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**Asbestos Exposure in Naval Dockyard – Waters Muddied by Passage of Time**

Asbestos-related cancer commonly develops many years after exposure and that can cause real difficulties in discerning where legal responsibility lies. That was certainly so in the case of a dockyard worker who was said to have breathed in asbestos fibres during the fitting out of newly built Royal Navy warships.

Prior to his death at the age of 82 from mesothelioma, a form of lung cancer almost invariably associated with asbestos, the man lodged a compensation claim against the dockyard's owner and operating company. He alleged that his illness arose from exposure to asbestos whilst working on the filtration systems of at least two warships, including a nuclear submarine, between 1969 and 1975.

Following his death, his widow continued to pursue his claim. Without making any admission of liability, the company settled her claim at a cost, in damages and legal costs, in excess of £190,000. The company launched further proceedings seeking a contribution to that outlay from an employer whom the man worked for at the dockyard in the mid-1970s.

Ruling on the matter, the High Court noted that, due to the passage of so many years, no work records existed to show what he was doing, and where or when, during the relevant period. The evidence he gave prior to his death was of limited value in that he was describing events more than 40 years ago. He succumbed to his illness soon after making his witness statement and his evidence, which contained a number of factual errors, could not be tested in court.

In the light of expert evidence and records of work carried out on the warships at the time, the Court found that the most likely period in which he was exposed to asbestos at the dockyard was in the early 1970s. Given that he was not working for the employer at that time, the company's contribution claim was dismissed.

If employers fail to take appropriate measures to prevent exposure to substances that can damage the health of employees, they can be liable to pay compensation for the resulting illnesses. If you or someone you know has suffered ill health as a result of exposure to harmful substances in the workplace, contact **<<CONTACT DETAILS>>** for advice. We are experienced in handling claims for all kinds of industrial injuries.

**Baby Malnourishment Case Underlines Importance of Community Care**

When newborn babies are discharged from hospital, the NHS is under a continuing duty to monitor them and ensure that they thrive at home. The case of a little boy who received inadequate nutrition in the first few days of his life showed the dire consequences that a breach of that obligation can have.

The boy was born in very good health but, after his discharge home, he became increasingly jaundiced, lethargic and reluctant to feed. His mother had difficulty breastfeeding him but her anxiety and expressions of concern were not picked up on by NHS personnel. He was not readmitted to hospital as he should have been and malnutrition ultimately resulted in him sustaining a severe brain injury.

After action was taken on his behalf, the NHS trust that bore responsibility for his care made a swift admission of liability. It recognised the failings in his post-natal monitoring in the community and, having learned lessons from the incident, it had taken concerted steps to prevent a recurrence.

Following negotiations, a final settlement of the boy's clinical negligence claim was agreed whereby he will receive a £4.25 million lump sum, together with annual, six-figure, index-linked payments to cover the costs of his care for life. Approving the settlement, the High Court thanked his parents, on behalf of society at large, for their unstinting commitment to his care.

Negotiating a suitable settlement requires awareness of many factors. Our experienced team takes all relevant issues into account in helping our clients achieve the best possible compensation awards.

**Crash Victim Secures Seven-Figure Settlement**

Road traffic accident victims can encounter very real difficulties in proving the extent of their long-term disabilities. As one case showed, however, personal injury lawyers are adept at cutting through such contentious issues and achieving very substantial settlements for their injured clients.

The case concerned a teenage college student who was a passenger in a friend's car when the friend turned right at a junction, straight into the path of a heavy lorry. She had to be cut from the wreckage and spent five days in an induced coma. After proceedings were launched on her behalf, the friend's motor insurers admitted liability for the accident and accepted that the student had suffered a brain injury.

It was her case that the accident triggered a change in her personality and a range of disabling symptoms typical of frontal lobe damage, including cognitive impairment and difficulty planning ahead and regulating her behaviour. The insurers, however, asserted that she had made a very good recovery from her injuries and that her continuing symptoms arising from the accident were mild at worst.

They denied that she had suffered any loss of earning capacity or that she had any ongoing need for professional care and assistance. In support of their case, they presented surveillance footage, which had been covertly shot over a five-year period, of her going about her daily life. It was argued on the woman's behalf that the footage was entirely consistent with her claimed level of disability.

Such fundamental disputes would ordinarily give rise to a contentious trial that would be highly stressful for all concerned. However, following negotiations, the woman achieved a settlement of her claim for a lump sum of £1,350,000. The High Court had no hesitation in approving the settlement and commended both sides for reaching a consensual resolution.

