

Inquests and doctors

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When a person dies, it is a legal requirement to enter the death in the death register of Sri Lanka. To enter a person's name in the death register, the identity and the cause of death of the person has to be known. This requires a proper investigation of the death. The death investigation system of Sri Lanka is based partly on the English coroner's system. The death investigation procedure in Sri Lanka is described in the Section 369 to 373 of the Code of Criminal Procedure (CCP) of Sri Lanka 1980 [1].

What is an inquest?

The inquest is a fact-finding inquiry about a death. It is not held to accuse anyone for a death. There is no prosecution or defense. The main objectives of an inquest are to establish the identity of the deceased person and establish the cause, manner and circumstances of the death. The findings of the inquest may be used for further judicial investigation.

Who conducts an inquest?

In the legal system of Sri Lanka, an inquest is conducted either by an Inquirer into Sudden Deaths (ISD) or by a Magistrate. The ISD is appointed by the Ministry of Justice. Most instances, the ISD is a lay person. The minimal educational requirement to be appointed as an ISD is passing the GCE Ordinary Level examination. He should be a resident in the area to which he is appointed.

The ISD has powers to summon any witness to give evidence and produce any documents relevant to the inquiry of the death. If somebody fails to do so, the ISD may issue a warrant for the apprehension and produce this of such a person before him. The ISD has powers to fine or to order imprisonment of a person who fails to appear before him when summoned [1]. The Magistrate

conducts inquests on all homicides and suspicious deaths. According to the subsection 371 of CCP of Sri Lanka, the magistrate should inquire into deaths of prisoners, anybody who dies while in police custody or in a mental hospital and leprosy hospital.

When does an inquest become necessary?

It is the medico-legal duty of the attending doctor to issue the "medical certificate of cause of death" if known, when a patient he is treating dies of a natural cause. If the doctor is unable to give the cause of death, an inquest is required. When an inquest is necessary, it is the responsibility of the treating doctor to inform the police about this need. Most junior doctors do not have adequate knowledge as to when they should ask for an inquest.

Subsection 370 of the CCP of Sri Lanka states that every inquirer on receiving information about a person who

- (a) has committed suicide;
- (b) has been killed by an animal or by machinery or by an accident;
- (c) has died suddenly or from a cause which is not known, shall immediately proceed to the place where the body of such person is and shall make an inquiry and draw up a report.

The subsection 371 states that death of anybody while in the custody of police, in prison or in a mental or leprosy hospital should be reported to the magistrate for an inquiry.

In a hospital setting, the doctor in charge of the patient is expected to request an inquest if a patient under his care dies under the following circumstances:

- (a) The cause of death has not been ascertained.
- (b) Death due to road traffic accidents and other transport accidents.

- (c) All other accidental deaths.
- (d) Death due to suicidal acts.
- (e) Death due to violence.
- (f) Death of an inmate of prison, mental or leprosy hospital and while in police custody.
- (g) Death due to medical, surgical or anesthetic procedures or immediately afterwards.
- (h) Death following administration of blood, blood products or a drug.
- (i) Death due to animal bites, rabies or tetanus.
- (j) Death due to suspicious circumstances.

Who should be present at the inquest?

An officer from the police station in the area where the deceased was living or where the incident which resulted the death took place should be present at the inquiry. The police officer's duty is to present the witnesses and lead the evidence before the ISD/Magistrate. The inquirer need not totally depend on the witnesses produced by the police officer.

There should be two close relatives of the deceased to identify the body. The inquirer has the authority to summon any other witnesses to an inquest if he thinks that such a person can provide information regarding the incident or the death. Doctors who treated the deceased can be asked to be present at the inquest to give evidence and produce hospital documents relating to the treatment.

What is the outcome of an inquest?

The inquirer has the authority to decide what action should be taken once the proceeding of an inquest is over. If the inquirer is satisfied about the evidence presented before him about the death and the cause of death, he has the discretion to release the body to the relatives after issuing the death certification form. If the presented evidence is not adequate to ascertain the cause of death, the inquirer is empowered to call upon a government medical officer to conduct a postmortem examination and to report to him about the cause of death (section 373 of the CCP of Sri Lanka).

Once the postmortem examination report is available, the inquirer can release the body to the relatives of the deceased. The inquirer has to decide the manner of death as well. If the manner of death is suspicious, the Magistrate should be informed. Upon completion of every inquest, the inquirer should forward a report to the Magistrate.

The procedure to be followed by medical officers in an inquest

If a death occurs under any of the categories of the above list, the medical officer must request the law enforcement authority to arrange an inquest. It is mandatory to obtain the authority for the inquest from the head of the institution. All entries should be documented in the Bed Head Ticket (BHT).

A death that has occurred within 24 hours of admission to a ward need not be an indication to ask for an inquest. The cause of death may be ascertained and if it is determined to be a natural one, the body can be released without an inquest. An inquest must be requested on all deaths certified at the Out Patient Department (OPD).

When an inquest has been requested, the medical officer should not fill the declaration of death form. This form should be filled only when the cause of death is ascertained and it is found to be due to a natural cause. Even though an inquest has been requested, the medical officer certifying the death can indicate the probable cause of death if the death is due to a natural cause. Probable cause of death should not be given in homicides, road traffic accidents or in suspicious deaths. Under the Subsection (5) of section 370 of CCP of Sri Lanka the ISD / Magistrates are empowered to summon any person for the inquest. Medical officer must comply with such summon and failing to do so would amount to contempt of court.

References

1. Legislative Enactments of the Democratic socialist republic of Sri Lanka, Vol II, Chapter 26, Code of Criminal Procedure, 1980.