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**Charity Must Pay Damages Following Hostel Resident's Window Fall**

Those who invite visitors onto their property are obliged to take steps to keep them reasonably safe. As the case of a troubled woman who fell from a hostel window showed, even charities are not exempt from that fundamental duty.

The middle-aged woman led a chaotic lifestyle and had a long history of substance addiction and mental health difficulties. One of her legs had been amputated below the knee and she used a wheelchair. She was staying in a hostel run by a charity that provided short- and medium-stay accommodation to vulnerable adults.

Passers-by witnessed her hanging by her fingertips from the window sill of her room on the hostel's fourth floor. She was heard to call desperately for help before falling onto a first-floor ledge, sustaining serious injuries. She sought compensation from the charity on the basis that it had breached the duty it owed her under the Occupiers Liability Act 1984 as a lawful visitor to the hostel.

Upholding her claim, the High Court rejected the charity's case that she had climbed out of the window with the intention of taking her own life before swiftly changing her mind. The window was a very short distance from the floor of her room and her fall was more likely to have been accidental. The reason for her presence on the window sill remained unclear, but the retrieving or putting out of her washing to dry was probably a factor in the incident.

Restrictors that were supposed to prevent the window from being opened by more than 10 centimetres were ineffective and easily overcome. Given the unpredictable behaviour of many of the hostel's residents, particularly when intoxicated, that gave rise to an obvious danger. The charity had probably known of the problem with the restrictors for a considerable period but had taken a blinkered approach to the foreseeable risk.

Simple and straightforward steps could have been taken to eliminate that risk, at relatively low cost. The duty to ensure the reasonable safety of the accommodation was not so burdensome or onerous as to curtail the charity's performance of its important role in giving vulnerable people rooves over their heads.

Noting that the woman had become voluntarily intoxicated prior to her fall, the Court found that she was 35 per cent responsible for the accident. The remaining 65 per cent of blame, however, fell upon the charity. The amount of her compensation would be assessed at a further hearing, if not agreed.

Says **<<CONTACT DETAILS>>**, "Those responsible for premises of this kind have a legal duty to assess health and safety risks and take reasonable steps to remove or minimise those risks. If you have been injured as a result of another party's negligence, contact us for advice on making a claim."

**Ex-Soldier's Personal Injury Claim 'Tainted by Fundamental Dishonesty'**

The vast majority of personal injury claims are entirely genuine. However, as a High Court ruling showed, there are very sadly a dishonest few who, in pursuit of large sums in compensation, present exaggerated or fabricated cases.

The case concerned an ex-soldier who was medically discharged from the Army after sustaining a non-freezing cold injury whilst serving overseas. He asserted, amongst other things, that the injury seriously restricted his mobility. He lodged a personal injury claim against the Ministry of Defence (MoD) that he initially valued at in excess of £1.6 million, not including damages for loss of earning capacity.

He discontinued his claim after the MoD disclosed covertly shot surveillance footage of him walking home after delivering his daughter to school. That, however, was not the end of the matter, and the MoD sought a ruling that he was guilty of deliberate malingering and that his pursuit of the claim was fundamentally dishonest.

Ruling on the matter, the Court noted that he had – on the same day that the footage was taken – told an orthopaedic expert who examined him in connection with the case that he always used a crutch when walking outdoors and that he could not walk more than 50 yards without stopping to recover.

The Court observed that there was no medical explanation for the marked and complete contrast between that account and his appearance in the footage, which showed him walking, albeit slowly, with a normal gait, without limping and without using either a stick or a crutch.

The Court found, on the balance of probabilities, that he had suffered a minor injury from which he had fully recovered at some point prior to his consultation with the expert. With a view to financial gain, he had dishonestly portrayed himself as having suffered a more serious injury that had a continuing and disabling effect. The Court concluded that the whole of his claim was tainted by fundamental dishonesty.

Says **<<CONTACT DETAILS>>**, "While sadly there will always be people who try to make bogus claims, this should not deter anyone who is genuinely injured from seeking the compensation they deserve. If you have been injured during the course of your employment, as a result of negligence, we can advise you."

**Girl Injured During Forceps Delivery Receives £55,000 Award**

When children suffer injury at birth, the possibility of compensation should always be explored with their future in mind. A case on point concerned an eight-year-old girl who sustained serious damage to her left eye during her forceps delivery.

It was alleged on the girl's behalf that the damage to the affected eye's membranes and cornea arose from the negligent use of forceps. In defending her clinical negligence claim, the NHS trust that bore responsibility for her care argued that such damage is a normal, recognised and non-negligent consequence of a minority of forceps-assisted deliveries.

Following negotiations, however, the trust agreed, without admission of liability, to settle the girl's claim for a lump sum of £55,000. In approving the settlement, the High Court was satisfied that it was in her best interests. The money will be held in trust and paid into the Court Funds Office to be invested for her benefit until she reaches adulthood.

