

under the provisions of this Act, the powers, duties and functions of the council shall be:-

(f) to receive complaints from public (including patients and their relatives) against misconduct or negligence by a medical practitioner, to proceed for inquest, take a decision on the merits of the case and to initiate disciplinary action or award compensation and similarly to take action against frivolous complaints.”

6. It is submitted by the learned counsel for the petitioner that Section 10 of the Act, 2002 empowers the Council to receive complaints from the public (including patients and their relatives) against misconduct or negligence by a medical practitioner, and to proceed for inquest, take a decision on the merits of the case, initiate disciplinary action, award compensation, or similarly take action against frivolous complaints. It is further argued by him that the medical practitioner also has been defined under Section 2(7) the Act, 2002, which is quoted hereinbelow:

“2(7) “Medical Practitioner” or “Practitioner” means a person who is engaged in the practice of modern scientific system of medicine and all its branches and has qualifications as prescribed in the first, second or third schedules to the Indian Medical Council Act, 1956 (central Act 102 of 1956).”

7. On the strength of the aforesaid provisions, it is submitted that the Council has exceeded its jurisdiction by awarding compensation against the hospital in a complaint of negligence of the doctor and hospital.

8. Per contra, the learned counsel appearing for the respondents vehemently argued that the judgment is quite proper and has been passed on the basis of the

observations made by the Hon'ble Supreme Court in the case of **Maharaja Agrasen Hospital & others vs. Master Rishab Sharma & others (Civil Appeal No. 6619 of 2016)** along **with Pooja Sharma & others vs. Maharaja Agrasen Hospital & others (Civil Appeal No. 9461 of 2019)**. The Apex Court, though dealing with the matter of a consumer under the Consumer Protection Act, has opined that the hospital can be held vicariously liable for the negligence committed by the doctor working in the hospital.

9. Having heard the learned counsel for the parties and having perused the judgment and order impugned, as well as the Hon'ble Supreme Court's observations passed in the aforesaid cases, this Court is not impressed with the arguments advanced by the learned counsel for the petitioner.

10. In such an era, when big hospitals are running in society and engaging various doctors for the treatment of the public, the hospital cannot be left scot-free from being prosecuted by a court of law for the negligence committed by the doctor. Accordingly, the interim relief application (IA No. 1/2026) is hereby rejected.

11. Respondent(s) may file the counter affidavit(s) within four weeks.

12. List on 25.03.2026.

(Pankaj Purohit, J.)
19.02.2026