

# **SOP ON ROLE OF POLICE IN CASE OF DECEASED ORGAN & TISSUE DONATION**

## **Background:**

As per the data published in chapter 1A & 2 of the report of Accidental Deaths & Suicides in India, 2019 by National Crime Records Bureau, Ministry of Home Affairs, GoI, traffic accidents (comprising of road accidents, railway accidents and railway crossing accidents) has resulted in 1,81,113 deaths in India and a total of 1,39,123 suicides were reported in India.

India ranks first in the number of road accident deaths across the 199 countries and accounts for almost 11% of the accident-related deaths in the World. As per the Road Accident Report for 2019, a total number of 449,002 accidents took place in the country during the calendar year 2019 leading to 151,113 deaths and 451,361 injuries.

As per the Ministry of Road Transport and Highways (MoRTH) report of 2020 - 2021, Uttar Pradesh (UP) alone made up for the largest share - 15% of total road accident deaths in the country. Uttar Pradesh, the most populous State in the country with population share of 16.9% has accounted for (31,691) 8.5% of the total accidental deaths in the country.

The number of deceased organ donors for the same year was 130 only. 65% of these donors were of the medico-legal category. This means that the forensic doctors and investigating officers from the police play an integral role in multi-organ and tissue donation.

The cases that require investigation include:

- i. sudden death of an individual who was in apparent good health,
- ii. deaths by violence, and assault,
- iii. homicides or suicides, (female victim within 7 years of marriage) and
- iv. accidental deaths.

Because all the above cases fall under their jurisdiction, they are responsible for investigating these deaths and for providing accurate determinations of the cause and manner of death for each case. It is for this reason that a post-mortem becomes an important tool for their investigation. The Forensic doctors are also responsible for authorising the retrieval of the organs and tissues for donation as requested.

The donation rate of a city or region can be influenced positively with a good working relationship between hospitals that generate deceased multi-organ donors and their local forensic doctors and

investigating officers. Lessening delay and giving succour to the family of the donor will create a positive mindset in the public about the cause.

### **Introduction:**

Total number of transplants done in the country has increased from 4990 in 2013 to 12666 in 2019 indicating marked improvement in infrastructure for undertaking transplants in the country. Organ donation Rate (No. of deceased donors per million population) in the country increased from 0.27 in the year 2013 to 0.65 in 2018, however it has dipped to 0.52 in 2019.

The people dying an untimely death due to traffic accidents (comprising of road accidents, railway accidents and railway crossing accidents, can be potential deceased organ & tissue donors, are left uninitiated due to lack of administrative processing & adequate sensitization of police, who are usually first responders in these accidents. All such deaths fall under the medico-legal category, therefore, police play an integral role in multi-organ & tissue donations as such cases fall under the jurisdiction of police and they are responsible for investigating these deaths so as to ascertain the circumstances & cause for each death, therefore, postmortem becomes an important tool for their investigation.

### **Legal Aspects of Organ & Tissue Donation:**

Uttar Pradesh follows the Transplantation of Human Organs (THO) Act. Government of India initiated the process of amending and reforming the THOA 1994 and consequently, the Transplantation of Human Organs (Amendment) Act 2011 was enacted for donation and transplantation of human organs and tissues. In pursuance to the amendment of the Act, Transplantation of Human Organs and Tissues Rules 2014 have been notified on 27-3-2014. This act allows for donation of human organs and tissues from living as well as from brain stem dead persons (cadaver donation, which is now called deceased donation).

The Act is spelt out in 7 chapters and 25 sections. In the Transplantation of Human Organ Act 1994 & subsequent amendment in 2011, the words "human organs for therapeutic purposes and for the prevention of commercial dealings in human organs", have been substituted with the words, "human organ & tissues for therapeutic purposes and for the prevention of commercial dealings in human organs & tissues".

### **Definitions:**

- a. "brain-stem death" means the stage at which all functions of the brain stem have permanently and irreversibly ceased and is so certified under sub-section (6) of section 3

- b. "deceased person" means a person in whom permanent disappearance of all evidence of life occurs, by reason of brain stem death or in a cardio pulmonary sense at any time after live birth has taken place;
- c. "donor" means any person, not less than eighteen years of age, who voluntarily authorizes the removal of any of his human organs for therapeutic purposes under sub-section (1) or sub-section (2) of section 3;
- d. "recipient" means a person into whom any human organ is, or is proposed to be, transplanted
- e. "transplantation" means the grafting of any human organs from any living person or deceased person to some other living person for therapeutic purposes.

Provisions under THO Act & THOTA Rules regarding organ donation from Deceased Organ Donors mandates the following:

1. Any donor may, authorize the removal, before his death, of any human organ of his body for therapeutic purposes in the presence of two or more eyewitnesses, one of which is his relative
2. If any donor had, in writing and in the presence of two or more witnesses (at least one of whom is a near relative of such person), unequivocally authorized at any time before his death, the removal of any human organ of his body, after his death, for therapeutic purposes, the person lawfully in possession of the dead body of the donor shall, unless he has any reason to believe that the donor had subsequently revoked the authority aforesaid, may authorise the removal of any human organ of his body for therapeutic purposes
3. Where no such authority has been granted, was made by any person before his death but no objection was also expressed by such person to any of his human organs being used after his death for therapeutic purposes, the person lawfully in possession of the dead body of such person may, unless he has reason to believe that any near relative of the deceased person has objection to any of the deceased person's human organs being used for therapeutic purposes, authorize the removal of any human organ of the deceased person for its use for therapeutic purposes.
4. Where any human organ is to be removed from the body of a person in the event of his brain-stem death, no such removal shall be undertaken unless such death is certified, in such form and in such manner and on satisfaction of such conditions and requirements as may be prescribed, by a Board of medical experts (as prescribed in sub section (6) of the Act)
5. Where brain-stem death of any person, less than eighteen years of age, occurs and is certified under subsection (6), any of the parents of the deceased person may give authority, in such form and in such manner as may be prescribed, for the removal of any human organ from the body of the deceased person

## **Role of Police in Organ & Tissue Donation:**

Police officers are one of the key stakeholders involved in the process of deceased organ donation. In India, as road traffic accidents account for the majority of brain deaths, the police play an important role to ensure legal and ethical practices of organ donation.

