflicted.

Magistrate's Inquest :

This is conducted by a District Magistrate, Sub – divisional Magistrate, *Tahsildar* or any other Executive Magistrate (S.20 to 23 Cr. PC), especially empowered by the State Government (Executive Magistrates). It is done in case of death in police custody, and while under police interrogation, death due to police firing, death in prison, reformatories, Borstal school, death in a psychiatric hospital, dowry deaths, exhumation Any person dies or disappears or rape is alleged to have been committed on any woman, while such person or woman is in the custody of the police or any other custody authorized by the Court (S.174(4), S.176 and 176, 1A, Cr.P.C.). In any case of death, a Magistrate may conduct an inquest, instead of or in addition to the police inquest (S.176, Cr.P.C).⁶

Autopsy Report: The main object of the autopsy is to find out cause of death, time of death, nature of duration of injuries, weapon used, etc. Before proceeding for conducting autopsy, the body must be identified and examined. General examination of the body, will follow external examination and thereafter dissection of the body for internal examination. Existence of rigor mortis is most important to be determined before preceding for autopsy. Rigor mortis occurs after sometime of the death due to molecular death of cells if

⁶ <https://sifisheriestciences.com/journal/index.php/journal/article/download/1653/1693/3221> dated visited, September, 2023.

tissues and muscles. However, the body may become rigid apart from due to rigor mortis which may be present even before setting of rigor mortis or even after passing off rigor mortis.⁷

Types of Autopsy: Autopsy is categorized into three types:

I Medicolegal /Forensic Autopsy : Medicolegal autopsy is the postmortem examination of a dead body in case of sudden, suspicious, obscure, unnatural, litigious or criminal deaths. the purpose of this type of autopsy is to determine the cause of death and to provide all the information gathered during autopsy to the investigating officer so as to assist him in determining of legally authorized officer. Medicolegal autopsy is performed on the instructions of legally authorized officer.

II Clinical Autopsy : The primary objective of clinical autopsy is to establish the nature of the disease this has caused death, when ante-mortem efforts have failed. Another objective is to study

pathology of the disease this has caused death, even when the diagnosis has been established before death.

Documentary Pre-requisites in medico legal autopsy : Before starting the postmortem examination the following documents are required to the medical examiner.

*Medicolegal autopsy is conducted only after receiving a written order from police officer or magistrate to conduct the autopsy.

* Request for autopsy should be accompanied by a dead body challan, and an inquest report. A dead body challan is a requisition submitted to the doctor by investigating officer, which contains name, age, sex and address of the along with probable date and time of death. An inquest report (panchnama) is preliminary investigation to ascertain the cause and manner of death, the details of body, presence of any injury etc.

*Medical autopsy can be performed only by Registered medical Practitioner who has been Authorized to do so.

Authorized officers to perform the medico legal autopsy, which are:

Civil Surgeons and SMO/Medical officers of the State,

Faculty /Doctors of Govt. Medical Colleges and,

Any other doctors specially authorized by the Government.

*In case of Dowry deaths, Medicolegal autopsy should be performed by a board of two doctors.

Procedure of Autopsy: The procedure of autopsy through internal and external examination in all cases. All medicolegal case procedure of autopsy through internal and external examination in all cases.

Before proceeding for external examination, after removing the cloths, marks of injury on the cloths corresponding to the injury on the body should be noticed. Blood stains, stains of semen, blackening of the

⁷ Supra Note, at, 3 page no, 240.

cloth, may be due to gun powder, should be carefully examined and the cloth including under garments, found blood semen stains or stained with other marks, should be preserved and sent for chemical examination.

After the careful external examination and after taking note of autopsy, change in the body, body is opened, starting from the head, chest, abdomen neck, thorax and then down to pubis. The internal examination is thus started from the skull and finished .10

Exceptions are the vertebral column and spinal cord. Since their examination is cumbersome and time consuming, it is resorted to only when necessary, like in head injury, hanging, vertebral column injury, etc. On most occasions the cause of death is established by a thorough gross external and internal examination on the autopsy table itself. Toxicological examination, by the State Forensic Science Laboratory, for qualitative and quantitative estimation of poisons in the body tissues. A toxicology test (drug test or “tox screen”) looks for traces of drugs in your blood, urine, hair, sweat, or saliva. You may need to be tested because of a policy where you work or go to school. Your doctor could also order a toxicology test to help you get treatment for substance abuse or keep your recovery on track. The procedure of performing the autopsy may vary in different cases of death. The doctor performing the autopsy has to decide the type of procedure the nature and mode of death before the start of autopsy . Several tools and technique used during the autopsy. In such cases, opinion as to the cause of death is reserved till the results of post-mortem laboratory investigations are available for correlation and interpretation. A forensic pathologist upon studying the scene of death can inform the investigating officers about the nature of death whether it is natural or some disease or inflicted injury.⁸

Autopsy Report : The postmortem report is complete a report is written in a standard format. The report must contain a list of samples retained for further analysis. if laboratory test have to be carried out ,a provisional report is given, and then after obtaining the results, a supplementary report is given.

4 Evidentiary Evaluation of Autopsy:

The procedure of autopsy and report of autopsy after the all document produced for the Inspection of the Court. all statements which the courts permits or requires to be made it by witness, in relation to matters of fact under inquiry. For the evidence to be accepted by the Courts, it must be properly identified as to what it is, and where it was found. The evidence of eyewitnesses is positive. The evidence of doctor or an expert is only an opinion which is corroborative.⁹

As per section 293 of Code of Criminal Procedure the reports of certain government scientific experts or any document purporting to be a report under the hand of a Government scientific expert may be used as evidence in any inquiry, trial or other proceedings. This section is applied to limited scientific officers and it

⁸ <https://www.webmd.com/mental-health/addiction/what-is-a-toxicology>.

