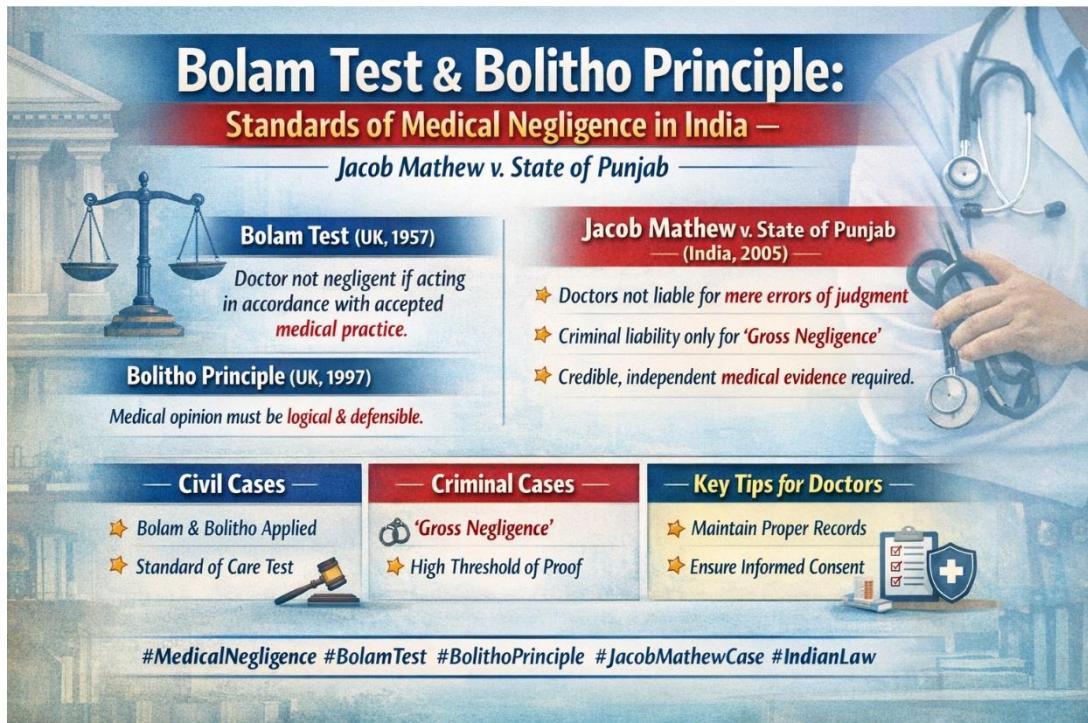


Bolam Test & Bolitho Principle: Standards of Medical Negligence in India — The Indian Adoption (Jacob Mathew v. State of Punjab)

Introduction

When courts decide whether a doctor was negligent, they usually compare the doctor's conduct with the standard expected of a reasonably competent medical practitioner. Two leading UK authorities shaped that comparison: the **Bolam test** and the **Bolitho gloss**. India has relied on these authorities while developing its own jurisprudence — most notably in **Jacob Mathew v. State of Punjab (2005)**, a Supreme Court ruling that clarified how criminal liability for medical negligence should be approached. Below we explain both tests, how Bolitho refines Bolam, and how Indian courts — guided by Jacob Mathew — apply them in civil and criminal settings.



What is the Bolam test?

The **Bolam test** originates from *Bolam v. Friern Hospital Management Committee* (1957). It states, in simple terms:

A doctor is not negligent if he acts in accordance with a practice accepted as proper by a responsible body of medical professionals skilled in that particular art.

In other words, if a respectable segment of the medical profession would have acted the same way, the doctor passes the Bolam standard. Bolam therefore gives considerable weight to peer professional opinion when assessing clinical decisions. The Bolam judgment clarified that a doctor is not negligent if a responsible body of medical opinion supports the conduct, even if another body disagrees. This tolerance of differing views underscores judicial deference to professional judgment.

The Bolitho principle — a judicial check

Bolitho v. City and Hackney Health Authority (House of Lords, 1997) introduced an important limitation. The case arose from a child's death due to failure to intubate; the House of Lords held that professional opinion must withstand logical analysis before shielding a doctor. The court held that a body of professional opinion will not automatically shield a practitioner if that opinion cannot withstand logical analysis. The judge must be able to conclude that the professional view relied upon is **reasonable and defensible** — i.e., it must stand up to logical scrutiny and not be merely convenient or arbitrary. Thus:

- Bolam = deference to responsible medical opinion.
- Bolitho = judicial gatekeeper: courts can reject professional opinions that are irrational or indefensible.

