DOI: 10.21088/ijlhb.2454.7107.12226.2

Indian Journal of Law and Human Behavior
Volume 12 Number 2 / July - December 2026

ORIGINAL ARTICLE

Consolidated Medico-Legal Defense Framework for Physicians

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HOW TO CITE THIS ARTICLE:

Shri Gopal Kabra, Vivekanshu Verma. Consolidated Medico-Legal Defense Framework for Physicians. Indian J Law Hum Behav 2026; 12(2): 81-92.

ABSTRACT

Background: Medical negligence cases often expose physicians to both civil and criminal liability, despite their lawful duty to care. The Indian Penal Code (IPC),[1] codifies principles of common law and natural justice through statutory exceptions that can shield physicians from culpability. Sections 76, 80, 81, and 88 IPC provide distinct but complementary defenses based on mistake of fact, accident, necessity, and consent. These provisions, when integrated, form a comprehensive medico legal defense framework.

Methods: A doctrinal analysis of IPC Sections 76, 80, 81, and 88 was undertaken to identify their underlying legal principles, maxims, and statutory explanations. Each provision was examined in parallel with medical contexts—such as surgical errors, accidental injuries, emergency interventions, and consent based procedures—to establish applicability in medico legal defense in civil litigation. The framework was then consolidated to provide physicians with a unified pleading structure.

Results

- **Section 76 IPC:** Protects physicians from liability when harm arises from bona fide mistakes of fact (e.g., anatomical misidentification).
- **Section 80 IPC:** Shields against accidental harm occurring despite lawful conduct and due care (e.g., inadvertent colon injury).
- **Section 81 IPC:** Justifies acts done in good faith to prevent greater harm (e.g., amputation of gangrenous limb, emergency angioplasty).
- **Section 88 IPC:** Provides comprehensive protection for lawful medical acts performed with valid consent in good faith, even if harm results.

Together, these provisions establish a statutory shield that reframes adverse outcomes as excusable under codified principles of mistake, accident, necessity, and consent.

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➢ **Received:** 24-03-2026 ➢ **Accepted:** 27-04-2026

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Conclusion: The consolidated medico legal defense framework integrating Sections 76, 80, 81, and 88 IPC offers physicians a robust statutory basis to defend against both criminal culpability and civil liability in medical negligence claims. By documenting competence, lawful authority, valid consent, and good faith, physicians can invoke these provisions to demonstrate that adverse outcomes were excusable under law. This framework strengthens medico legal advocacy and ensures protection for physicians acting within their professional duty.

KEYWORDS

• Medical Negligence • Indian Penal Code (IPC) • Section 76 – Mistake of Fact • Section 80 – Accident • Section 81 – Necessity • Section 88 – Consent and Good Faith • Tort Law Defense • Civil and Criminal Liability • Physician Protection • Bharatiya Nyaya Sanhita (BNS) 2023 • Medico Legal Framework.

INTRODUCTION

Under the Bharatiya Nyaya Sanhita (BNS), 2023,[2] the doctrinal structure of the ***"general exceptions"*** applicable to a physician's conduct is largely retained; only the section numbers and marginal drafting are changed, not the underlying legal test. Below is a concise comparison and analysis of the physician friendly exceptions you mentioned, mapped IPC–BNS wise in a tabular format relevant to medical practice.

Table 1: Tabular comparison: Physician centric exceptions in IPC Vs BNS

Element / Condition	IPC position (old)	BNS equivalent (new)	Commentary / Analysis for physicians
Lawful, competent, consented act by physician (i.e., treatment within standard of care, with informed consent)	**No standalone** "protective" section; such acts are covered by general exceptions 87–89 (consent, goodfaith benefit) and the absence of mens rea.	Sections 25, 26, 27, 30, 31 BNS (consent and goodfaithforbenefit exceptions) correspond to IPC 87–93, retaining the same logic.	The physician's lawful, competent, and consented act is protected by the "goodfaith for benefit" and "informed consent" exceptions; if the physician reasonably believed the act was lawful and beneficial and obtained proper consent, the act is not an offence.
Harm caused by mistake of fact (IPC 76) - Physician honestly believes facts justify the act (e.g., consent recorded, emergency indication).	**IPC 76: "Act** done by a person bound, or by mistake of fact believing himself bound, by law."	**BNS 14:** Direct replica of IPC 76; "act done by a person bound, or by mistake of fact believing himself bound, by law."	Protects a physician who, in good faith and under a reasonable mistake of fact (e.g., relies on an apparent consent form compliant with protocol), believes the procedure is lawful. The test is whether the belief in legality is objectively reasonable, not absolute correctness.
Harm caused by accident despite due care (IPC 80) - Procedure lawful, done with due care; harm is unintended and accidental.	**IPC 80:** "Nothing is an offence which is done by accident or misfortune, and without any criminal intention or knowledge in the doing of a lawful act in a lawful manner by lawful means and with proper care and caution."	**BNS 18:** Wordforword equivalent; titled "Accident in doing a lawful act."	For a physician this is crucial: if the surgery or intervention is lawful, performed in a standard manner, with due care, and an adverse event occurs purely by uncontrollable accident (e.g., anaphylaxis despite full precautions), the act is not an offence. The key is proof of "proper care and caution" (e.g., checklist, informed-consent, SOP-compliance).

