

## **Medical Negligence – Case Study**

**Our client v A Hospital NHS Foundation Trust (2012)**

**Year of incident: 2005 (our client was 23 at the time)**

**Date of Settlement: 17 December 2012**

**Acting: John Vallance, Partner at Wake Smith Solicitors**



### **Facts:**

- On 20/1/05, our client was admitted to the Mental Health Unit at the Hospital as a voluntary patient.
- On 8/2/05, he was diagnosed with a schizoaffective disorder.
- On 13/2/05, whilst on day leave, he took a paracetamol overdose. He was transferred to the A&E Department for the treatment of the physical aspects of the overdose and was placed under level 1 observation (1:1) by the psychiatric team because of the continuing 'very high risk of suicide secondary to delusional beliefs'.
- He was transferred to the Emergency Management Unit on the 1<sup>st</sup> Floor of the Hospital. On 14/2/05, he was transferred to a side room, which had an unprotected window made of ordinary glass by the side of the bed. During the early hours of 15/2/05, whilst under supervision, he climbed onto his bed and jumped through the unguarded window, intending to kill himself, falling 15 feet to the ground below, suffering a spinal fracture. His injuries were so bad that he suffers from paralysis of the legs and lower body; and will be a paraplegic for life.

### **Consequences:**

The catastrophic injuries suffered by our client exacerbated a pre-existing schizoaffective disorder. Our client's case was that his mental health problems would have resolved, but for the spinal injury (albeit that there may have been some occasional temporary lapses). The prognosis for his mental health condition was guarded.

The Defence disputed some elements of causation with regard to our client's mental health condition. However, there was no doubt that all of the consequences of his spinal injuries flowed from the admitted negligence. Our client is unlikely to work again and he will require care and support,

significant aids and equipment, together with additional medical and other therapeutic treatment. He requires wheelchair adapted accommodation.

### **Capacity:**

Although at the time of settlement our client was not a patient within the meaning of the Mental Capacity Act, there was a continuing risk that he might become so for transient periods throughout the proceedings and into the future, such that regular capacity assessments would be required in his lifetime, which would not have been necessary but for his spinal injury.

### **The Proceedings:**

Various interim payments were made by the Defendant to fund (amongst other things) case management, a care package, therapies, temporary accommodation needs, the purchase of a plot of land and commencement of building works for the erection of a purpose built permanent home (completed in April 2013). A 5 day trial on quantum was due to commence on 25/2/13, but the claim settled at a round table meeting on 17/12/13.

### **Prognosis:**

The parties' psychiatric experts were agreed that it was too early to provide a useful long term prognosis for our client's psychiatric condition; and that a meaningful prognosis could only be provided once our client was established in his new house with a proper package of support.

### **Settlement:**

The claim settled for a capitalised value of about £4.9m. The Claimant's breakdown of the settlement is as follows:

<b>(A) General Damages</b>	£190,000
Interest	<u>£15,000</u>
	£205,000
<b>(B) Past Losses</b>	
(including loss of earnings, care, equipment, therapies and accommodation):	<u>£1,195,000</u>
Past Loss Total	£1,400,000
<b>(C) Periodical Payments for life</b>	
(care & case management):	
Capitalised value (approx.):	£2,100,000
<b>(D) Other Future Losses:</b>	<u>£1,400,000</u>
	<b>£4,900,000</b>

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