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ASPHYXIAL DEATH: MEDICO – LEGAL ISSUES

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Abstract:

Death in common parlance signifies cessation of life. Medically it is classified as somatic, brain and molecular death. Extinction of life caused by cessation of respiration, circulation and cerebral function is known as somatic death. Brain death occurs when all functions of the brain come to an abrupt end. Even after death cells remain alive for some time and thereafter they also extinguish. It is known as molecular death. One of the causes of death, as mentioned above is cessation of respiration caused by obstruction to the respiratory tract. The cause of such obstruction may be either the internal conditions of the body or application of external force. The latter is resorted to end one's own life or the life of others. It is employed to mislead the crime detection. It has its own medico – legal importance. In this article an attempt is made to analyse the medico – legal aspects of the asphyxial death which is caused by the application of external force.

KEY-WORDS:

Asphyxia, Mechanical, Medico – Legal, Circumstances, Lynching, Judicial Hanging.

INTRODUCTION

Asphyxia: Meaning of: Obstruction to the passage of air which cuts supply of oxygen to lungs is known as asphyxia. If it persists for a long time, culminates in the death of an individual. Such death is called as asphyxial death. It may be caused by internal conditions of the body, like asthma. It is known as clinical asphyxia. When it is caused by application of external force, it is called mechanical asphyxia. Clinical asphyxia has no medico – legal importance. It has only pathological importance in knowing the cause which has resulted in asphyxia. But it is the mechanical asphyxia, which gives rise to serious medico – legal issues.

MECHANICAL ASPHYXIA: TYPES

A. Hanging: The mechanism of hanging lies in suspension of the body by a ligature encircling the neck. The weight of the body acts as the constricting force, which tightens the ligature around the neck. In effect it blocks the respiratory tract, eventually culminating in death. If the body is just above the ground, that is suffice to cause asphyxia. It should be noted further that the entire weight of the body is not necessary to generate the required constriction to achieve the result desired.

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It is classified as follows:

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a.Accidental Hanging: The term accident signifies an unintentional or unplanned event or circumstance. Accordingly, an accidental hanging is not pre-meditated by the victim. It may occur during play or at work and in sexual deviation. It may occur in children who imitate judicial hanging or in athletes who are in the habit of exhibiting hanging. Some padding between ligature and neck suggest an accident. Some times when a workman falls from scaffolding, he may be hanged by getting entangled in ropes or any one while climbing a tree by loosing their foot hold and falling, may get hanged by some garment caught by branch of tree and drawn tight around the neck. The circumstances explained here suggest that such hanging occurs rarely.

b.Suicidal Hanging: Hanging is the most common type of committing suicide. Amongst all types of mechanical asphyxia suicidal hanging is the most commonly encountered type in the medico – legal practice. The generally followed method is self-suspension by attaching a rope to a high point like a wooden bar, ceiling fan etc. and the lower end is formed as a ligature encircling the neck. The victim stands on a chair, stool or any other platform, jumps off or kicks away the support to cause suspension of the body. The body, the position of the ligature with reference to the knot and the manner in which it is tied to the support must be compatible with self-suspension.

c.Homicidal Hanging: It is extremely rare. It is very difficult for a single assailant to achieve it unless the victim is a weak or unconscious person or a child. It should be suspected (a) If marks of violence are found on the person of the victim or furnitures or household objects are found in a disorderly manner, when the victim is found hanging in his residence. (b) If the clothes of the victim are torn or disarranged. (c) If there are injuries either offensive or defensive. Definite scratches especially crescentic nail marks indicate strangulation. Such scratches associated with neck structures and fracture of larynx render the probability of murder very strong. In the absence of eye witness a circumstantial evidence assumes importance.

d.Lynching: it is a type of homicidal hanging, where the victim generally a suspect or enemy is hanged by a rope from a high altitude like tree etc. by a group of people.

e.Post –mortem Hanging: It is hanging of a person after murdering him to simulate suicide in order to mislead crime detection. It signifies suspension of a dead body, where rope is tied first around the neck and thereafter around a beam or branch of a tree. As the body is pulled up the beam shows the upward movement mark from below. In a real suicidal hanging (ante-mortem) rope moves from above to downwards. In case of suicidal hanging rope fibres may be found on the hands of victim, but not in post-mortem hanging. The rope used for suspension needs to be examined for the presence of paint which matches with the paint of the beam. In most cases the signs associated with death from hanging are not found except external ligature mark. Rarely a person may take recourse to suicidal hanging in such a way to simulate murder motivated by revenge, fraud or for some other reason best known to him.

f.Judicial Hanging: In India a criminal who has committed a capital crime which falls into rarest of rare cases is sentenced to death. It follows that judicial hanging is legal. The victim is subjected to it as a part of punishment inflicted for perpetration of a capital crime contemplated above.