table cont....

Element / Condition	IPC position (old)	BNS equivalent (new)	Commentary / Analysis for physicians
Harm caused by necessary act to prevent greater harm (IPC 81) - Goodfaith risktaking to avert a more serious outcome.	**IPC 81:** "Nothing is an offence merely by reason of its being done with the knowledge that it is likely to cause harm, if done without criminal intent and in good faith to prevent other harm to person or property."	**BNS 19:** Mirrors IPC 81; "Act likely to cause harm, but done without criminal intent, and to prevent other harm."	Applied to a physician when, for example, an urgent surgery or invasive procedure is performed knowing it may cause harm but in good faith to prevent death or grievous injury. The test is whether the threatened harm is imminent and the risk is proportionate; courts weigh whether the lesserevil standard is met.
Harm caused by consented risk in good faith for benefit (IPC 88) - Known risk to the patient, but for that patient's benefit, with consent.	**IPC 88:** "Act not intended to cause death, done by consent in good faith for person's benefit." Illustration: surgeon performing a knownrisky operation with consent.	**BNS 26:** Direct replacement; "Act not intended to cause death, done by consent in good faith for person's benefit."	**This is** the core medicolegal shield: a physician may perform a procedure likely to cause harm (including foreseeable death) if: (1) death is not intended; (2) the act is for the patient's benefit; (3) there is genuine informed consent; and (4) the physician acts in good faith. Nonspecific or vague consent is not enough; documentation and explanation of material risks are critical.

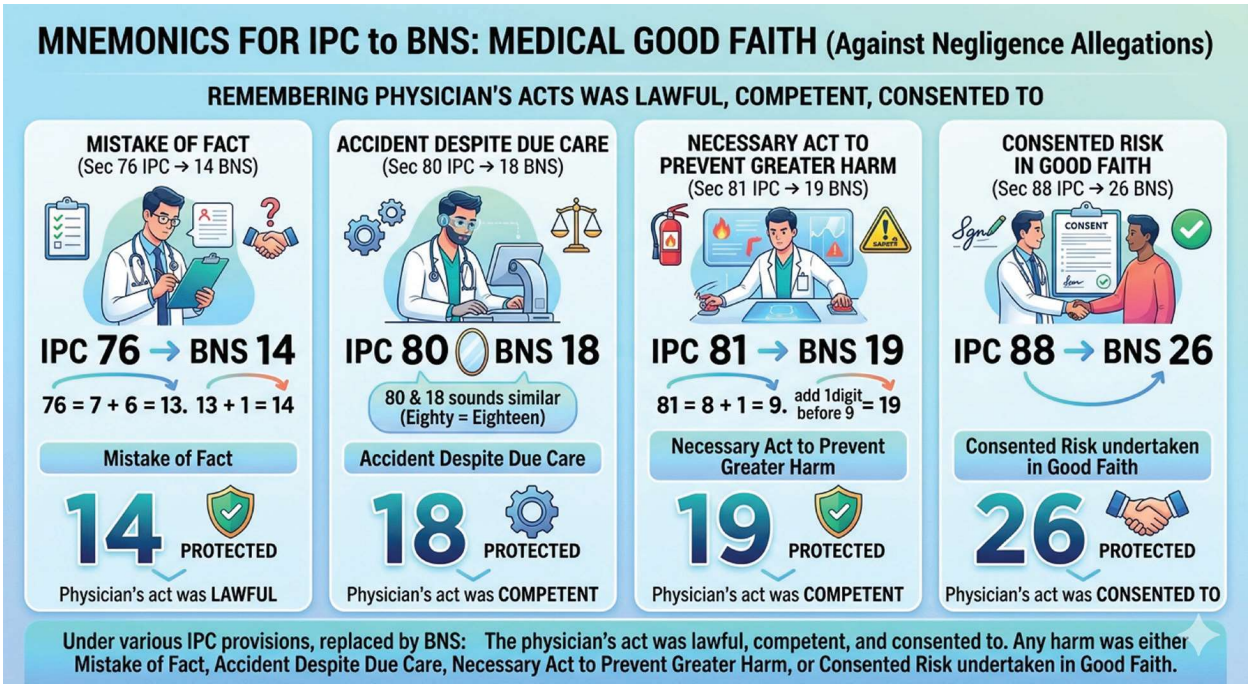


Figure 1: Mnemonics for easy recall of converting IPC to BNS, protecting Medical professionals in good faith, against allegations of negligence. ***(Source:*** AI genrated image***)***