⁹ Supra Note, at,2 page no, 167

does not cover the doctor conducting the autopsy of the dead body and issuing the report on the basis of examination or analysis.

As per Section 294(3) of The Code Of Criminal Procedure, 1973, Where the genuineness of any document is not disputed, such document may be read in evidence in any inquiry, trial or other proceeding under this Code without proof of the signature of the person to whom it purports to be signed: Provided that the Court may, in its discretion, require such signature to be proved. It can be received in evidence only on the establishment of its authenticity by the mode of its proof as provided under sections 67 to 71 of the Evidence Act.

Indian Evidence Act 1872: It includes two types of document procedure for the inspection of the court, Such as Documentary evidence and oral evidence. The documentary evidence as medical certificate, and medico legal reports. Oral evidence which the court permit or which are required to be made before it by the witnesses, in relation to the matter of fact under enquiry. Section 3 of Indian evidence Act defines the fact. further, Section 59 says that all facts except the contents of documents may be proved by oral evidence. Section 60 states that in all cases the oral evidence must be direct.¹⁰

AUTOPSY AND JUDICIAL APPROACH:

In *Madadeo Dyanan Jadhav V. State of Maharashtra*. AIR.1976, the burden of proof on the prosecution to prove that the injuries were caused by the accused with the alleged weapon. It is possible to see and measure incised injuries. Therefore the evidence of the doctor holding post mortem will be most relevant.

In *Dayal Singh & Ors v/s State Of Uttaranchal* 2012 case, Dr. C.N. Tewari, stated that he did not find any external or internal injuries even after performing the post mortem on the body of the deceased. This remark on the autopsy report apparently is falsified both by the eye-witnesses as well as the Investigating Officer. It will be beyond apprehension as to how a healthy person could die, if there were no injuries on his body and when, admittedly, it was not a case of cardiac arrest or death by poison etc., more so, when he was alleged to have been assaulted with dandas (lathi) by four persons simultaneously. In any case, the doctor gave no cause for death of the deceased and prepared a post mortem report which ex facie was incorrect and tantamount to abrogation of duty. The Trial Court while giving the judgment of conviction, noticed that medico-legal post mortem examination is a very important part of the prosecution evidence and, therefore, it is necessary that it be conducted by a doctor fully competent and experienced.¹¹

In *Deepak Rai vs State Of Bihar*, the Doctor who conducted post mortem examination of the six deceased persons, has corroborated the prosecution case that the death occurred by 100% burn injuries. The post-

¹⁰ Nusirvan Jahbwala, Indian Evidence Act C. Jamnadas Co2022.

mortem report corroborate the time and manner of the fateful incident, therefore the Hon'ble Supreme Court held that, the testimonies of the Doctors, post-mortem report, medical report are reliable one.¹²

Meera vs. State of Rajasthan it has been reviled that, the Doctor admitted that the medical papers on which he recorded, have been destroyed and there is no entry in the outdoor register about the deceased having been brought to the hospital. There is no reference in the outdoor ticket number in the postmortem report. In the said decision it was held that apart from oral statement of the Doctor, no documentary evidence had been produced to substantiate his claim. His original writings on which the treatment given to the patient was recorded, admittedly was destroyed by him, even though he knew it to be a medico legal case, as admitted by him. In one case notes of post-mortem examination are no evidence and, in another case, more importance is given to it is itself controversial.¹³

5 Conclusion: The determination of time of death is of crucial importance for Forensic Investigators, both in civil and criminal cases especially when they are gathering evidence that can support or deny the stated actions of suspects in a crime. The time of death is not confined to criminal investigation; it can also come into play in civil situations. Insurance payments may depend upon whether the insured individual was alive at the time the policy went into effect or if he died before the policy expired Likewise property inheritance can hinge on when the deceased actually died. The forensic evidence play a consistent and robust role in case-processing decisions. Still, the influence of forensic evidence is time- and examination-dependent: the collection of crime scene evidence was predictive of arrest, and the examination of evidence was predictive of referral for charges, as well as of charges being filed, conviction at trial, and sentence length. The only decision outcome in which forensic evidence did not have a general effect was with regard to guilty plea arrangements. More studies are needed on the filtering of forensic evidence in different crime categories, from the crime scene to its use by investigators, prosecutors, and fact-finders, and to identify factors that shape decisions to collect evidence, submit it to laboratories, and request examinations.

In Forensic science as a Important Role in Criminal Justice system in new era. Recent advances in forensic science that is the use of new tools and techniques in autopsy report. There is need to change the judicial approach for scientific expert witnesses. Also the judicial approach and interpretation of post mortem report should be as equal as Government Scientific Experts reports. The technical aspect of personal attendance of same medical officer who conducted the autopsy should be avoided except in some exceptional cases. In Lastly we suggest the use of new tools and technique in Forensic Science. And police investigation is fair and speedy.

¹² Deepak Rai vs State Of Bihar, online available at <https://indiankanoon.org/docfragment/178668154/?big=3&formInput=post+mortem+report+evidence+> dated 02/01/2023

¹³ <https://indiankanoon.org/doc/1538865/>

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