In judicial hanging, the face of the offender is covered by a dark mask and he is made to stand on a platform above trapdoors which open when the bolt is drawn. A rope is looped around the neck, with the knot under the angle of the jaw, to allow a drop of 5 to 7 metres depending upon the weight, age and build of the offender. On drawing the bolt, the offender drops to the length of the rope. The sudden stoppage of the moving body with the position of the knot exposes the head to a violent jerk, which results in fracture – dislocation of cervical vertebrae. The other effects are less commonly, dislocation of the atlanto-occipital joint or odontoid process of the axis vertebra. In such dislocation cases pulping of the spinal cord and transection of the cervical spine, result in considerable lengthening of the neck. The upper cervical cord gets stretched or torn across and sometimes medulla gets torn at the border of the pons. Eventually all these injuries cause sudden unconsciousness. But heart beating and respiration may continue up to 10 – 15 minutes. Spasmodic muscular jerking may occur for a considerable length of time. Further, pharynx is usually found injured and either complete or practical transverse tearing of carotid arteries may occur.

The above method of hanging is relatively less painful compared to other modes of execution like stoning to death, beheading, electrocution, firing etc. practiced in some other countries. In *Deen Dayal v. State of M. P.*, the court observed in this regard, “the system of hanging is as painless as is possible in the circumstance, causes no more greater pain than any other known method of executing the death sentence, involves no barbarity, torture or degradation and is based on reason supported by expert evidence and the

findings of modern medicine.”

A distinction is to be made between ante-mortem hanging and post-mortem hanging. In ante-mortem hanging only the cause of the death is hanging. It may be accidental, suicidal or homicidal hanging. It presents the following confirmatory signs viz. pale face, projectile tongue caught in between the teeth, ligature mark around the neck, abrasion around the neck, dribbling of saliva from one corner of the mouth, ejaculation in some males, cyanosis and infiltration of blood beneath the ligature mark. It is the last sign provides the conclusive evidence of death from hanging.

The above signs cannot be found in post-mortem hanging except ligature mark around the neck, which leads to the conclusion that the cause of death is not hanging.

B. Strangulation: It is a kind of asphyxia resulting from constriction of neck without suspension of the body. It is of two types viz. strangulation by ligature and strangulation by throttling. The mechanism applied in the first type is tying a ligature around the neck and pulling both the ends of ligature, usually from behind, with maximum force than required to constrict the neck, which causes obstruction to the respiratory tract. The assailant applies maximum force than required as he cannot precisely estimate the force required to constrict the neck. In effect, it causes severe injury. Throttling signifies compression of the neck using human hands. It also causes asphyxial death. Some pathologists use the term 'death by compression of neck'.

The symptoms found in death by strangulation are, immediate insensibility and death. If wind pipe is partially closed buzzing in ears, congestion and cyanosis in head, vertigo tingling, muscle weakness bleeding from the mouth, nose and ears, clenching of the hands and convulsion occur before death.

Death may be due to (a) asphyxia (b) cerebral anoxia or venous congestion (c) Combined asphyxia and venous congestion (d) vagal inhibition and (e) rarely due to fracture – dislocation of cervical vertebrae. Strangulation gives rise to two important medico-legal questions viz. whether death was caused by strangulation and whether strangulation was suicidal, homicidal or accidental.

Suicidal and accidental strangulation are rare. Homicidal strangulation is the common form of murder found in the medico-legal practice. Many of the victims are adult women, who offer resistance for sexual interference. There is always a presumption that strangulation is homicidal until the contrary is proved. As already discussed above, the murderer uses more force than required, which result in injuries to the deeper structure.

Apart from strangulation by ligature and throttling, the following methods also can be noticed.

Bandsola: It is a very cruel method. Constriction of neck is caused by pressing the bamboo sticks by placing the neck in between them. One across the back and the other across the front of the neck.