Figure 1. Highlights Key operative points for a physician

- **Continuity of exceptions:** The BNS preserves the IPC's "mistake of fact", "accident with due care", "necessary harm to prevent greater harm", and "good faith with consent" frameworks; only the numbering is updated (76→14, 80→18, 81→19, 88→26).
- **Burden of proof:** In criminal negligence type allegations, the physician must show that the act was: lawful, within the recognized standard of care, performed with due care and caution, and either (a)

under a reasonable mistake of fact, or (b) with valid informed consent, or (c) as a necessary lesser evil measure.

- **Documentation & consent:** To avail BNS 14, 18, 19, 26, contemporaneous records (indications, risk benefit discussion, consent form, checklist compliance) are essential; without these, the "good faith" and "due care" assertions are harder to prove

Equation 1. Mnemonics for easy recall of converting IPC to BNS, protecting Medical professionals in good faith, against allegations of negligence.

IPC →BNS

(76→14, 80→18, 81→19, 88→26).

76=7+6= 13. 13+1=14, thus 76 turns into 14 after adding 1. Similarly, 81=8+1=9, add 1digit before 9=19.

80 & 18 sounds similar in English (Eighty = Eighteen)

18 & 19 are consecutive numbers, 18 is mirror image of 81, both lies close to each other, 80→18, 81→19.

In 88→26, 2+6=8. Thus replacing 88 IPC by removing one digit (8), thus 8 is 2 plus 6, making it 26 of BNS

BNS Graphics: Medical Good Faith Cheat Sheet

These icons and summaries are designed for quick visual confirmation that an act was protected in good faith.

This cheat sheet focuses on the legal results of the conversions (the 'what' and 'why'), which are the actual legal standards for easy recall, rather than the arithmetic conversion rules. It is designed to help you quickly identify which old IPC protection corresponds to which new BNS section.