Civil vs Criminal negligence — why the distinction matters

In civil cases (claims for compensation), courts commonly apply the Bolam/Bolitho framework to assess breach of duty and standard of care. Courts ask: *was the doctor's conduct supported by a responsible body of medical opinion, and is that opinion logically defensible?*

Criminal liability (for example under Section 304A IPC — causing death by negligence) demands a higher threshold. Criminal negligence implies **gross or culpable negligence** — conduct so reckless or indifferent to human life that it *crosses from mere error of judgment into criminality*. Judicial caution is necessary because criminal punishment is a severe invasion of liberty.

Indian courts *frequently* apply Bolam in civil negligence cases; Bolitho's logical scrutiny is acknowledged but *less* often expressly applied in Indian judgments.

Jacob Mathew v. State of Punjab (2005) — Indian Supreme Court's approach

In **Jacob Mathew**, the Supreme Court dealt with doctors who were prosecuted for alleged negligent treatment that resulted in a patient's death. The Court observed that:

1. **Doctors should not be routinely prosecuted for honest errors of judgment.** Medical science is complex, and adverse outcomes sometimes occur despite competent care.
2. **Criminal prosecution should be reserved for gross negligence or recklessness**, not for lack of reasonable care.
3. **Courts should insist on credible, independent medical evidence** before permitting criminal proceedings against medical professionals. Mere allegations or untested opinion should not result in criminal charges.

The Court directed that private complaints against doctors should not proceed unless supported by credible medical opinion from another competent doctor, ensuring procedural safeguards against frivolous prosecution. In short, Jacob Mathew incorporated the spirit of Bolam/Bolitho into Indian criminal jurisprudence by protecting medical practitioners from frivolous or unwarranted criminal prosecutions while ensuring accountability where conduct is truly grossly negligent. The Court emphasized that medical witnesses for the prosecution must be **responsible and cogent**; if expert opinion supporting prosecution is lacking or irrational, courts should not allow criminal charges to proceed.

Practical implications for doctors and claimants in India

- **For civil claims:** Courts will often look to medical opinion (Bolam), but judges can examine whether that opinion is logical and defensible (Bolitho).
- **For criminal charges:** Following *Jacob Mathew*, prosecutors must establish *gross negligence* supported by credible independent medical evidence; courts will quash frivolous criminal proceedings at the threshold.
- **For patients/relatives:** Adverse outcomes do not automatically mean criminality. Seek independent expert reports; concentrate on evidence that demonstrates **a marked departure** from accepted standards, rather than mere error.
- **For medical practitioners:** Maintain proper records, informed consent documentation, and peer consultations — these reduce exposure and help demonstrate adherence to accepted clinical practice.

Criticisms and evolving trends

Bolam has been criticized for being overly deferential to the profession — potentially insulating poor practice if the profession itself accepts it. Bolitho helps mitigate that risk by allowing courts to scrutinize the rationality of professional opinions. International developments (for example, the UK's later decisions emphasizing patient autonomy and informed consent) show the standard of care continues to evolve; Indian courts too must balance deference to expertise with patient protection and accountability. Later Indian cases, such as *Kusum Sharma v. Batra Hospital (2010)*, reiterated Bolam while stressing patient rights, showing the gradual integration of autonomy concerns into negligence standards.

Conclusion

The Bolam test and Bolitho principle together provide a two-step lens: deference to professional opinion, and judicial scrutiny for logical soundness. India's **Jacob Mathew** applies these ideas sensibly — protecting doctors from undue criminalization while ensuring that truly reckless conduct is punishable. For both doctors and patients, the lesson is clear: clinical decisions must be defensible in professional terms and supported by clear documentation and, when necessary, independent expert evidence.

References

- *Bolam v. Friern Hospital Management Committee* (1957). (case text). (imlindia.com)
- *Bolitho v. City and Hackney Health Authority* [1997] (House of Lords judgment). ([UK Parliament](#))
- *Jacob Mathew v. State of Punjab & Anr.*, Supreme Court of India, 5 August 2005 (AIR 2005 SC 3180). (case text and PDFs).

#MedicalNegligence #BolamTest #BolithoPrinciple #JacobMathew #MedicalEthics
#ProfessionalNegligence #LawAndMedicine #MedicalLiability #InformedConsent
#IndianLaw

Visit Blog: [Dr. Ganesh Visavale's Webpage](#)

LinkedIn: <https://www.linkedin.com/in/ganeshvisavale/>

Contact: ganeshvisavale@gmail.com