Garroting: In this method, the victim is attacked from behind without any warning. Accordingly the throat may be grasped or a ligature is thrown over the neck from behind and quickly tightened with a lever, rod, ruler etc. A single assailant can kill a healthy male adult. Garroting as a mode of execution was practiced in Spain and Turkey.

Mugging: Strangulation is caused by holding the neck of the victim, in the bend of the elbow. Force is applied on front of the larynx or at one or both the sides of neck using the forearm and upper arm

The general features associated with death from strangulation are, ligature mark around the neck, the presence of bruising ecchymoses above the marks on the neck, abrasion around the neck, haemorrhage in the strap muscles under the skin, in the sides of tissues around the trachea and larynx and in the laryngeal structures, cyanosis, projectile, oedematous, swollen and cyanotic tongue caught in between teeth, dribbling of saliva from the mouth; puffy, oedematous, congested and cyanotic face; wide open, bulging and suffused eyes; dilated pupils, petechial haemorrhages in the skin of eyelids, bloody froth in the mouth and nostrils, bleeding from nose and ears, clenched hands, congested genitals, discharge of urine, faeces and seminal fluid. These features may not be present when death occurs by vagal inhibition, due to pressure on carotid sheath.

Ligature mark around the neck is not conclusive of death from strangulation. It may be produced even after the death, by tying a ligature around the neck i.e. post-mortem strangulation in which the above features cannot be found. Certain marks around the neck simulating ligature mark can be produced even after the death. In the absence of ligature mark around the neck or deeper injury in the neck, it is difficult to form a medical opinion. In such a situation a conclusion has to be reached from circumstantial evidence. Where a true ligature mark is found and if there is infiltration of blood beneath ligature mark, that provides the conclusive proof of death from strangulation. If one takes recourse to bandsola mechanism, severe injuries around the neck including fracture of vertebrae are found.

Absence of marks of resistance on the person of he accused does not go in favour of the accused. In State of

U.P. v. Samman Dass, it was held that absence of marks of resistance on the person of the accused would not go to show that the accused was not the person who throttled the victim to death. It follows that presence of marks of violence on the body of the accused is not a special feature of death by throttling. Different victims may act differently. Much depends upon whether the victim was in a position to offer resistance.

It is not advisable for the court to form its own medical knowledge, in cases requiring medical opinion. In *State of Maharashtra v. Manglya*, marks of fingers with abrasion are found on the person of a victim of molestation. The medical evidence supported the opinion that death was due to throttling. Accepting the medical opinion, the Supreme Court observed that the court was not justified in drawing a conclusion from its medical knowledge that asphyxia was possible due to poisoning.

In *Prabhakar Jasappa Kanguni v. State of Maharashtra*, laceration of the carotid artery and fracture of thyroid cartilage were found in the person of the deceased on post-mortem section. Taking into consideration the nature of injury, it was held that death was due to either throttling or strangulation and ruled out the possibility of death by insecticide as suggested by the defence.

In *Rajendra v. State*, a six years old boy was throttled to death and the dead body was thrown in a canal. On post-mortem examination, no finger marks were found around the neck. On the basis of the testimony of an eye witness, the court held that death was due to throttling.

In *Kuntala Misra v. State of Orissa*, as per the post-mortem report there was no injury to the larynx, trachea, neck muscles, carotid arteries and hyoid bone, but there was congestion in the deep structures of throat. The defence version was that the death of the deceased was due to suicidal strangulation. There were abrasions and contusions around the neck. The High Court of Orissa ruled out the possibility of suicidal strangulation. Taking into consideration the fact that there was no mark corresponding to any knot and absence of any stick or any other material necessary to twist the cord tightly, it was held that the death was homicidal death and presence of abrasions and contusions were possible by fingernails and fist-blows. The court further opined that the deceased was drowsy at the time of death.

In *Anwar v. State of U.P.*, it was alleged that a boy aged around 14 years was killed by pressing the neck. As per post-mortem report there were ten injuries including ligature mark. The doctor opined that the ligature mark could not be produced by pressing with fingers. According to FIR neck was pressed by hands. Taking into consideration the FIR statement, opinion of the doctor and some other circumstances, conviction of the appellant was set aside by the High Court.

C.Suffocation: It is a general term in vogue to indicate a form of asphyxia caused either by deprivation of oxygen due to lack of oxygen in environment or forcible closure of nostrils and mouth with the help of forearm. The latter falls into the category of homicidal suffocation. It may be also suicidal (smothering) or accidental (smothering). Suicidal suffocation is not generally encountered, as a person himself cannot for a long time obstruct the respiratory tract. Accidental suffocation also occurs rarely. Homicidal suffocation is generally encountered in the medico-legal practice.

