

**Psychiatric Harm - Some Q's to Consider...**

*Should psychiatric harm be treated differently to physical harm?*  
With regard to damages.

*How easy is it to diagnose psychiatric harm?*

*What happens if physical injury then leads to psychiatric harm?*

*Impact upon friends & family close to person suffering from the harm?*

**How to Establish a Duty of Care is owed for Psychiatric Harm:**

Set out in *Alcock v Chief Constable of South Yorkshire*.

**(1) Must be a Recognised Psychiatric Illness.**

eg. Post Traumatic Stress Disorder.

Organic depression (severe)

Pathological Grief Disorder.

*Dulieu v White*

Extreme stress/grief/sorrow – is not enough.

**(2) Are they a Primary or Secondary Victim?**

**Primary Victim**

Victim suffers psychiatric harm after being **Directly Involved** in an accident.

**C must have Reasonable Fear of Physical Harm:**

doesn't actually have to be harmed *Dulieu v White*

only of PHYSICAL harm - *Page v Smith*

*Chadwick v BTC*

*Boumediene v Delta Display Ltd*

*Monk v PC Harrington Ltd*

**Secondary Victim**

Victim suffers psychiatric harm after being **spectator/bystander/Witness** to an accident.

**Wilberforce's - Control Mechanisms – Which must be passed.**

**C Must have had...**

**(a) Reasonable Foreseeability.**

*Bourhill v Young*

**(b)**

**Proximity of Relationship.**

close relationship of **love & affection** with accident victim.

*McFarlane v EE Caledonia Ltd*

**Love & Affection??**

certain categories which can rebuttably be presumed to have it:

parent-child, husband-wife, fiances

**Siblings? All depends upon the facts of the case.**

*"the quality of brotherly love is well known to differ widely"* (Ackner)

**Exception:**

don't have to establish relationship of love & affection

Accident is **Exceptionally Horrific.**

What is exceptionally horrific???

**(c) Proximity in Time & Space**

view the events unfold or its immediate aftermath.

*McLoughlin v O'Brian*

**(d)**

**Proximity of Perception**

directly see/hear the accident or its immediate aftermath.

*W v Essex County Council and Another*

*Hambrook v Stokes*

**TV & Web Broadcasts:**

Live – more likely to have proximity.

Are the other mechanisms satisfied?

**(e)**

**Element of Shock.**

**1 shocking impact.**

A sudden impact which violently agitates the mind – brings on psychiatric harm.

*Sion v Hampstead Health Authority*