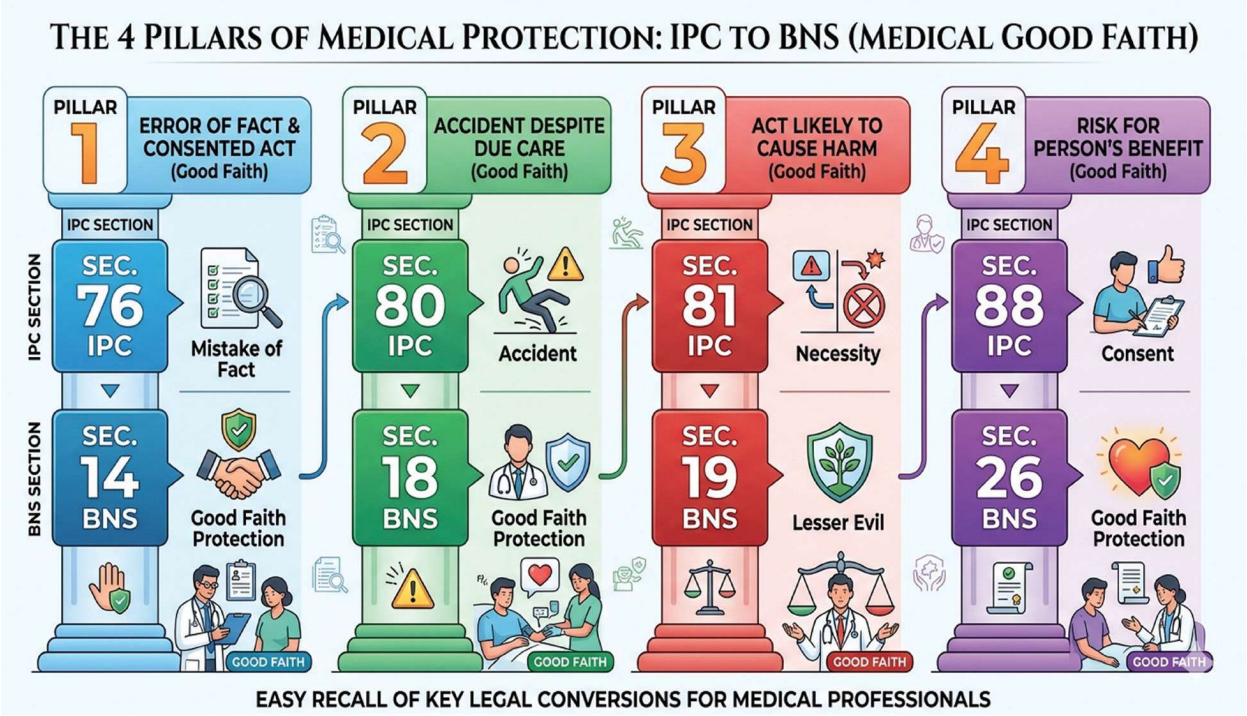


Figure 2: Easily Recall the 4 Pillars of Medical Protection (IPC →BNS): Medical Good Faith ***(Source:*** AI genrated image***)***

Figure 2 elucidates, How to Easily Recall the 4 Pillars of Medical Protection (IPC → BNS)**: Medical Good Faith**

IPC → BNS

- 76→14
- 80→18
- 81→19
- 88→26

Table 2: IPC to BNS: Medical Good Faith Cheat Sheet

IPC Section (Old)	Visual Recall Key (Good Faith Condition)	New BNS Section
76	**(Error Check)** Recall: The first section on 'fact.'	**14**
80	**(Sounds Similar)** Eighty $ to $ Eighteen Recall: Accident.	**18**
81	**(consecutive)** Recall: Next to 18; Lesser of two evils.	**19**
88	**(Sum Digits)** **8 is** 2+6 →26 **Recall:** The Consented, High-Risk procedure.	**26**

DISCUSSION

Common Law and Natural Justice legal principles, based on legal maxims, are codified in ***Chapter IV General Exceptions***. They are formulated and codified to make them unambiguous and exact. Explanations under each of the Section provides with specific context in which they are applicable. In parallel context the principles are applicable across all laws, criminal or civil. In criminal context they exonerate from culpability and in civil context they exonerate from liability. In the context of medical negligence, which is both a civil and criminal offence simultaneously, the legal principles, in proper context, are applicable under tort laws. Though in criminal context, by virtue of the Clauses rendering an offence non-offence, they provide exoneration at prelitigation state, in civil context they are available as defenses against liability. Per the statute exceptions are applicable to criminal offences only. The legal principles involved, however, are available as defense in civil case also. Because of ignorance of physicians they are not pleaded. These legal principles need to be identified so that physicians can plead it in specific medical context in civil cases.

In this light let us discuss and analyze Sec 76 of IPC, state its basic ingredients, extract legal principle/principles on which it is based, legal maxims invoked, context provided by the explanation, and extract the parallel context in surgical procedure, for example ligation of bile duct in place of cystic duct due to mistaken identity in fact, where the principles can be used as defense in a civil complaint seeking compensation for death caused by medical negligence.

Section 76 IPC provides that an act done under a legal obligation, or under a bona fide mistake of fact believing oneself bound by law, is not an offence. This principle—rooted in natural justice and legal maxims—can be extended as a defense in civil medical negligence cases, such as mistaken ligation of the bile duct instead of the cystic duct, where the surgeon acted in good faith under a factual misapprehension.

Text of Section 76 IPC

"Nothing is an offence which is done by a person who is, or who by reason of a mistake of fact and not by reason of a mistake of law in good faith believes himself to be, bound by law to do it." Illustrations:

- A soldier firing on a mob under lawful orders.
- A court officer arresting the wrong person under mistaken identity.

Basic Ingredients

1. **Act done under legal obligation –** The person is bound by law to act.
2. **Mistake of fact, not law –** The belief must arise from factual error, not ignorance of law.
3. **Good faith –** Honest belief in being bound by law.
4. **Exoneration –** Such act is not an offence.

Legal Principles & Maxims

- ***Ignorantia juris non excusat* –** Ignorance of law is no excuse.3
- ***Error facti excusat, error juris non excusat* –** Mistake of fact excuses, mistake of law does not.
- ***Actus non facit reum nisi mens sit rea* –** The act does not make one guilty unless accompanied by a guilty mind.
- ***Bona fide belief* –** Good faith protects

from culpability.

Context Provided by Explanation

- The section clarifies that **only factual mistakes** (e.g., mistaken identity, misperception) are excusable.
- It excludes **legal mistakes** (e.g., misinterpreting statutes).
- Illustrations emphasize obedience to lawful authority and factual misidentification.

Parallel Context in Medical Negligence

Example: Ligation of bile duct instead of cystic duct during cholecystectomy.

