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 Boumedien v Delta Display Ltd Monk v PC Harringon 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...

(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???



(a)

Reasonable Foreseeability.

Bourhill v Young

view the events unfold or its immediate aftermath.

McLoughlin v O'Brian

(**d**)

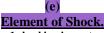
Proximity of Perception

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 satsfied?



1 shocking impact.

A sudden impact which violently agitates the mind - brings on psychiatric harm. Sion v Hampstead Health Authority