



Non-Clinical Staff, Are They Liable?

There is a common misconception that non-clinical staff cannot be held liable for negligence. However, in 2018, a Judgment was made by the Supreme Court that confirmed that non-clinical hospital staff, as well as the Treating Clinicians, owe a duty of care to patients, and can therefore be held liable for negligence.

This case was *Darnley v Croydon Health Services NHS Trust* [2018].

The Facts

Mr Darnley attended the Accident and Emergency Department having been assaulted and, unfortunately, having suffered a blow to his head. Mr. Darnley informed the Receptionist at the Accident and Emergency Department of the circumstances of his injury and that, since the assault, he had been suffering with a severe and worsening headache.

Mr. Darnley was advised by the receptionist that the current waiting time to be seen was 4-5 hours. Mr. Darnley informed the Receptionist that he believed that he could not wait for that length of time as he felt as if his symptoms were markedly worsening and because of this, he felt as if he was going to collapse.

In fact, the Hospital's policy was that a Triage Nurse should see any patients that attended the Accident and Emergency Department with head injuries within 30 minutes of their arrival.

As Mr. Darnley was not advised of this and, as his symptoms continued to worsen, he made the decision to leave the Accident and Emergency Department to go home in order to take some pain relief and to rest.

After around an hour of Mr. Darnley leaving the Hospital, his condition severely deteriorated and because of this, Mr. Darnley collapsed. Mr. Darnley's family telephoned an ambulance and he was then transported back to the Accident and Emergency Department.

On Mr. Darnley's re-attendance at the Accident and Emergency Department, an urgent CT scan was performed. This scan confirmed the presence of an Extra Dural Haematoma. Mr. Darnley was then urgently transferred to a Neurosurgical Unit to another Hospital in order for an evacuation of the Hematoma to be performed.

Unfortunately, by then it was too late to prevent the development of permanent brain damage and long-term disabilities.

It was later established that if Mr. Darnley had been provided with the correct information in regards to waiting, he would have waited in the Accident and Emergency Department to be seen.

Court's Decision

Mr. Darnley made the decision to bring Court Proceedings against the Hospital Trust. He stated that he believed that the receptionist at the Accident and Emergency Department breached their duty of care by providing him with the incorrect information regarding waiting times and, that they had failed to adequately assess him for priority triage.

Initially, the High Court dismissed Mr. Darnley's claim. However, the case went to the Court of Appeal. Unfortunately, again, a majority dismissed the claim, as they believed that neither the Receptionist nor the Hospital owed any duty to advise about waiting times.

The Court of Appeal also confirmed that they believed that there was no link between any breach of duty and, the injuries that Mr. Darnley sustained. The Claim was therefore, appealed to the Supreme Court.

The Supreme Court granted the appeal and the case was therefore remitted to the Queen's Bench Division.

Supreme Court Ruling

The Supreme Court decided unanimously in Mr Darnley's favour and the judgment given by Lord Lloyd-Jones can be summarised as follows:-

Duty of Care

It was confirmed that it is well established that those who run an Accident and Emergency Department owe a duty to those presenting themselves with complaints of illness or injury.

Lord Lloyd-Jones confirmed that Accident and Emergency Staff, clinical or non-clinical, must take reasonable steps to avoid patients suffering foreseeable injury, which extends to providing accurate information to them. Lord Lloyd-Jones declared that the Hospital had a duty to take reasonable steps to avoid providing misleading information to Mr Darnley.

It was accepted that the hospital's receptionist should have advised Mr. Darnley, that a Triage Nurse would have assessed him within 30 minutes of his attendance.

Causation

In order to have a successful Medical Negligence Claim you not only need to prove that there has been a

Breach of Duty in the care received but that as a result of this negligence, it has caused an additional injury. Therefore, another important point of this case was to prove whether the Breach of Duty had caused subsequent injury to Mr Darnley.

It was confirmed that Mr Darnley would have stayed in hospital had he been provided with accurate information in regards to waiting times. Further, this would have led to the haematoma being evacuated much earlier and Mr. Darnley making a near full recovery.

Conclusion

This Supreme Court ruling now gives rise to questions as to whether a duty of care arises in other scenarios, such as with General Practitioner Receptionists as well as other Healthcare Facilities who may not be providing medical care but who are providing patient's information that could have implications on their medical conditions.

It has reinforced the need for Non-Clinical staff to ensure that they do not give out incorrect information and that reasonable care needs to be taken to ensure patients are not misinformed or mislead.

How can we help?

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