



2nd NATIONAL MOOT COURT COMPETITION

(5th March- 7th March 2020)

*University Institute of Laws,
Panjab University Regional Centre, Ludhiana*

Faculty Coordinators-

Dr. Shiv Kumar Dogra

Dr. Aditi Sharma

Dr. Vaishali Thakur

Student Coordinator-

Ms. Ankita Sharma (9653804582)

Ms. Anjani Parashar (7652935103)

Mr. Ved Bhushan Sharma (7355488522)

(MOOT DOCUMENT)

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ABOUT THE INSTITUTE

Panjab University Regional Centre (PURC) has been established at the campus of P.U. Extension Library, Ludhiana w.e.f. the academic Session 2003-04. Prof. K.N. Pathak, then Vice-Chancellor of Panjab University, Chandigarh took keen interest and fulfilled the long outstanding demand of the residents of Ludhiana and set up the Panjab University Regional Centre at Ludhiana. A sum of Rs. 100 Lakhs was provided for the construction of the academic block by Shri Lala Lajpat Rai, the then Member of Parliament, from the M.P. Local Area Development Fund Scheme. The Institute was formally inaugurated by His Excellency the Governor of Punjab, Justice O.P. Verma on 5th Oct. 2003.

A three year LL.B. Course in the evening was started at the Panjab University Regional Centre, P.U. Extension Library, Ludhiana, from the Session 2003-04 as a self-financing Course. The syllabus and Course contents are revised from time to time by the Faculty of Laws of Panjab University, Chandigarh.

A five years B.A.LL.B. (Honours) course has been introduced from the academic session 2006-07 at this Centre as a self-financing course. The students are admitted on the basis of a C.E.T. conducted by the Panjab University, Chandigarh. The Syllabus and Course of the BALLB course at UIL, PURC, Ludhiana is the same as that prescribed by the Faculty of Laws, Panjab University, Chandigarh and same syllabus and examinations are followed as that followed by the University Institute of Legal Studies (UILS), Chandigarh conducting the same course. Now, two year LLM Course has been introduced as a self-financing course.

PANJAB UNIVERSITY REGIONAL CENTRE, LUDHIANA

INVITATION

We take immense pleasure to announce that the University institute of Laws, Panjab University Regional Centre, Ludhiana is conducting its 2nd National Moot Court Competition, from 5th to 7th March, 2020 under the maneuver of it's Moot Court Society. The previous National Moot Court Competition which was held in February 2019 was truly a success, various teams all over the country participated and graced the event.

The number of teams for participation is limited to 22. The selection criteria for the teams shall be on first-come-first-serve basis. It is our sincere request that all the participations must be confirmed before 13th February 2020.

We cordially invite your esteemed institutions to participate in this Competition. And we look forward to your participation and to fulfill the same with sincerity and honest effort.

We hope for an affirmative response from your side.

With season's greetings and warm regards,

Dr. Ravi Inder Singh
(Director)

Our Organizing Team:

Faculty Coordinators-

Dr. Shiv Kumar Dogra

Dr. Aditi Sharma

Dr. Vaishali Thakur

Student Coordinators-

Ms. Ankita Sharma

Ms. Anjani Parashar

Mr. Ved Bhushan Sharma

RULES AND REGULATIONS FOR THE NATIONAL MOOT COURT COMPETITION

To moot means to bring something to a discussion. In a figurative sense, Moot Court means “Hypothetical case or hearing/ trial”. The aim of Moot Court activity is to groom the budding lawyers. It trains the students of law to create links between theory and practice. Moot court competition provides a platform to the law students to show case their mooting talent. The judges for the preliminary, quarter- final, semi-final and Final rounds of the competitions will be eminent practicing lawyers, academicians and Judges.

RULES:

1. Number of teams:

Maximum of 22 teams will be accommodated for the competition. Selection of the teams will be done on the first come first serve basis.

2. Team Composition:

Each team shall comprise of minimum of two members and maximum of three member (one member shall be designated as researcher).