Insurers will always do what they can to minimise their costs, which makes the need for strong and experienced legal representation crucial. If you have been injured as a result of an accident on the road, you may be entitled to compensation. Contact **<<CONTACT DETAILS>>** to discuss your claim.

**Injured Minicab Driver's Claim Jeopardised by 'Lamentable' Litigation Delay**

Delay is a common cause of injustice, and anyone involved in litigation should know that judges take a firm line against foot-dragging. In one case, a road accident victim whose case was allowed to go to seed for a prolonged period came within an ace of having his claim dismissed without a hearing.

The minicab driver was injured in a collision and issued a claim for over £370,000 in damages against the other driver involved. The other driver admitted liability but, thereafter, the litigation was mired in delay. In striking out the claim, a judge noted that the case had lamentably ground to a halt. He found that the delay amounted to an obstruction of the just disposal of the proceedings.

Ruling on the cab driver's appeal against that outcome, the High Court noted that the delay extended over about a year. The judge was fully entitled to make a robust finding that the failure to progress the case towards trial amounted to an abuse of process. The other driver's solicitors had repeatedly attempted to move matters along and no good reason had been provided for the delay.

Upholding the appeal, however, the Court found that, given the admission of liability, it would be proportionate to reinstate the claim. The Court's decision did not come free from sanctions: the cab driver was ordered to pay the legal costs incurred by the other driver arising from the delay on a punitive indemnity basis. He was further directed to file a witness statement within 21 days or face the prospect of his claim being struck out for a second time.

If you would like advice on how to make a personal injury claim, contact **<<CONTACT DETAILS>>**. It is important to take advice early on as there are time limits that apply when making a claim for compensation.

**RAF Officer Injured Abroad Must Pursue Claim in Cyprus, Court of Appeal Rules**

When UK citizens suffer accidents abroad, the question of whether they can pursue compensation claims in this country comes down to where they are domiciled. An important Court of Appeal ruling on point concerned an RAF officer who was stationed in Cyprus when he was involved in a serious cycling accident.

The officer was performing a five-year tour of duty in the Sovereign Base Area (SBA) at Akrotiri when he was knocked off his bike by a car, suffering grave damage to his hip. He took action in England, seeking six-figure damages from the motorist's Cypriot insurers. His claim was, however, dismissed by a judge on the basis that he was domiciled in Cyprus when he lodged it and that the English courts thus had no jurisdiction to hear the matter.

Ruling on his challenge to that outcome, the Court noted that the SBA has never been part of Cyprus, nor has it ever been part of either the UK or the EU. It is a former colony, now classified as a British Overseas Territory, which retains strong connections to the UK. The accident occurred outside the confines of the SBA.

His personal injury claim was issued during the Brexit transition period and EU regulations concerning jurisdiction therefore applied to the case. Under EU law, the question of where he was domiciled primarily turned on where he was resident at the relevant time.

The Court noted that he had returned to the UK after his tour of duty and had always intended to do so. He had a house in England, although it was rented out during his absence. He learned a few words of Greek but did not build any community ties in Cyprus. A servant of the Crown whilst abroad, his salary was paid into a UK bank account and, following the accident, he was treated by the NHS.

On the other hand, he had volunteered for the overseas posting and had been living and working permanently in Cyprus for four years prior to the accident. He and his family inhabited accommodation provided by the RAF and he was physically present in the UK for only a very short time during the relevant period.

Dismissing the appeal, the Court found that the factors indicating that he was solely resident in Cyprus during the relevant period outweighed, by some margin, the factors suggesting that he had retained his UK residence. He had made a distinct break with the UK when posted to Cyprus and, on a commonsense view of the evidence, it could not be said that he had dual residence of both countries.

The officer argued that the dismissal of his claim meant that UK services personnel would be significantly disadvantaged by the loss of an important jurisdictional right to sue in the UK. The Court, however, noted that his position was similar to that of any other UK citizen who moves abroad for work reasons. There was no basis on which services personnel could be placed in a special category. The outcome of the case did not extinguish his right of action and he was entitled to pursue his claim in Cyprus, where an equivalent civil justice system applies.

For advice and guidance on jurisdictional matters surrounding compensation claims, please contact **<<CONTACT DETAILS>>**.

**Stroke Victim, Aged 75, Receives £425,000 in Damages**

A 75-year-old man who suffered a devastating stroke whilst returning home from a holiday in Cornwall will enjoy a more comfortable and secure future after a six-figure settlement of his clinical negligence claim was negotiated.