There are other causes causing suffocation, such as poisonous gas, smoke, body getting entangled in debris of a collapsed building, a hard article like a mango kernel getting stuck in the throat etc. Some of these causes present features which are confirmatory of death from suffocation.

Death from suffocation present the following features, viz. in homicidal suffocation abrasions are found in the region of nostrils and mouth because of application of mechanical force, in smoke causing death from suffocation recovery of soot from the lungs provide the conclusive evidence, where an article has caused suffocation its presence in the throat inflammation and irritation in the throat in case of poisonous gas causing suffocation and in all cases of asphyxial death by suffocation Tardieu's spots (purple spots) are found on the face and body, which are considered as the conclusive evidence of the same.

In *Mulakh Raj v. Sathish Kumar*, the deceased was strangled to death. In order to destroy the evidence her body was burnt pouring kerosene. The whole body was burnt except both feet. The defence version was that the deceased herself poured kerosene on her body and set fire. Thereafter she started to run here and there, and fell on a protruding part of wall, which resulted in fracture of hyoid bone. According to the medical evidence the cause of death was compression of neck and if burns were ante-mortem, soot must have been recovered from the lungs. The court accepting the medical evidence held that death was due to compression of neck and if death were to be due to burns soot must have been recovered from the lungs.

In *Prabhu Dayal v. State of Maharashtra*, the deceased was burnt in connection with dowry and there were 100% burns. Post-mortem report showed burns in the whole body, covered with black soot on face, chest and abdomen, congestion and black soot in upper respiratory tract. All the internal organs were congested. The doctor opined that death was due to asphyxia in addition to burns. The defence version was that it was a suicidal burn and the deceased did not cry. The Supreme Court rejected the defence version and held that the death of deceased was due to homicidal burn. It was further observed that in all cases of burns whether suicidal or otherwise the victim would cry and the victim in this case was put into a condition

disabling her from crying. Accordingly all the four accused were sentenced to life imprisonment.

D.Drowning: It is a process of submersion of entire body in a fluid generally in water consequent upon which water enters into the respiratory tract causing obstruction to breathing, eventually culminating in asphyxial death. If the nostrils remain above the water level, it cannot be called as drowning.

On submersion of body on water entering into the respiratory tract, it causes violent coughing. The water in the respiratory tract and coughing resulting in a churning process generates froth which ultimately finds an outlet in nose and mouth.

Drowning may be accidental, suicidal or homicidal. Accidental drowning happens when a person who does not know swimming accidentally falls into river or a pond. Generally encountered form of drowning is suicidal. Homicidal drowning occurs when any person who does not know swimming or any person who knows swimming whose legs and hands are tied, is forcibly thrown into water.

Death from drowning presents the following features. (a) White froth in the region of nostrils and mouth (b) Swollen body (c) Body floating on the water with legs, hands and stomach beneath the water, back facing up (d) Presence of fluid in which body sunk (e) Soft and pale body due to continuous exposure to moist medium, which is known as washermens feet syndrome (f) presence of algae in brain and bone marrows.

Algae are present in all types of water. Hence presence of algae in the brain and bone marrows is considered as the conclusive evidence of death from drowning. Most of the features stated above are found in post-mortem drowning also. In post-mortem drowning, death is not the result of drowning. A person may be killed and his body is thrown to water to simulate suicidal drowning. Medical examination of the body can confirm whether drowning is ante-mortem or post mortem. Sometimes body may come in contact with a hard substance like rock inside the water causing severe injury from which a person may die. In such a situation some of the features stated above may not be present.

CONCLUSION

The above discussion reveals that asphyxia is one of the causes of death Clinical asphyxia has no medico – legal importance. It is mechanical asphyxia which has medico – legal importance Mechanical asphyxia is taken recourse either to end one's own life or others life. It is taken recourse by the offenders by manipulating the circumstances to end the life of others, where blame is shifted to the victims. The offenders venture to play safe by misleading the crime detection. Under all circumstances of unnatural death the best evidence is the testimony of an eye witness. If there is no eye witness, the judicial conclusion is based on the medical evidence and circumstantial evidence.