3. Dress Code:

Inside the court room the participant shall follow the below mentioned dress code:

Female: White Kurta, Black Salwar and Black Dupatta or White Formal Shirt and Black formal Trousers/skirt along with Black Blazer and Black tie.

Male: White shirt, Black trousers, Black tie along with Black Blazer and Black shoes.

Note- Disclosure of identity through uniform or in any other is strictly prohibited.

4. Rounds:

a. The Moot Court Competition shall comprise of the following four rounds:

i. Two Preliminary Round divided into I-A & I-B on 6TH MARCH 2020.

ii. Quarter-final round on 6TH MARCH 2020

iii. Semi-Final Round on 7TH MARCH 2020

iv. Final Round on 7TH MARCH 2020.

b. Each team will have to argue from both sides in the Preliminary Round (Comprising of I-A & I B). This order will be decided by draw of lots at the time of orientation on 5TH MARCH 2020.

c. The teams who will score highest aggregate marks in their both Preliminary Rounds will be eligible for qualification in the Quarter-final Round which shall consist of 8 teams. In case of a tie in the above procedure, the marks scored for the memorials shall be the deciding factor. In case of any doubt, decision of the organizers will be final.

d. The Sides for the Quarter-Final round will be decided by draw of lots immediately after the results of Preliminary Rounds. Quarter Finals will be decided on knockout basis.

e. The Qualifying teams shall then argue the case in the Semi-Final Round on 7TH MARCH 2020. Semi Finals will be decided on knockout basis.

f. The Qualifying teams shall then argue the case in the Final round on 7TH MARCH 2020.

5. Memorials:

i) The memorial shall necessarily consist of the following:

(a) Cover Page

- (b) Table of Contents
- (c) List of Abbreviations
- (d) Index of Authorities
- (e) Statement of Jurisdiction
- (f) Statement of Facts (not more than two pages)
- (g) Issues Raised
- (h) Summary of Arguments
- (i) Advance Arguments
- (j) Prayer

ii). All the teams shall submit five copies of the memorials of each side (i.e. 5 copies from petitioner's sides and 5 copies from the Respondent's side), which makes a total of 10 memorials:

By the registered post to the address mentioned-

SHIVAM SHARMA

House No.- 353, Street-2, Near Kali Mata Mandir,
Chander Nagar, Civil City, Ludhiana, 141001

Phone No.- 7986419695

Soft copy of memorial to be sent on the mentioned email id – Nmcepurc2020@gmail.com

iii). The memorial should not exceed 35 pages.

iv). The memorials, however, should not contain any kind of identification whatsoever; else they may be 'subject to disqualification'.

v) The Petitioner memorials **MUST** have Blue paper covers while the Respondent **MUST** have Red paper cover's.

vi) All memorials submitted must conform to the following general rules:

- a) Memorials must be printed on white A4 size paper with black ink only.
- b) The font used must be Times New Roman, size 12.
- c) The **Harvard Blue Book** style of footnoting must be followed as far as practicable.
- d) The font of footnotes must be Times New Roman, Size 10, single line spacing.
- e) Each page of the memorial must have a margin of one inch on all sides, excluding its page number.
- f) Page numbers must be given on the top right hand corner.

6. Oral Submissions:

a) Each team should have two speakers who shall divide the oral submissions between them. Rebuttals are permitted. Sur- rebuttals are at the discretion of the judges.

b) For the **preliminary round** each team shall have a **maximum of 15 minutes to present their oral submissions**. In the **quarter-final round** each team shall have a maximum of **25 minutes** to present their oral submissions. For the **Semi-final round**, a maximum time of **30 minutes** shall be given to each team. For the **Final round**, a maximum time of **45 minutes** shall be given to each team. However, granting more time will be at the discretion of the Judges and no complaints/appeals regarding the same will be entertained. The division of time between the two mooters shall be at their discretion. The aforesaid time would include the time that each team may want to reserve for their rebuttals.

c) No speaker shall be permitted to address the court for more than 10 minutes in the preliminary round, for more than 15 minutes in the Quarter-final round as well as semi – final round and for more than 25 minutes in the final rounds.

d) At the commencement of each session of the oral submissions each team shall notify time of speaker 1 and speaker 2 to the court clerks.

