Personal Injury ~ November 2021

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**Building Site Accident Victim Receives £300,000 Interim Damages**

Judges have the power to order advance or interim payments of damages to accident victims who are in need of immediate financial support. In the context of a catastrophic building site accident, the High Court gave important guidance on the precise circumstances in which that power can be exercised.

The case concerned a construction site worker who sustained injuries of maximum severity when a pile of bricks and blocks, together with joists and a supporting wall, collapsed on top of him. The man lodged proceedings against, amongst others, the company that was said to have employed him at the time and the main site contractor. The defendants denied liability for the accident and blamed each other for what happened.

An application was made to a judge for an interim payment of damages to fund rehabilitation that the injured claimant urgently needed. Following a hearing, the judge was satisfied that the man would in due course obtain a substantial sum in damages against at least one of the defendants. On the evidence available to him, however, the judge was unable to determine which of them was likely to be found liable for the accident. He ordered each defendant to make an interim payment of £150,000.

In dismissing the main site contractor's challenge to that outcome, the Court could find no error of principle in the judge's approach. Although neither defendant had admitted liability for the accident, nor been found liable, he was entitled to conclude that the man would succeed in his claim against at least one of them.

Although both defendants' insurers had reserved their right to refuse to indemnify them against the man's claim, they each apparently had appropriate policies of insurance in place when the accident occurred. The legal requirements for the making of interim payment orders had in all respects been satisfied.

"Health and safety risks to workers exist in many forms, depending on the type of workplace. Whatever their nature, employers have a legal duty to assess and take reasonable steps to remove or minimise those risks," says <<CONTACT DETAILS>>. "If you have been injured at work through no fault of your own, you could be entitled to compensation. Contact us for advice on making a claim."

**Determined Road Accident Victim Awarded £12.5 Million**

Many road accident victims show enormous courage in coming to terms with their disabilities, but some are truly exceptional. That was certainly true of a young man whose great good humour never wavered in the face of catastrophic injuries that merited an eight-figure award.

The man, in his mid-20s, was getting a spare tyre out of his car when another vehicle collided with him. He suffered a fractured skull together with a severe traumatic brain injury and was in hospital or undergoing rehabilitation for almost a year. With the assistance of his loved ones, however, he followed a demanding exercise regime and has in many respects made a remarkable recovery.

Able to do many things for himself, he expressed himself clearly when he appeared at a remote High Court hearing. Thanks to his robust rehabilitation efforts, he has an estimated life expectancy almost to the age of 80. He will, however, always need adapted accommodation, specialist aids and equipment, supervision and care.

The other driver's insurer admitted liability for the accident in full and agreed to settle his claim for a lump sum of £12.5 million. In approving the settlement, the Court paid tribute to his family for their contribution to his long and hard recovery.

<<CONTACT DETAILS>> says, "While nothing can truly compensate victims of serious accidents for the loss of their health and independence, a financial settlement can provide them and their families with the knowledge that the care they need can be paid for. If you have been injured in a road accident, contact us to discuss the possibility of claiming compensation."

**Encephalitis Victim Sent Home from A&E Secures Justice**

Accident and emergency departments are busy places and, although medical staff do their best, standards of care do not always attain acceptable levels. That was sadly so in the case of a father who was suffering from a serious brain infection when he was twice sent home from hospital.

The man was in his 50s when he attended an accident and emergency department on two consecutive days. He had suffered a seizure and it was alleged that he was in a state of confusion at the time. He was suffering from encephalitis, a grave inflammation of the brain, but was discharged home on both occasions.

The infection caused profound neurological damage. Suffering from severe amnesia, he is unable to retain or process information. His speech is slow and repetitive and his personality has undergone a marked change. Rigid in his behaviour and requiring to follow a strict regime, he is no longer the same man.

The NHS trust that ran the hospital disputed the extent of confusion that he exhibited when he attended A&E. It also argued that he would have suffered at least some injury even had his condition been diagnosed and treated earlier.

Following negotiations, however, the trust agreed to a £2.7 million lump-sum settlement of his clinical negligence claim. Through its barrister, it acknowledged that he had been entitled to expect a much better standard of care. The High Court had no hesitation in approving the settlement.