- **Mistake of fact:** The surgeon, in good faith, misidentifies the bile duct as the cystic duct due to anatomical variation or intraoperative difficulty.
- **Legal principle applied:** The surgeon believed he was bound by medical duty to ligate the cystic duct; the error was factual, not intentional.
- **Defense in civil complaint:**
  - Under tort law, negligence requires breach of duty with culpable carelessness.
  - If the surgeon acted in **good faith with reasonable skill,** the defense of mistake of fact can be pleaded.
  - Section 76 IPC, though codified for criminal offences, embodies a principle of natural justice that can be invoked in civil liability cases.
  - This shifts the case from **culpable negligence** to **excusable error,** protecting physicians from liability when genuine factual mistakes occur despite due care.

Practical Implication for Physicians

- Physicians often fail to plead mistake of fact as a defense due to lack of awareness.
- In medico-legal audits, this principle should be highlighted to distinguish between culpable negligence and excusable error in fact.
- Proper documentation of good faith, diligence, and anatomical difficulty strengthens the defense.

In summary: Section 76 IPC, based on the maxim *error facti excusat,* provides exoneration for acts done under factual mistake in good faith. In medical negligence cases like bile duct mis-ligation, physicians can invoke this principle to defend against civil liability, reframing the act as an excusable factual error rather than culpable negligence.

Q. Please similarly analyze Sec 80 IPC to plead defense for example in a case of accidental colon injury in gall bladder surgery.

Here's a structured medico legal analysis of **Section 80 IPC** and how it can be pleaded as a defense in a surgical accident scenario such as **colon injury during gall bladder surgery:**

Text of Section 80 IPC

"Nothing is an offence which is done by accident or misfortune, and without any criminal intention or knowledge in the doing of a lawful act in a lawful manner by lawful means and with proper care and caution."

Basic Ingredients

For protection under Section 80, the following must be satisfied:

1. **Accident or misfortune –** The act must be unintended.
2. **No criminal intention or knowledge –** Absence of mens rea.
3. **Lawful act –** The act itself must be lawful.
4. **Lawful manner and lawful means –** Procedure followed must be legitimate.
5. **Proper care and caution –** Reasonable diligence must be exercised.

Legal Principles & Maxims

- ***Actus non facit reum nisi mens sit rea* –** No liability without guilty mind.
- ***Lex non cogit ad impossibilia* –** The law does not compel the impossible.
- ***Culpa lata dolo aequiparatur* –** Gross negligence is equivalent to intent (but ordinary accident is excusable).
- ***Casus fortuitus est nullius culpa* –** A mere accident is nobody's fault.

Context Provided by Explanation

- Section 80 protects acts where **injury results accidentally despite lawful conduct and due care.**

- It distinguishes between **culpable negligence** (punishable) and **pure accident** (excusable).
- The emphasis is on **absence of intent and presence of caution.**

Parallel Context in Medical Negligence

Example: Accidental colon injury during gall bladder surgery (cholecystectomy).

- **Lawful act:** Performing gall bladder surgery is a lawful medical duty.
- **Lawful manner:** Surgery undertaken with standard operative protocols.
- **Accident/misfortune:** Colon injury occurs inadvertently due to anatomical proximity or adhesions.
- **No criminal intent/knowledge:** Surgeon did not intend or foresee the injury.
- **Proper care and caution:** If operative notes and conduct show diligence, the injury is an accident, not negligence.

Defense in Civil Complaint

- **Tort law requires breach of duty + causation + damage.**
- If the colon injury was an **accident despite due care,** Section 80 IPC principle can be invoked to argue:
  - The act was lawful.
  - The injury was accidental.
  - No negligence or recklessness was involved.
- Thus, liability should not attach, as the principle of **accident without negligence** exonerates the surgeon.

Practical Implication for Physicians

- Physicians must **document operative diligence** (pre op evaluation, intra op precautions, post op monitoring).
- **Plead Section 80 IPC principles** in medico legal defense: "The injury was accidental, without intent, during a lawful act performed with due care."
- This reframes the case from **culpable negligence to excusable accident,** protecting against both criminal culpability and civil liability.

In summary: Section 80 IPC embodies the maxim *casus fortuitus est nullius culpa.* In surgical accidents like colon injury during gall bladder surgery, physicians can invoke this principle to defend against liability, provided they demonstrate lawful conduct, absence of intent, and presence of due care.