The Court noted that the vision in her left eye may deteriorate in middle or old age. Whilst her disability is not interfering with her education, it causes her anxiety and is, to some extent, likely to restrict her career choices in later life.

Says **<<CONTACT DETAILS>>**, "Nothing can truly compensate for mistakes on the part of medical staff during a child's birth that cause permanent damage to health. However, a financial settlement enables the family to achieve the best quality of life possible for their child, without the stress of money worries. Our specialist legal team is experienced in handling claims of this kind."

**Police Breached Duty of Care Owed to Stabbing Victim – High Court Ruling**

It is notoriously difficult for victims of crime to successfully sue the police on the basis that they failed to match up to their duty of care. However, as the case of a woman who was repeatedly stabbed outside her home showed, it is not impossible.

The woman, her husband and children were getting into the family car when the attacker approached and knifed her seven times in the chest and body. He was later convicted of attempted murder and imprisoned for life. A neighbour had telephoned the police 12-13 minutes before the incident to inform them that a man was loitering outside the woman's home. An officer was swiftly despatched to the scene but no telephone warning was issued to the woman prior to the attack.

She was seriously injured and sought damages from the relevant police force. In dismissing her claim, however, a judge emphasised the reasons of public policy why the police are not generally under a duty of care to protect individual members of the public from the crimes of third parties. He went on to find that, even had the force owed the woman such a duty, it had not been breached.

In upholding her appeal against the judge's ruling, the High Court noted that she had been in a long and abusive relationship with her attacker. He was twice accused of assaulting her and had been convicted of an attack on her husband. He had been arrested at least three times and on numerous occasions had breached bail conditions preventing him from contacting her or going to her home.

Shortly before the attack, he had threatened to kill her and her family and to rape her children. The force was aware that, the day before the attack, he had trespassed on her property twice. Effectively laying siege to her home, he caused criminal damage to a window pane and attempted to break down her front door. The force knew that she was petrified to the point of being in fear of her life and accepted that it had erroneously assessed the risk to her as 'medium', rather than 'high'.

The attacker had never been accused of carrying a knife or other weapon in any of his interactions with the woman or her husband. However, the Court found that, on receiving the neighbour's 999 call, the force should reasonably have foreseen that the woman was at high risk of bodily injury within a very short space of time. Given that the call was made just as the woman was likely to be leaving for work and taking her children on the school run, the risk to her was immediate and obvious.

Turning to the public policy aspects of the case, the Court noted that abused women need protection. There were very good reasons why the neighbour's warning should have been passed on to her and the cost of doing so would have been infinitesimally small. Far from undermining police decision-making, imposing a duty of care on the force in such circumstances was likely to encourage good practice and promote public confidence in making reports to the police.

Ruling that the force had breached its duty of care, the Court found that the woman had a reasonable expectation that it would warn her that the attacker was lurking outside her home and that it had assumed a responsibility to do so. Other issues in the case, including the question of whether the force's breach of duty caused the woman's injuries, were remitted for determination by the trial judge, if available.

Our experienced team will fight hard to ensure you obtain the compensation you deserve. Contact **<<CONTACT DETAILS>>** to discuss your claim.

**'Remarkable' Young Man Receives £17 Million Personal Injury Settlement**

Personal injury lawyers never cease to be amazed by the tenacity and sheer guts of people who conquer disability to lead active and fulfilled lives. Such qualities were on abundant display in the case of a remarkable young man who received a settlement of over £17 million from the NHS.

The man sustained a hypoxic brain injury shortly before his emergency caesarean delivery. It was alleged that his mother was negligently counselled about the mode of delivery and that there was negligence during the birth itself. Whilst making no admission of liability, the NHS trust that bore responsibility for his care agreed to settle his clinical negligence claim for 90 per cent of its full value.

Following further negotiations, the trust consented to a final settlement whereby he will receive a £6.5 million lump sum, together with annual, index-linked, six-figure sums to cover the costs of his care and case management for life. Based on a life expectancy of 63, the settlement has an overall capitalised value of £17,185,985.

Approving the sensible settlement, the High Court praised his many achievements: although unable to walk, he is very proud of his skill in manoeuvring his wheelchair. He can use a computer keyboard and, far from withdrawing into his shell, he attends college and has a particular passion for high-end cars and sport. The enjoyment he obtains from life is a testament to his determination and his parents' years of sacrifice and deep love for him.

His need for compensation was nevertheless pressing: his cognitive and physical disabilities, severe communication problems and fatigue mean that he is highly unlikely to secure paid employment. His dependence on care is likely to increase as his mobility deteriorates in later life. He has insight into his condition, which at times causes him distress. The Court hoped that the financial settlement of the claim would come as a relief to him and his family and make life a little easier for them.

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>>**.

**Suffered Negligent Medical Treatment Abroad? Consult a Lawyer Today**

UK nationals who travel abroad for cosmetic surgery or other medical treatments can struggle to obtain damages in the event of a poor outcome. However, as a High Court ruling showed, obstacles posed by national boundaries do not deter English personal injury lawyers from rising to the challenge.