Errors or delays in diagnosis can lead to tragic consequences and, when this is due to the negligence of medical staff, compensation may be warranted. If you or a member of your family has suffered as a result of improper medical treatment, contact <<CONTACT DETAILS>> for advice.

**Family of Jogger Killed by Skidding Car Receive £930,000 Award**

No amount of money can make up for the death of a parent in a road accident, but it can at least help to soften the blow for their loved ones. The High Court made that point in the case of a Cambridge University graduate who was out jogging when she was struck and killed by a skidding car.

The woman, a 41-year-old accountant, was exercising near her home when a driver lost control and struck her, throwing her 35 yards into a field. The accident occurred two days after Christmas and there was ice on the road. Left to grieve were her husband and two children, who were aged eight and six when she died.

The family launched proceedings against the driver, her motor insurer, the local authority for the area and the local authority's gritting contractors. The council admitted that the part of the road where the accident occurred had not been properly gritted, but there was substantial disagreement as to how liability for what happened should be apportioned between the defendants.

Following negotiations, however, the family's claim was settled for £930,000. Of that lump sum, £50,000 was set aside for each of the children, to be invested until they are 18. The children have been the focus of the widower's life since the accident and, in approving the settlement, the High Court was confident that he will spend almost all of the money for their benefit.

The sums invested for the children would alleviate the future burden of student debt and provide a springboard for them into their adult lives. The widower had described the family's almost idyllic domestic arrangements prior to the accident and the judge hoped that the settlement would enable him and the children to make the most of their lives, in tribute to the woman's memory.

Says <<CONTACT DETAILS>>, "Nothing can compensate for the loss of a loved one. However, a financial settlement can help the families of accident victims to adjust to the changes in circumstances and relieve them from financial hardship."

**Neonatal Meningitis Victim Awarded £19 Million**

Personal injury awards for the most gravely injured clinical negligence victims may appear very large, but they are no more than is needed to fund a lifetime of care. In one case, a 15-year-old boy who suffered catastrophic neurological injuries due to neonatal meningitis received eight-figure damages.

The day after the boy's birth, he was struck by group B streptococcal meningitis. He suffered a brain injury resulting in neurological abnormalities that profoundly affected his physical and cognitive development. Despite his serious disabilities and need for constant care, experts estimated his life expectancy to the age of 76.

The NHS trust that ran the hospital where he was born admitted certain breaches of duty but alleged that he would have suffered some injury in any event. However, following negotiations, the trust agreed to pay 93 per cent of the full value of his claim.

A final settlement was subsequently reached whereby, together with a lump sum of £5,986,952, he will receive annual, index-linked payments to cover the costs of his care and case management for life. Starting at £104,000, those payments will increase to £172,000 when he is 19. At the age of 23, they will go up again to £217,500. On the basis of his estimated life expectancy, the capitalised value of the settlement came to a little under £19 million.

Approving the settlement, the High Court commended the boy's parents for shouldering what must at times have seemed an unbearable burden. By relieving them of money worries, it was to be hoped that the settlement would enable them to move on and make plans for the future.

Negligent medical care can lead to a lifetime of suffering and limitation of opportunity. Experienced legal advisers can help you obtain appropriate compensation. Our specialist legal team is experienced in handling claims of this kind.

**Not Every Accident Can be Explained – Workplace Head Injuries Ruling**

Judges are experts at uncovering the truth but, in rare cases, it is simply not possible to decisively establish the cause of an accident. That was so in the case of an HGV driver who had no memory of an incident that left him with life-changing head injuries.

The man had been cleaning his tractor unit before he was found unconscious in the yard of the crane hire company he worked for. Due to the severity of his head injuries, he had no recollection of how he suffered two blows with a hard, flat, blunt object. The hard hat that he had been wearing was found lying undamaged nearby and a CCTV camera that might have recorded what happened was not working.

The man launched a personal injury claim against the company on the basis that he had been struck by a hook block, weighing about three quarters of a tonne, that was attached to a nearby crane. In denying liability, however, the company pointed out that no witness had seen the crane move. A non-forensic examination of the hook block did not reveal any disturbance of a layer of dust and dirt that had accumulated on its surface.

