

DGR Law News and Articles

Brain Injuries

BRAIN INJURY CLAIMS (UPDATE)

By David Goldsmith – Partner of DGR Law, Marlborough

As a ‘follow-up’ to my recent article regarding brain injury claims, I am pleased to report that I have made excellent progress in resolving the claim entirely.

To recap, brain injury (as opposed to brain damage) cases are complicated due to the severity of injury, treatment and prognosis for the future.

The most common type of brain injury that I see is what is known as ‘DAI’ or Diffuse Axonal Injury, which occurs in severe head traumas. In DAI cases, the injury affects a widespread area of the brain leading to long term problems with cognitive function and memory.

This type of injury can occur in an instant and often as result of a negligent act or driver error. By way of example, my Client took a lift to work with a friend. She was sitting in the front passenger seat and importantly was wearing a seatbelt. It was early morning and her friend was travelling too fast on a narrow country road, when the car clipped a storm drain kerb on the side of the road. The car swerved uncontrollably along the road and hit a van coming in the opposite direction, which had mounted the verge to try and avoid a collision.

The accident was caused by driver error because the friend was driving at over 70 mph on a country road without any thought for the conditions or consequences. The professional work that I do is often described as a ‘distress purchase’ i.e. people only seek my help when things go wrong; however, this case demonstrates that the path of an individual’s life and those around them can be altered so dramatically in a few seconds through absolutely no fault of their own and my role is to rebuild people’s lives as best possible.

My client was 18 years old at the time and suffered a Diffuse Axonal Brain Injury as a result of the impact. She survived due to the fact that she was wearing a seat belt; however, she spent 10 months in hospital, most of this in intensive care and now requires full time care and treatment to assist with daily living.

I was asked to help from the outset and visited my Client on numerous occasions whilst she was recuperating in hospital and many times since, to build the picture of her life before the accident and how her life is now.

It is difficult to believe; however, the insurers for the driver argued that he was not to blame for the accident and we had to fight to obtain justice. After a long battle, my Client was awarded Judgment by the High Court in the Spring of this year which confirmed that the driver caused the accident due to his negligent driving i.e. he was going too fast.

The investigation regarding the injury took many years to finalise with expert evidence in a number of different areas including: -

- Neurology
- Care
- Orthopaedics
- Neuropsychology
- Neuropsychiatry
- Speech and Language Therapy
- Finance and Investment

Witness statements have also been obtained from members of the family, friends and former work colleagues as evidence of this life changing event.

On 19th December 2012, I attended a meeting with the Solicitors for the Defendant and after lengthy discussions; we agreed an outline settlement to the value of around £3.5 Million to cover damages, future care expenses and costs for the remainder of my Client's life.

Care costs, which are indexed linked, will be paid annually and the capital sum will be invested for the benefit of my Client going forward.

There is a lot of work still to do because the outline settlement is subject to Approval by a High Court Judge and the appointment of a Deputy to manage the fund. In this regard, I am currently in the process of preparing an application to the Court with proposals for investment of capital.

This represents an excellent and comprehensive outcome and guarantees that my Client will receive the best care and treatment available from case managers and carers and to enhance the quality of her life and the lives of family members.

Finally, I would like to highlight the work of charities in this area to assist where possible in raising awareness. In particular, I would like to mention **Headway Swindon and District** of Headway House, 17B Headlands Trading, Headlands Grove, Swindon, Wilts SN2 7JQ (Tel: 01793 436 908) which is a registered charity carrying out excellent work supporting people with brain injury to attain the highest possible quality of life, to assist with independent living and to initiate activities and campaigns to reduce the incidence of brain injury and to help improve services for people with brain injury, their families and carers.

Headway promotes improved approaches of brain injury screening, acute care, assessment, rehabilitation and community regeneration.

Headway deals with many referrals from medical professionals but can often be the first port of call for people with brain injury and their families and the services that they provide as a registered charity is invaluable.

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