Q. Please similarly analyze Sec 81 IPC or defense in a case of removal of gangrenous limb to prevent fatal septicemia or emergency angioplasty in a case of critical blockage of the main coronary artery

Here's a structured medico legal analysis of **Section 81 IPC** and its application as a defense in medical emergencies such as **removal of a gangrenous limb to prevent fatal septicemia or emergency angioplasty for critical coronary blockage:**

Text of Section 81 IPC

"Nothing is an offence merely by reason of its being done with the knowledge that it is likely to cause harm, if it be done without any criminal intention to cause harm, and in good faith for the purpose of preventing or avoiding other harm to person or property."

Basic Ingredients

To claim protection under Section 81:

1. **Act done with knowledge of possible harm –** The physician knows the intervention carries risk.
2. **No criminal intention –** The purpose is not to cause harm.
3. **Good faith –** The act is done honestly, with the patient's welfare in mind.
4. **Purpose of preventing greater harm –** The act aims to avert a more serious danger.

Legal Principles & Maxims

- ***Salus populi suprema lex esto* –** The welfare of the people is the supreme law.
- ***Qui in re illicita versatur non potest de damno emergente queri* –** One engaged in a lawful act cannot complain of incidental harm.
- ***Necessitas non habet legem* –** Necessity knows no law.

- ***Volenti non fit injuria* –** To one who consents, no injury is done (when informed consent is obtained).
- ***Actus non facit reum nisi mens sit rea* –** No liability without guilty mind.

Context Provided by Explanation

- Section 81 recognizes that **some lawful acts may cause incidental harm** but are justified if done in good faith to prevent greater harm.
- It distinguishes between **intentional harm** (culpable) and **incidental harm in necessity** (excusable).
- The emphasis is on **necessity, proportionality, and good faith.**

Parallel Context in Medical Negligence

1. Removal of gangrenous limb
   - **Knowledge of harm:** Amputation causes permanent disability.
   - **Good faith:** Done to prevent fatal septicemia.
   - **Purpose:** Prevent death, a greater harm.
   - **Defense:** Section 81 IPC principle applies—harm (loss of limb) is excused because it prevents greater harm (death).
2. Emergency angioplasty in critical coronary blockage
   - **Knowledge of harm:** Risk of vessel rupture, bleeding, or peri operative complications.
   - **Good faith:** Intervention is aimed at saving life.
   - **Purpose:** Prevent fatal myocardial infarction.
   - **Defense:** Even if complications occur, the act was lawful, necessary, and in good faith to avert greater harm.

Defense in Civil Complaint

- In tort law, liability requires negligence or breach of duty.
- Section 81 IPC embodies the principle of **necessity:** harm caused incidentally while preventing greater harm is excusable.
- Physicians can plead:
  - The act was lawful and necessary.
  - Harm was incidental, not intentional.
  - Intervention was in good faith to prevent death.
- This shifts the case from **culpable negligence** to **justified medical necessity**, protecting physicians from liability.

Practical Implication for Physicians

- Always document **clinical necessity, patient consent (if possible), and good faith decision making.**
- Plead **Section 81 IPC principles** in defense: "The intervention, though risky, was necessary in good faith to prevent greater harm."
- This reframes adverse outcomes as **incidental harm under necessity,** not negligence.

In summary: Section 81 IPC, rooted in the maxim *necessitas non habet legem,* provides a defense for physicians when harm is caused incidentally in good faith to prevent greater harm. In cases like gangrenous limb removal or emergency angioplasty, this principle can be invoked to shield against both criminal culpability and civil liability.

Q. Finally analyze Sec 88 IPC to identify legal principles that provide comprehensive and over all defense against liability to the acts of a competent licensed physician for a legally authorized (duty to care), legally valid (approved) act, with a valid (free of force, fear or fraud) medical consent.

Here's a structured medico legal analysis of **Section 88 IPC** and how it provides a comprehensive defense for physicians acting with competence, lawful authority, and valid consent:

Text of Section 88 IPC

"Nothing which is not intended to cause death, is an offence by reason of any harm which it may cause, or be intended by the doer to cause, or be known by the doer to be likely to cause, to any person for whose benefit it is done in good faith, and who has given a consent, whether express or implied, to suffer that harm, or to take the risk of that harm."

Basic Ingredients

For protection under Section 88, the following must be satisfied:

1. **Act not intended to cause death –** The physician's purpose is therapeutic, not destructive.
2. **Good faith –** The act is done honestly for the patient's benefit.
3. **Consent –** The patient has given valid consent (free of force, fear, or fraud).
4. **Knowledge of risk –** The physician may know harm is possible, but it is incidental to the lawful act.
5. **Benefit to patient –** The act is directed toward the patient's welfare.