7. Marking Criteria:

Following shall be the marking criteria and the marks allotted per Mooter.

- Each mooter shall be marked out of 100. The preliminary rounds shall be before a two Judges bench. Thus, the total team marks, per Judge, will be out of 200. and the eight top scoring teams shall move forward to quarter- final round.

- In quarter- final, semi- final and final rounds, whichever team secures more marks as against its opponent, shall be considered as having won the round. The decision of the Judges shall be final and binding. So as to ensure uniformity in the marking system all the Judges shall be provided with marking guidelines.

Sr. No	Marking Criteria	Marks
1.	Perusal Of Facts	20
2.	Knowledge And Application Of Law	20
3.	Response To The Court Questions	20
4.	Advocacy Skills And Presentation	20
5.	Case Laws	20
	Total	100

8. Researcher's Test:

i) The Researcher's Test shall be of 30 minutes and objective in nature and shall be general in nature.

ii) The Researcher of every participating team shall attempt this test.

- Scouting: Scouting by the student counsel, researcher or any one affiliated with the team will lead to the disqualification of the team.

- Clarifications: The clarifications regarding the moot problem may be sought before 15th February 2020 at Nmccpurc2020@gmail.com

9. Accommodation And Food (Only for students opting Accommodation)

Accommodation and food to the participating team will be provided by the organizing team only from 5th march 2020 to 7th march 2020. The teams must bring along a maximum of three members. Any additional member shall not be entertained during the competition.

10. Eligibility

All law colleges/institutions/universities across the country recognized by the bar council of India are eligible to take part in the competition.

All participants must be currently pursuing their bachelor's degree in law, i.e. either 3 year or 5 year courses.

AWARDS:

1. Winner-Awarded with Trophy, Cash Prize of Rs. 15,000/- and Certificate.
2. Runner-up-Awarded with Trophy, Cash Prize of Rs. 9,000/- and Certificate.
3. Best Speaker -Awarded with Trophy, Cash Prize of Rs. 4,000/- and Certificate.
4. Best Researcher-Awarded with Trophy, Cash Prize of Rs. 3000/- and Certificate.
5. Best Memorial- Awarded with Trophy, Cash Prize of Rs. 3000/- and Certificate.

IMPORTANT DATES:

Last date for final online registration- 11th February, 2020.

Last date of fee payment- 13th February, 2020

Last date of submission of clarifications- 15th February, 2020

Release of clarification- 17th February, 2020

Last date for submission of memorials (soft copy) – 28th February 2020.

Last date for submission of memorials (hard copy) – 2nd March 2020.

Note: The participants shall bring extra hard copy of the memorials for themselves.

REGISTRATION FEES:

I. Only one team is allowed from one College/Institution.

II. The last date for the online registration is 11th Feb, 2020 by an e-mail containing the details of the participating college, the team members (including the number of male and female students), their contact numbers.

III. The registration fees for each team will be Rs 4000/- without accommodation if accommodation is to be availed Rs. 1500/- will be charged extra maybe paid through a cheque or demand draft drawn or online transfer. The account details will be provided once the soft copy of registration for reaches the organizing committee.

Note: Participants have to bring their Registration Form along with them on 5th March 2020.

Decision Of Organizing Committee In Any Matter Shall Be Considered Final.