In dismissing the man's claim, a judge declared herself unable to reach a conclusion as to the probable cause of his injuries. One possible alternative explanation was that he had been assaulted with a weapon. Whilst making no firm finding that such an attack occurred, she concluded that the burden of proving that the hook block moved and caused the man's injuries had not been discharged.

In rejecting his challenge to that outcome, the High Court acknowledged the serious consequences of his injuries. The judge's reasoning was, however, sound and there was no flaw in her consideration of the evidence.

It is important to seek expert legal advice before launching a personal injury claim, to examine the validity of your case and its likelihood of success. Contact us for guidance.

**Seven-Figure Damages for Heart Surgery Complications Victim**

Even the most competently performed surgery may result in complications and, if the worst happens, you should contact a solicitor straight away. In a case on point, a grandfather who sustained devastating brain damage in the wake of a successful heart operation received damages of more than £2 million.

The man was in his 50s when he underwent aortic valve and root replacement surgery at a private hospital. There was no dispute that the operation was carried out with all due care and skill. However, he later developed a well-known complication called cardiac tamponade and suffered a cardiac arrest before the condition was diagnosed and addressed.

He sustained permanent neurological damage after being deprived of oxygen for 14 minutes. Cared for in a nursing home, he has little useful speech or independent mobility and requires round-the-clock care. His life expectancy is much reduced and his family are keen for him to spend the time remaining to him in a different nursing home where he would receive a greater level of one-to-one care. The cost of that placement exceeded £3,000 a week.

After clinical negligence proceedings were launched on his behalf, judgment was entered against the hospital's operator, together with the surgeon and anaesthetist who treated him. Negotiations yielded a final settlement of his claim for a lump sum of £2,050,000. The High Court had no hesitation in approving the settlement, which will ensure that he is looked after for the rest of his life in accordance with his family's wishes.

If you or a member of your family suffers injury as a result of negligent medical treatment, we can help you obtain an appropriate settlement. Contact <<CONTACT DETAILS>> to discuss your claim.

**TV Presenter Who Played Crash Test Dummy Receives Recompense**

Daredevil antics can make good television but, when things go wrong, broadcasters can expect to carry the legal can. The BBC found that out when it was ordered to pay over £1.6 million in compensation to a presenter who was badly injured whilst playing the role of a human crash test dummy in a popular science show.

Jem Stansfield, then a presenter on the BBC's 'Bang Goes the Theory' show, was strapped into a go-cart-like rig during a 2013 episode and propelled four times along a track into a post. The experiment was designed to test the relative safety of child car seats and to simulate the impact of a car hitting a lamppost.

Mr Stansfield, who was 42 at the time, subsequently suffered a constellation of physical and mental symptoms that affected all aspects of his life, particularly his ability to pursue his hitherto successful career. After he launched proceedings, the BBC agreed to pay him two thirds of the full value of his personal injury claim. The broadcaster, however, disputed the extent of his injuries and argued that he was entitled only to a modest award of damages.

Although Mr Stansfield was at the time extremely fit and functioning at the level of a competitive athlete, the High Court expressed astonishment that the experiment was considered a sensible idea. It might have been thought that someone of his intellect and scientific background might have appreciated the risk involved. Equally, however, the BBC had actively sought advice, had been warned of the danger and yet had permitted the experiment to proceed.

The Court found that the experiment caused injury to Mr Stansfield's brain and to his audio-vestibular system. Whilst none of his physical injuries are particularly severe, the combined effect together with his psychiatric reaction caused a host of symptoms and problems that significantly impair his functioning. His TV career has been derailed and his general enjoyment of life restricted.

The Court assessed the overall value of his claim at over £2.4 million, the majority of which related to his past and future loss of earnings. After the agreed one-third deduction, however, his total award came to £1,617,286. The BBC was also ordered to pay very substantial legal costs.

Sometimes, achieving a just settlement requires doggedness and determination. Our experienced team can help you get a just settlement of your claim.

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