Legal Principles & Maxims

- ***Volenti non fit injuria* –** To one who consents, no injury is done.
- ***Salus aegroti suprema lex* –** The welfare of the patient is the supreme law.
- ***Actus non facit reum nisi mens sit rea* –** No liability without guilty mind.
- ***Consensus tollit errorem* –** Consent removes error.
- ***Lex non cogit ad impossibilia* –** The law does not compel the impossible (risk free medicine is impossible).

Context Provided by Explanation

- Section 88 protects acts done **with patient consent and in good faith** even if harm results.
- It recognizes that medical interventions inherently carry risks.
- The safeguard lies in **absence of intent to cause death** and presence of **valid consent.**

Parallel Context in Medical Negligence

Example 1: Surgical removal of gangrenous limb

- **Consent:** Patient consents to amputation.
- **Good faith:** Done to save life.
- **Knowledge of harm:** Permanent disability is known, but not intended.
- **Defense:** Section 88 IPC protects the physician—harm is excused because it was consented to and done for benefit.

Example 2: Emergency angioplasty for critical coronary blockage

- **Consent:** Patient (or family, if unconscious) consents to procedure.
- **Good faith:** Done to prevent fatal infarction.
- **Knowledge of risk:** Complications are possible but not intended.
- **Defense:** Section 88 IPC shields the physician—harm is incidental to a lawful, beneficial act with consent.

Comprehensive Defense for Physicians

- **Competence:** Licensed physician performing an approved medical act.
- **Duty to care:** Legally authorized to intervene.
- **Valid consent:** Free of coercion, fraud, or fear.
- **Good faith:** Act directed toward patient's welfare.
- **Legal principle:** Section 88 IPC provides a **complete shield** against liability when these conditions are met.

Thus, Section 88 IPC is the **broadest statutory defense** available to physicians, covering lawful medical acts performed with valid consent, even if harm occurs incidentally.

In summary: Section 88 IPC, rooted in *volenti non fit injuria* and *salus aegroti suprema lex,* provides physicians with a comprehensive defense against liability when they act competently, lawfully, and with valid patient consent. It reframes adverse outcomes as **consented risk in good faith,** not negligence.

Q. Draft a consolidated medico legal defence framework that integrates Sections 76, 80, 81, and 88 IPC into a single pleading structure for physicians facing negligence claims?

Here's a **consolidated medico legal defense framework** integrating **Sections 76, 80, 81, and 88 IPC** into a single pleading structure that physicians can adopt when facing negligence claims. It is designed to be modular, precise, and audit ready:

Consolidated Medico Legal Defense Framework

I. Preliminary Statement

- The physician is a **competent, licensed practitioner** acting under a **legally authorized duty to care.**
- The medical act performed was **legally valid, approved, and within the scope of professional competence.**
- The patient's **consent was valid, free of force, fear, or fraud,** and obtained in accordance with statutory and ethical requirements.
- The physician acted **in good faith,** with no criminal intent, and solely for the patient's benefit.

II. Section Wise Pleading Structure

1. Section 76 IPC – Mistake of Fact

- **Principle:** *Error facti excusat, error juris non excusat.*
- **Defense:** If harm arose due to a bona fide **mistake of fact** (e.g., anatomical variation, mistaken identity of a structure), the act is excusable.
- **Application:** Misidentification of bile duct as cystic duct during surgery.

2. Section 80 IPC – Accident

- **Argument:** The physician believed in good faith that the act was medically necessary; hence, liability does not arise.
- **Principle:** *Casus fortuitus est nullius culpa.*
- **Defense:** Harm caused by **accident or misfortune** during a lawful act performed with due care is excusable.
- **Application:** Accidental colon injury during gall bladder surgery.
- **Argument:** The act was lawful, performed with proper care, and harm was unintended; hence, liability does not attach.

3. Section 81 IPC – Necessity

- **Principle:** *Necessitas non habet legem.*
- **Defense:** Harm knowingly risked but caused in **good faith to prevent greater harm** is excusable.
- **Application:** Amputation of gangrenous limb to prevent fatal septicemia; emergency angioplasty to avert myocardial infarction.
- **Argument:** The physician acted to prevent death, a greater harm, and therefore liability is excluded.

4. Section 88 IPC – Consent and Good Faith

- **Principle:** *Volenti non fit injuria* and *Salus aegroti suprema lex.*
- **Defense:** Harm caused in good faith for the patient's benefit, with valid consent, is excusable.
- **Application:** Any lawful medical procedure performed with informed consent.
- **Argument:** The patient consented to the risk, the physician acted in good faith, and the act was lawful; hence, liability is barred.