PANJAB UNIVERSITY REGIONAL CENTRE

Civil Lines, Opposite - Pavilion Mall Ludhiana, Punjab – 141001, India Telephone: +91 0161-2443830

REGISTRATION FORM

NAME OF THE COLLEGE/ UNIVERSITY _____

ADDRESS- _____

CONTACTING AUTHORITY- _____

MOOTER 1-

NAME – _____

CLASS- _____

EMAIL- _____

MOBILE NO.- _____

PLEASE AFFIX
PASSPORT SIZE
PHOTO OF
MOOTER1

MOOTER 2-

NAME – _____

CLASS- _____

EMAIL- _____

MOBILE NO.- _____

PLEASE AFFIX
PASSPORT SIZE
PHOTO OF
MOOTER 2

RESEARCHER-

NAME – _____

CLASS- _____

EMAIL- _____

MOBILE NO. _____

PLEASE AFFIX
PASSPORT SIZE
PHOTO OF
RESEARCHER

DATE:

SEAL AND SIGNATURE

PLACE:

OF HEAD OF THE INSTITUTION

2nd NATIONAL MOOT COURT COMPETITION

(INTRODUCTION)

“No doctor knows everything. There’s a reason why it’s called “practising” medicine.” To err is human. Indubitably doctors all over the world are given the stature next to God. It happens so mostly because they are lifesavers who work tirelessly for mankind. Since no man is perfect in this world, it is evident that a person who is skilled and has knowledge over a particular subject can also commit mistakes during his practice. *Too err is human but to replicate the same mistake due to one’s carelessness is negligence.* Medical Negligence basically is the misconduct by a medical practitioner or doctor by not providing enough care resulting in breach of their duties and harming the patients which are their consumers.

A professional is deemed to be an expert in that field at least; a patient getting treated under any doctor surely expects to get healed and at least expects the doctor to be careful while performing his duties. Though patients see the doctors as God and believe that their disease will be cured and they will be healed by the treatment but sometimes even the doctors makes mistakes which can cost a lot to the patients in many ways. Sometimes the mistakes are so dangerous that a patient has to suffer immensely.

The amount of care to be provided by any doctor varies from case to case. With the increase in public awareness of rights relating to medical negligence, courts have witnessed numerous complaints against doctors. It is said, if it exists it’s debatable, just like with every act of doctor arises the possibility of arguments over his/ her decisions.

We, the moot court committee of PURC, Ludhiana presents a moot proposition on the topic of “MEDICAL NEGLIGENCE”, with an aim to provide budding lawyers a platform for debate and discussion on this topic which has recently gained popularity.

MOOT PROPOSITION

1. Dr. Ridhi Sharma, a 35 years old Geneticist worked in New Life Hospital, one of the prestigious hospitals in India. She was very passionate about her patients and held an exceptionally progressive record. She worked around the clock at the hospital to make sure the well being of her patients and believed in making difference.
2. Mrs. Kalpna Pathak, 42 years old, resident of Amritsar was patient of New Life Hospital, Delhi, from past 12 years as she was suffering from a rare, life-threatening syndrome called ROHHAD syndrome.
3. Her family spent a lot of money on her treatment but this disease was incurable and finally left her in Delhi for her further treatment. As travels were expensive, her family only visited her when they could. Though, they appointed Gayatri, a 18 years old caretaker for her.
4. Living in hospital for 12 years almost broke Mrs. Pathak from inside. She used to be a warm and lively person who never compromised her freedom and liberty for anything. But, her time in hospital made her life monotonous and miserable. As a result, she started avoiding medications even after strict warnings by doctor and several times even overdosed tonics consisting of alcoholic contents.
5. Dr. Ridhi came to know about this condition of Mrs. Pathak from Gayatri. She also agreed that Mrs. Pathak needed regular medication. But Dr. Ridhi became quite sympathetic when she realized that Mrs. Pathak hadn't left the hospital once in 12 years. And became determined to discover any possible way to help her.
6. Following through her research, she discovered that the precise cause of ROHHAD (Rhodes illness) is reportedly unknown. Experts, however, suspect it could be a genetic disorder. She found out about a Project named "Discover Relief", which aimed to discover readily accessible guidelines for patients with rare diseases and for the anesthesiologists caring for them.
7. Dr. Ridhi, in the data presented under this project found out that Elixir Labs, the same company, which manufactured Mrs. Pathak's medicines of ROHHAD disease, in a research have claimed that the drug they were marketing for Huntington's disease has also cured a considerable percentage of Rhodes disease patients as well. However, the chance of the treatment being fatal is expected to be 30 percent at her age.
8. She decided to bring this up to Mrs. Pathak as an option and tell her about the odds, to which Mrs. Pathak replied "*I'm really thankful for the care and time my doctors have given me, but it's just not enough just to be alive. I want to live*" and consented to it.