Asphyxial death presents some general features. The particular features depend upon the type of mechanical asphyxia. For example hanging and strangulation may present same features. But in strangulation severe internal injuries can be noticed because of application of maximum force. If a mechanism like bansdola is used it causes too severe injury such as fracture of vertebrae and ribs. Where a ligature is used both in strangulation and hanging, the infiltration of blood beneath the ligature mark provides the conclusive proof. Death by drowning and suffocation has their special features. Further the cause of suffocation presents the peculiar feature associated with it.

Hanging is one of the mechanisms of mechanical asphyxia. Suicidal hanging is common. Hanging may be either accidental or homicidal. In all these types of hanging where hanging is ante-mortem, the features associated with asphyxial death discussed above can be noticed. Where a person is killed and thereafter his body is hanged to simulate suicidal hanging the features associated with asphyxial death cannot be noticed, as the cause of death is not asphyxia. In homicidal hanging, which is rare, judicial finding will be primarily based on the testimony of eye witness which proves that the cause of asphyxia is the act of the offender and medical opinion becomes relevant only to the extent of showing that the cause of death is asphyxia caused by hanging. Medical evidence before the court is helpful to distinguish between anti-mortem and post-mortem hanging. Conviction of the accused in case of post-mortem hanging also depends upon the statement of an eye witness.

Judicial hanging is legal. As opined by the Supreme Court it is relatively less painful method of execution compared to certain cruel methods which is still in vogue in some countries. As death is sudden, the features associated with asphyxial death cannot be found in death by judicial hanging. The reason is that there is no sufficient time for asphyxia to set in. But severe injuries are found around the neck due to violent jerking of the head.

Suffocation may be suicidal, accidental or homicidal. Suicidal and accidental suffocation are rare. Homicidal suffocation is the common type encountered in the medico-legal practice. Death by suffocation presents some common features. The peculiar feature depends upon the cause of suffocation. But the

conclusive evidence is found in the purple spots on the body. In case of death by burns, such spots cannot be noticed. The presence of soot in the lungs provides the conclusive proof of death by burns.

Ante-mortem drowning falls within the ambit of mechanical asphyxia. It presents the signs discussed above. Death from drowning in water can be conclusively proved from the presence of algae in brain and bone marrows, as algae are present in all types of water. Post-mortem drowning present some of the features discussed above. But the conclusive proof which is found in the ante-mortem drowning cannot be found in the post-mortem drowning. Sometimes the dead body of a victim of an offence may be thrown into water to simulate death by drowning. In such a situation death is not by drowning. The features associated with death by drowning are helpful to distinguish between ante-mortem and post-mortem drowning. Ante-mortem drowning may be suicidal, accidental or homicidal. Suicidal drowning is the common type encountered in the medico-legal practice. Accidental drowning is rare. Accidentally a person may fall into a river, may be caught in a whirlpool or a person may get dragged by waves in sea. Sometimes the offender may push the victim into water to simulate suicidal drowning. In such a situation conviction depends upon the testimony of an eye-witness. Medical evidence is helpful to prove that death is due to drowning.

For a detailed discussion see I. Kennedy & A. Grubb, Medical Law, London, second edition (1994)

R. M. Jhala & H. Kumar, Medical Jurisprudence, 6th edition (1979) p. 283

Ibid

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See Supra n. 2 at p. 285

See Supra n. 8. at p. 385

Ibid

Ibid

Ibid

Ibid

Kishori v. State of Delhi, 1999 Cr. L. J. 584 (S.C); Bachan Singh v. State of Punjab, 1980 Cr. L. J. 636 (S.C)

See for a discussion, Supra n. 8 at p. 385

AIR 1983 SC 1155

See supra n. 2 at pp. 283-285

See Supra n. 8

Cerebral anoxia signifies total depletion of in the level of oxygen in the brain

Vagal inhibition implies a condition that causes sudden death to occur within seconds or a minute due to breath inhibition

See Supra n. 8 at p. 386

See supra n. 8 at pp. 388-389

Id at p. 391

Ibid

Ibid

See supra n. 8 at pp. 383-386

Ibid

See supra n. 2 at p. 307

AIR 1072 SC 677

AIR 1972 SC 1797

(1982) SCC (Cr) 240

1986 All LJ 1253

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(1993) SCC 1

See supra n. 8 at pp. 398 - 399

See supra n. 2

(1992) SCC (Cr) 482

(1993) 3 SCC 573

See supra n. 2 at p. 287

Ibid

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