III. Consolidated Argument

- The physician's act was **lawful, competent, and consented to.**
- Any harm was either:
  - A **mistake of fact** (Sec 76 of IPC),
  - An **accident despite due care** (Sec 80 of IPC),
  - A **necessary act to prevent greater harm** (Sec 81 of IPC), or
  - A **consented risk undertaken in good faith** (Sec 88 of IPC).
- In all contexts, **mens rea (criminal intent) is absent,** and the act falls within statutory exceptions.
- • Therefore, both **criminal culpability and civil liability are excluded** under the integrated defense framework.

IV. Practical Deployment

- Physicians should:
  - **Document consent** (free of force, fear, fraud).
  - **Record diligence and good faith** in operative notes.
  - **Highlight necessity and proportionality** of interventions.
  - Plead the **combined statutory defenses** under IPC 76, 80, 81, and 88.

Relevant Case Laws:

Good Faith Threshold: Uniformly strict – must be bona fide, fact-based, without malice. Potential analogy: Physician's good faith error (e.g., misdiagnosis as fact mistake) could invoke Section 76/79, but context stresses S.76 requires fact (not law) mistake. Discussions distinguishing Section 76 IPC protections (available during trial but not barring initial cognizance).[4,5] Section 76 IPC provides trial-stage exemption for good faith medical acts under mistake of fact, distinct from sanction barriers.[6] Supreme Court rulings on medical examinations under CrPC Sections 53/53A/164A (rape cases), which implicitly relate to good faith medical acts and consent distinctions.[7] Analogous applications of Section 76 IPC in mistake-of-fact defenses, potentially extensible to medical scenarios.[8]

Courts refuse to accept "mistake" pleas for clear breaches: "We are of considered view that, it was not a bonafide mistake... a mistake which would tantamount to negligence cannot be pardoned." Patient refusal of X-ray/operation does not excuse doctor's failure to decide proper treatment.[9] Similarly, unconfirmed diagnoses (e.g., treating for prevalent fevers without tests) by unqualified practitioners is "negligence per se," not mere error.[10]

Specific Application to Mistakes of Fact: A clear "mistake of fact" case involved a doctor declaring an 18-day-old infant "brought dead" despite the child being alive (later recovering elsewhere). The court rejected the defense of non-charging fee or excusable error: "*An act of declaring an infant patient when brought to doctor for treatment 'brought dead' when in fact, patient was alive, is negligence and not an excusable error or mistake.*" Duties include reasonable care in diagnosis; breach here justified compensation of Rs. 1,15,000. Defence plea of non-charging of any fee - Plea raised in appeal first time appeared to be after- thought - No case of appellant that he was rendering services free of charge to all patients - Plea was not available to avoid liability. Declaring a live infant **"brought dead"** is negligence, not an excusable mistake.[11] Failure to follow standard protocols (e.g., ***failed to test allergy to Anesthetic drug before any surgery***) is culpable negligence, not pardonable error, Awarded a sum of Rs. 3,50,000 by Himachal High Court.[12]

***Bona fide* mistakes** due to ordinary human fallibility do not preclude liability only if they do not amount to negligence; negligent conduct exceeds bounds of reasonable skill: Multiple judgments cite Spring Meadows Hospital v. Harjyot Ahluwalia (1998) 4 SCC 39,[13] to establish that pleas of **"bona fide mistake"** fail if the error tantamounts to negligence. In case of Ramesh Iyer Vs Uma S. Bhat (2023),[14] the court rejected a defense of mistake where a doctor adopted a **"casual approach"** despite specialist advice, noting inconsistent records and failure to insert ICD (intercostal drainage) in child suffering from pneumothorax: "*Very often in a claim for compensation arising out of medical negligence a plea is taken that it is a case of bona fide mistake which under certain circumstances may be excusable, but a mistake which would tantamount to negligence cannot be pardoned. In the former case a court can accept that ordinary human fallibility precludes the liability while in the latter the conduct of the defendant is considered to have gone beyond the bounds of what is expected of the skill of a reasonably competent doctor…*" The medical record is not consistent with the treatment given and it was not maintained properly. It should be borne in mind that "*good medical record is good defense, poor medical record is poor defense*". The child was deprived of proper treatment at OP's hospital. Thus it was the act of omission, accordingly, Negligence is attributed.

Expert-Approved Practice: Mistakes aligned with accepted medical practice (e.g., Bolam test) are not negligent, even if outcomes fail.[15,16]

CONCLUSION

This consolidated framework provides physicians with a **comprehensive statutory shield** against liability, reframing adverse outcomes as excusable under natural justice principles codified in IPC. It integrates mistake of fact, accident, necessity, and consent into a unified defense strategy.

Conflict of interest: Nil

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