

**KABIF**

**PERSONAL INJURY LAW**

**Outline - Process of Bringing a Claim**

- Funding
- Law
- Parties
- Types of Damages
- Case Studies
- Time and Care

# HOW DO YOU PAY FOR IT?

- Privately
- Public Funding
- Union or LEI
- Contingency Fee
- Conditional Fee “No Win – No Fee”

# NO SUCH THING AS “COMPENSATION” IN ENGLISH LAW

We claim ‘Damages’ for personal injury and losses as a consequential result of negligent acts

# COMPENSATION

- Compensate
  - Counter Balance
  - Make Amends
  - Recompense
- Compensation
  - Thing given as recompense
- Recompense
  - Requisite reward or punish
  - Make amends

# DAMAGE

- “Harm”
- “Injury impairing value or usefulness”
- “Sum of money claimed or adjudged in compensation for loss or injury”

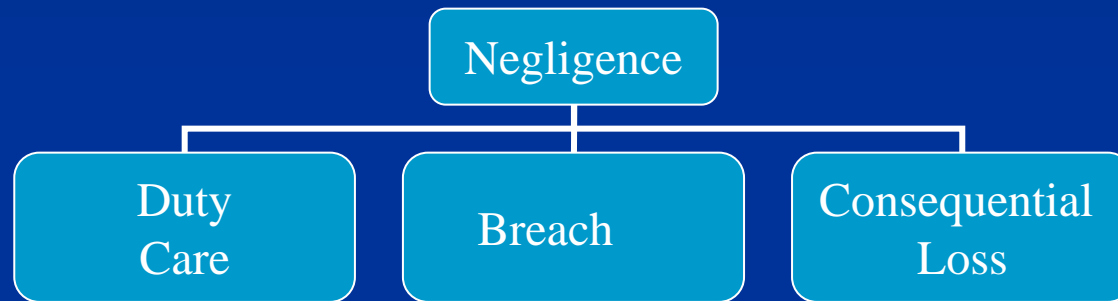
IT IS ABOUT MONEY NOT RECOMPENSE

# WHO CAN CLAIM?

- Not All (there has to be blame)
- Law is Complex
- Common Law
- Statutory Duties
  - Domestic
  - European

Put you back in position you were before .....

# YOU HAVE TO PROVE



# LEGAL TEST

- On the balance of probabilities
- Not beyond reasonable doubt

# NO OBLIGATION TO BRING CLAIM

- If do, have 3 years to do it (Limitation Act) unless child or Patient.
- From date of the accident or the death.
- Those serious injuries outside three years are worth looking at. Sections 11, 14 and 33 of the Limitation Act (1980) allow limited exceptions.

## Who

Claimant (brings the claim)

Defendant(s) (defend the claim)

## Where

Civil Court – County or High Court

(Jurisdiction England and Wales)

Outside the UK it is a Different 'Law'

# WHAT DO YOU CLAIM?



# GENERAL DAMAGES

- Medical Report(s)
- Pre-existing problems – exacerbation or new?  
“Never had problem before?”
- Hidden problems – TBI - can't see it on scan?
- What does future hold?
- One payment, one chance to get it right,  
no going back
- Lawyers take so long .....

- Yes, if it is your medical position that is delaying them / they are doing their job properly (You CANNOT go back)
- Most injuries need 12 months to settle
- TBI – take longer
- TBI – use a specialist solicitor
- Every case is unique
- Law Society PI Panel
- Headway Solicitors' List
- APIL's (Fellows)

# SPECIAL DAMAGES

- Past Loss - Interest 6% p.a.
- Future Loss - Accelerated Receipt  
(so discounted)
- Others - S v M (handicap award)
  - Loss congenial employment
  - Roberts v Johnstone

# Case Studies 2006

- Miss W  
Trial February – Claimant told claim worth £8,000 - £10,000  
by previous solicitors  
Awarded £275,000
- Mr D  
Trial June – Claimant told claim worth £120,000 - £130,000  
by previous solicitors  
Defendant offered £500,000  
Settled for £1.15 million

# Case Studies 2006 (Cont'd)

- Mrs X

Interim £2 million – purchased house, team - case manager, care, neuro - OT, physio, psychology and music therapy and hydrotherapy pool.

FP recovered £5.3 million in total for clients in 2006.

(Find a specialist, they can make all the difference)

- DAMAGES AWARDED
- IS IT OVER?

NO

# INVESTMENT ADVICE

- PI Trusts / Court Funds Office/ Independent Financial Advisers
- Court of Protection – Professional Receivership

So .....

All that hard work is not wasted .....

Although you can .....

Can spend it on what you like -