9. Dr. Ridhi wrote a detailed application mentioning the medical history and current scenario of Mrs. Pathak's health condition on 25th March 2019 to Elixir Labs in order to ask for the drug but her application got rejected by the Managing Director of Elixir Labs, Mr. Naveen Mathur, stating that the drug hasn't been completely approved by Food and Drug Administration, it is yet being experimented.
10. Dr. Ridhi and Mr. Mathur were never fond of each other due to their contrasting work ethics. Mr. Mathur was an established businessman who only bothered about ways to multiply his profits.
11. Dr. Ridhi decided to get to the bottom of the issue and found out that the Elixir labs actually never really wished to introduce the cure of Rhodes disease in medical world as it would reduce their company's profits. This fumed Dr. Ridhi and she decided to get access to the drug either way and hence stole the sample drug sent by the lab to their hospital for the patients of Huntington's disease.
12. After getting the drug she asked Mrs. Pathak whether to give her the dose and she gave her verbal consent to Dr. Ridhi in front of Gayatri. Within a week Mrs. Pathak showed a miraculous recovery and on 1st May 2019 she was declared fully cured of the disease and Dr. Ridhi discharged her the next day without even keeping her under observation.
13. Mrs. Pathak, after few days of discharge on 5th May 2019 contacted Dr. Ridhi to thank her for giving her a new life where she was not just meaninglessly existing. But on 7th May 2019 the news of Mrs. Pathak's death came as a shock in the hospital which immediately raised alleging questions.
14. The postmortem reports of Mrs. Pathak confirmed died of Cardiopulmonary arrest, it was registered as a case of "sudden unexplained death (SUD)". The husband of Mrs. Pathak sued the Hospital under Section 304A for causing death by medical negligence which led to an investigation within the hospital to find the cause of her death revealing the acts of Dr. Ridhi.
15. The hospital held a meeting of Hospital Administration on 15th May 2019 against the action of Dr. Ridhi consisting of 7 jury members which included 6 Senior Doctors and Mr. Mathur and asked her to explain her actions.
16. Dr. Ridhi pleaded not guilty on the pretext of acting in good faith after receiving the consent of the patient which was corroborated by Gayatri. After the hearing, 5 members including Mr. Mathur voted against Dr. Ridhi overseeing the hospital's best interests, consequently she lost her reputed job at New Life Hospital, Delhi.
17. Moreover, the licence of Dr. Ridhi was suspended by the Medical Council of India for 7 years on 25th May 2019 believing that she did commit medical negligence due to which a patient lost her life.

18. Before the trial in court, this case gathered a lot of negative media attention which resulted in gross tarnishing of Dr. Ridhi's reputation in society.

19. The Trial Court on 26th December 2019 convicted Dr. Ridhi under section 304A IPC read with Section 90 and Section 337 of IPC and approved the suspension of her licence.

20. Now Dr. Ridhi Sharma has filed an appeal before the Hon,ble High Court to seek justice against her conviction in Trial Court. The hearing of which is scheduled on 6th March 2020.

ISSUES RAISED:

- a) Whether or not the stance of the appeal is maintainable in court of law?
- b) Whether or not the act of Dr. Ridhi Sharma amounts to negligence on her part?
- c) Whether or not the constitution of the Hospital Administration as well as its decision is in accordance with the law?
- d) Whether or not the Trial Court has erred in finding Dr. Ridhi Sharma guilty of Medical Negligence under Section 304A of IPC?

NOTE:- The participants are allowed to add issues pertaining to the above petition.