1. After the authority for removal of organs or tissues, as also the consent to donate organs from a brain-stem dead donor are obtained in case of a Medico Legal Case, the registered medical practitioner of the hospital shall make a request to the Station House Officer or Superintendent of Police or Deputy Inspector General of the area either directly or through the police post located in the hospital to facilitate timely retrieval of organs or tissue from the donor and a copy of such a request should also be sent to the designated post mortem doctor of area simultaneously.
2. The Police is mandated to conduct an inquiry & thereupon satisfy himself that all the documents as prescribed, are duly filled-in & available at the Transplant Center
3. The Police is expected to expedite the process of conducting an inquest & granting NOC for the organ retrieval
4. The Police shall determine if the need of Post Mortem in the case can be waived off. In case a post mortem is needed, the post mortem officer should be intimidated

At present 43 hospitals in Uttar Pradesh are authorized by the Government for Organ Harvesting (list enclosed), in the event of death of a person due to accident & subsequent organ harvesting from such cases, the legal formalities like filing a Panchnama by an Inspector of the concerned police stations, granting NOC for organ retrieval & subsequent Green Corridor creation are to be done on priority and the information of such cases is given to the District Control Room, District Police Station and U.P.-112, so that in this regard, the following action will be taken by the concerned authorities:

### **I. Roles & Responsibilities of Police Sub Inspector, SHO & Station Officers:**

The police is the first to reach the spot of death by murder/ suicide/ any type of accidental death due to road accident/ any mechanical accident/ animal attack/ violence/ attack, that is why, the role of police in such cases is very sensitive and becomes important .

When information regarding organ donation from a Medico Legal Case reaches the outstation Police Officer, following series of action need to be initiated by the investigating officer:

1. On receipt of the information, the concerned Inspector-in-Charge/ Station Officer/ Sub-Inspector will complete the legal action as soon as possible, including Panchnama etc. and care will be taken that no material evidence is destroyed and video recording will also be done as far as possible.
2. Police arrival at Retrieval/ Transplant Center
3. Inquest by Police Officer
4. Duly signed upon documents to be examined by the investigating officer:

- a. **Form - 7** (if the deceased donor has pledged his organs before his death) ( duly filled-in & signed upon)
  - b. **Form 8** (For declaration cum consent) filled by near relative or lawful possessor of brain-stem dead person
  - c. **Form – 10** (For certification of brain stem death) duly filled-in & signed upon by the board of medical experts certifying brain-stem death
  - d. Inquest Report
5. NOC by Police Officer to be prepared by Retrieval/ Transplant Team
  6. Under section 174 of CRPC Panchnama should be done expeditiously
  7. Information to Postmortem Team if postmortem deemed necessary: Every effort to be made to ensure that the postmortem & retrieval of the organs are done in the same hospital – concurrent postmortem should be performed at the Retrieval Center itself
  8. In case the postmortem officers deem a complete postmortem necessary, then police to ensure that the body is shifted to postmortem center
  9. Post retrieval of organs, the Police to make arrangements of Green Corridor from Retrieval Centre/Harvesting Place/Authorized Hospital to Transplant Centre for immediately Harvesting the organs so that the proceedings can be completed in the shortest possible time.

## **II. Roles & Responsibilities of Commissioner of Police/District Senior Police Inspector/ Police Officer:**

1. In case of information of organ donation from a Medico Legal Case the Commissioner of Police/District Senior Police Inspector/ Police Officer shall ensure the expeditious completion of all formalities related to the case as well as provide the necessary guidance to the concerned Inspector-in-Charge/ Station Officer/ Sub-Inspector for ensuring a quick & hassle free organ donation.
2. Transfer of body of deceased organ donor from the site of accident or treating hospital to the Transplant/Retrieval Center should also be ensured through creation of a Green Corridor.
3. In order to sensitize & create awareness about the role of Inspector-in-charge/SO/Sub-inspector in the process of organ donation from Medico Legal cases, the Police Officials will conduct awareness sessions/seminars every 6 months in collaboration with the In-Charges of the authorized Transplant/Retrieval Centers, Nodal officer & Transplant Coordinators of the registered Transplant/Retrieval Centers with the cooperation of the district CMOs.

## **III. Roles & Responsibilities of 112 Officials:**

1. The contact list of all Nodal Officers/ Transplant Coordinators of the Transplant/Retrieval Centers of U. P. authorized for Organ Retrieval/Transplantation in the state are to be included in the 112 algorithm, so that when a call from these Transplant/Retrieval Centers (after obtaining due consent for organ donation by the patients relatives) is received in the 112 office, such information can be conveyed to the concerned police station and the higher officials of the

district, so that the process of inquest - Panchnama, organ retrieval and Post-mortem of the dead body can be completed hassle free & in time.

2. If the dead body is at the spot of accident, then arranging green corridor till the hospital and after the Organ Harvesting till the Post-mortem house is also to be supervised.