The vigorous pensioner, who still worked as a refrigeration engineer, was holidaying with his wife when he suffered a transient ischaemic attack followed by a relatively minor stroke. After each of those events, he was seen and treated in hospital prior to discharge. Whilst on his way home to the north of England, he suffered a further, catastrophic stroke and was a hospital inpatient for four weeks.

Together with severe weakness down the right side of his body, he suffers from cognitive impairment that was either caused by the stroke or by a combination of the stroke and the accelerated onset of dementia. He spends much of his time sleeping and lacks the mental capacity to make important decisions for himself.

After a clinical negligence claim was launched on his behalf, it was asserted that, had medical staff in Cornwall referred him to a specialist clinic for treatment with anticoagulant drugs, he would not have suffered either stroke. The NHS trust that managed the relevant hospital denied that there had been any breach of duty but, following negotiations, agreed to settle his claim for a lump sum of £425,000.

Approving the settlement, the High Court found that it represented an appropriate outcome in the light of litigation risks. It also agreed that £100,000 of the settlement total should be paid to the man's wife in recognition of all that she had done for him. At great personal sacrifice, she had provided him with wonderful support and he was very lucky to have her. Overall, the settlement will provide the couple with some security and enable them to lead as happy and comfortable lives as possible.

The path to settlement was eased by the fact that, prior to his stroke and when in possession of all his mental faculties, the man had the foresight to register a lasting power of attorney in his wife's favour. The settlement sum could thus be managed by her for his benefit without the need to incur the expense of Court of Protection involvement or the appointment of a professional deputy.

If you or a member of your family has suffered as a result of improper medical treatment, contact **<<CONTACT DETAILS>>** for advice.

**Unlawful Retention of Data – Police Force Ordered to Pay £36,000 Damages**

In a ground-breaking case, a disabled young man has been awarded £36,000 in compensation against a police force that breached his human rights by taking the disproportionate step of retaining certain information and data about him.

The man suffers from autistic spectrum disorder and is prey to high levels of anxiety. As a coping mechanism, he engages in 'stimming', a behaviour in which he rubs fabric between his fingers. That was said to have given rise to complaints by two women that he had touched them inappropriately.

The complainants' perception that they had been subjected to sex attacks was, a judge found, mistaken. The man presented no real risk to them and his disability diminished the risk he posed generally. He was not charged with any criminal offence, but details of the complaints were nevertheless retained by the force in the form of computerised occurrence summary reports (OSRs).

Following a five-day trial, the judge found that the retention of the OSRs amounted to a breach of his right to respect for his privacy, enshrined in Article 8 of the European Convention on Human Rights. The force was ordered to delete the OSRs and pay him £15,000 in respect of his lost earnings, a further £15,000 for the distress he endured and £6,000 in aggravated damages.

Ruling on the force's appeal against that outcome, the High Court found that the OSRs were intended to reflect the information that was provided to the police by the complainants, rather than the underlying facts as to what actually happened. When measured against that purpose, they were accurate.

It did not, however, follow that the retention of the OSRs was lawful. It had not been shown that the judge was wrong to find that their retention was a disproportionate interference with the man's Article 8 rights. Given the extent of his distress and financial loss arising from the retention, the amount of the damages award was justified.

Psychological as well as physical injury can warrant a personal injury claim. If you have experienced treatment by another person or organisation that has caused you emotional or psychological distress, contact us for advice.

**Victim of TB Contact Testing Failure Achieves Justice**

Anyone who lived through the COVID-19 pandemic is likely to be well aware of the crucial importance of contact testing. A case in which a teenager received a multi-million-pound settlement illustrated the catastrophic consequences that can arise when the testing regime breaks down.

The girl was a healthy three-year-old when her aunt's partner was diagnosed with tuberculosis. All those with whom he had been in contact should have been tested for the disease. That, however, was not done and, after the girl contracted the infection, it developed into life-threatening meningitis. She sustained permanent brain damage that affects all aspects of her life.

After action was taken on her behalf, the NHS Commissioning Board admitted liability. It accepted that, had appropriate contact testing been carried out, the girl's condition would have been diagnosed earlier than it was and she would have escaped neurological damage.

Following negotiations, settlement terms were agreed whereby the girl will receive a lump sum of £5,525,000, together with index-linked payments of £155,000 a year to cover the costs of the professional care and assistance she will need for life. It was further agreed that she could return to court for further compensation if she develops blindness at any point in her life. The High Court approved the settlement as being in her best interests.

Although nothing can truly compensate for mistakes that permanently damage one's health, a settlement can relieve financial worries while victims of medical errors and their families adjust to the consequences. If you have been injured as a result of negligent medical treatment, contact **<<CONTACT DETAILS>>**.

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