The case concerned a woman who underwent cosmetic surgery at a Polish clinic to remove excess skin arising from a gastric bypass procedure. It was alleged that her post-operative wounds became deeply infected and that, following her return to the UK, she was hospitalised for 10 days in a critical condition. Her dressings were said to have required frequent changing for many months.

Following her subsequent death from bronchopneumonia – an event that was not alleged to have been caused by her treatment in Poland – her widower pursued a claim in England against, amongst others, the clinic's Polish insurer. He sought damages to reflect the pain and suffering she had endured in the wake of her treatment in Poland, which was claimed to have been negligent.

The insurer made a full denial of liability. However, after it failed to formally acknowledge service of the proceedings, a default judgment was entered in the widower's favour. In subsequently refusing to set that judgment aside, a judge was particularly struck by the insurer's appalling delay in making that application.

Dismissing the insurer's challenge to that outcome, the Court detected no error of principle in the judge's approach. Even if the insurer were able to establish a viable defence to the claim, its gross delay and inactivity in the proceedings rendered the judge's conclusion inevitable. The amount of the widower's compensation would be assessed at a further hearing, if not agreed.

Says **<<CONTACT DETAILS>>**, "Sometimes the lengths that insurers will go to in an attempt to avoid paying out on policies are surprising. Quality legal representation can beat the stonewall treatment they mete out. Contact us for advice if you need to claim for any injury caused by the negligence of another."

**Teenage Road Accident Victim Awarded Almost £3 Million in Damages**

Promising young lives are sadly ruined every day by road traffic accidents. Nothing can make up for such tragedies but, as a High Court case showed, compensation can at least soften the blow and give hope for the future.

The case concerned a teenager who was one of five young men in a car that was seen travelling at excessive speed by a number of independent witnesses. As the car rounded a bend, the driver was confronted by a slow-moving line of traffic. He braked hard but lost control. The car veered onto the wrong side of the road, colliding with an oncoming vehicle.

The driver was fatally injured and the teenager sustained a depressed skull fracture and traumatic brain damage. He endured three bouts of surgery and several months of rehabilitation before he could be discharged home. He was, before the accident, a vibrant young man, keen on sport and physical fitness, who was just starting out on his working life.

He has made good progress in the years since and was able to move into a home of his own. He has the benefit of hugely supportive parents and is keen to find paid employment. He has, however, suffered a number of frightening epileptic seizures related to his head injury. Although currently well controlled, his epilepsy could recur, thereby compromising his independence and ability to work.

Although the car driver's insurers admitted primary liability for the accident, a 25 per cent reduction in the teenager's compensation was agreed on the basis that he had not been wearing a seatbelt. Following negotiations, a final settlement of his claim was achieved for a lump sum of £2,962,500.

Of that sum, his parents received a total of £47,000 as some modest reflection of the selfless care they have given him. A provisional award was also agreed whereby he can obtain further compensation in the event that his uncontrolled epilepsy resurfaces. Approving the settlement, the High Court had no hesitation in finding that it was just, fair and in his best interests.

If you are hurt in a road accident that is not your fault, it is important to establish the full extent of your injuries and their likely impact on your life, and to provide clear medical evidence in support of your claim, in order to ensure that you are adequately compensated. Contact **<<CONTACT DETAILS>>** for guidance.

**There is No Known Level of Safe Exposure to Asbestos – High Court Ruling**

Exposure to even very low levels of asbestos can be a source of tragedy many years in the future. The point was made by the case of a retired joiner who succumbed to asbestos-related cancer more than 50 years after he worked for just a few days on the construction of a flagship office building.

During the late 1960s, the man worked on construction of an insurance company's headquarters. The job lasted two weeks at most, but involved handling cement panels which contained asbestos. In 2019 he died, aged 83, from mesothelioma, a cancer of the lining of the lungs almost always associated with asbestos exposure. His estate lodged a personal injury claim against the successor to a large construction company for which he was working at the time of exposure.

Upholding the claim, a judge found that, given its scale and extensive resources, the company should have been aware, even in the 1960s, that his work would give rise to a more than fanciful risk of asbestos-related injury. There was, however, no evidence that it had provided him with any advice or protective equipment or conducted a risk assessment of the dangers his work posed.

Although the level of the man's exposure may have been low, it was measurable and not so insignificant that it could be regarded as trivial. Given the lack of evidence of any steps taken by the company to protect him, it could not reasonably have taken the view that there was a level of exposure below which there was no significant risk.

Overall, the judge could not rule out a significant possibility that his exposure on the building site was instrumental to him contracting the disease that killed him. The extent and duration of his exposure constituted a material increase to the risk of him contracting mesothelioma. The successor's liability having been established, the compensation payable to the man's estate was agreed at £107,500.

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.

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