



TRAUMATIC BRAIN INJURIES

People who are injured in an accident can suffer many different kinds of injuries. Among the most serious are so-called traumatic brain injuries (TBIs), also referred to as “closed-head trauma.” These are also the hardest to diagnose and treat.

TBIs send more than 400,000 people to the hospital for treatment each year, 75% of these patients are males between the ages of 15 and 34. This group is over-represented because of their lifestyle: motorcycle riding without a helmet and participating in dangerous sports. Also part of this lifestyle is drinking too much and getting into auto accidents. Even though the majority of these injuries are moderate to mild, even a minor TBI can cause the victim to suffer serious problems.

Difficulty Treating TBIs

The problem with TBI treatment is that many doctors are not adequately trained in the neuroscience of head injuries and cannot properly diagnose the injury when they encounter one. Most doctors are capable of recognizing serious TBIs, as an example think of those that put a victim in a coma. Unfortunately, the less debilitating TBIs are more difficult to diagnose because there are frequently few outward signs of the internal injury. Misunderstanding the symptoms of moderate TBIs has multiple serious negative consequences, both medical and legal.

Many people who suffer such TBIs do not receive appropriate treatment. The long-term effects of a TBI can include many and varied symptoms, frequently related to brain function, such as seizures, headaches, dizziness, and problems with concentration and memory. TBIs can also cause other symptoms not commonly associated with the brain. This includes loss of motor control, fatigue, depression, speech disorders, anxiety, sexual dysfunction, and a short temper. Add an increased chance of getting lost or becoming agitated to the list.

Considering the variety of symptoms and the difficulty some doctors have connecting them to the TBI, treatment is frequently delayed or not provided at all. The patient continues to suffer, because they are often unaware of the cause of his problems. Even when a TBI victim has been diagnosed correctly the variety of symptoms has the potential to make treatment difficult and expensive.

Legal Obstacles

Legally, it is frequently difficult to prove that symptoms suffered by a TBI victim are directly related to the TBI. Because doctors can be slow to diagnose the connection, proving that a TBI has caused the symptoms that a person describes to the jury in a courtroom can be difficult.

Compounding the problem of the doctor's slow diagnosis, many jurors have trouble believing that a head injury can cause so many different problems. Especially since, not all of them are related to the victim's brain function. All of these factors make winning a full recovery of damages for the injury more difficult for a TBI victim.

Lessons Learned

Several lessons can be drawn from this. If you have suffered a TBI, including a minor one, and are suffering from symptoms that you never experienced before being injured, stay on top of your health-care providers. While not all symptoms that a person may suffer from are necessarily caused by a TBI, the range of symptoms is great. Keep in mind that it may take some time to get a correct diagnosis.

If you are involved in a lawsuit where you or a loved one suffered a TBI, be sure to retain qualified counsel to help you prepare and present what can be a difficult and complex case. This way you can help ensure that you are fully compensated for all of the injuries that you or yours have suffered.

AFTER THE INJURY

Victims of brain injuries will receive care from a broad range of professionals. Realizing the diversity of these providers is essential to understanding the gravity and magnitude of TBIs. The range of professionals who may have to be consulted illustrates the breadth of disability that a survivor must endure.

Perhaps the most important of these professionals is the neurologist. This doctor specializes in the medical treatment of the nervous system: the brain, spinal cord, nerves, and muscles. A neurologist makes an initial evaluation, diagnoses the injury, and consults on immediate medical care for the patient to follow.

Other professionals involved with individuals who suffer brain injuries include:

- Neuropsychologists • Physical Therapists • Respiratory Therapists
- Speech Pathologists • Occupational Therapists • Cognitive Therapists
- Educational Therapists • Vocational Counselors • Social Workers
- Therapeutic Recreational Specialists • Rehabilitation Case Managers

SOCIAL SECURITY DISABILITY BENEFITS

Many people have heard that disabled workers are entitled to disability benefits but have questions about the process of making a claim and collecting those benefits.

Q: Who can apply for disability benefits?

A: Benefits are available to disabled workers, disabled surviving spouses of workers, and disabled adult children of workers.

Q: What benefits are available?

A: If you qualify, the benefits come as a monthly check. If you receive disability benefits for at least two years, you are also eligible for Medicare.

Q: What does it mean to be “disabled”?

A: A worker is disabled when some illness or injury leaves him or her unable to do the work he or she did before, or to adjust and do any other work. The disability must be expected to last for at least one year or result in death. People who are partially disabled or who have short-term disabilities are not considered disabled by the Social Security Administration (SSA).

Q: How do I apply for benefits?

A: You can file an application on the SSA website, www.ssa.gov, by calling the SSA at 800-772-1213, or by visiting a local SSA field office. The application forms will ask for information about your disability, your doctors’ names, and information concerning your work.

Q: What happens after I file my application?

A: It is sent to the state Disability Determination Services office, who will investigate the claim.

Q: How long does it take for my application to be processed?

A: It depends. Usually it takes three to five months but can take longer depending on the nature of your disability, how quickly your doctors respond to requests for information, and whether a special medical examination is required.

Q: Can I lose my benefits?

A: Yes, if you are no longer eligible. Cases are reviewed periodically to see if the person receiving benefits still qualifies. The amount of time that passes between reviews depends on the severity of the disability and ranges from six months to seven years.

Q: What if I disagree with a benefits determination?

A: Whether it is a denial of a claim or a decision to stop your benefits, you can appeal the decision. In most cases, you have 60 days to appeal. If you are still dissatisfied after appealing, you may appeal further and can even go to court.

PETS IN THE CAR: BUCKLE UP

Most people today know the importance of buckling up when they get in the car, but few know that the same rule should be applied to their pets.

People will often drive with their pets in the car. That trip could be to the store, the park, or possibly a neighbor's house. However, most people don't secure their pets before setting out on their trip. Buckling in your pets is important, for multiple reasons.

First, an unrestrained pet might interfere with the driver's operation of the car, possibly causing a crash. In the event of a crash, an unsecured animal can be turned into a projectile, causing further injury to the pet or the passengers. An unsecured pet also presents a potential threat to firemen and EMS workers if there is a crash. For example, your dog might try to bite those trying to render aid, or he might run away causing further confusion.

Pets can be secured in a number of ways. Small pets, especially cats, should be kept in a pet carrier. Some stores sell special seats intended for small- to medium-sized pets. Larger animals may be strapped to the seat with a specialized seat-belt attachment.

No matter what system you use, the rule is the same for pets as it is for humans: Buckle up!

GOVERNMENTAL NEGLIGENCE

Tort Claims Act

With more and more government involvement in our lives there is an increased chance that you could be injured because of the government's negligence. Since the Middle Ages, the law of England has followed the edict that the "king can do no wrong" Meaning, if you have been hurt by the king or his agents, it is your bad luck.

Although the United States has no king, we follow English law, including this idea of "sovereign immunity." In its modern form, sovereign immunity prevents people from suing the government unless the government gives them permission to do so.

Because sovereign immunity can unfairly result in injured persons not being compensated for their injuries, the federal government and most states have passed laws called Tort Claims Acts. These laws give citizens advance permission to sue for certain kinds of injuries caused by government employees' negligence. If a claim is subject to the Act, the government is liable in much the same way as a private person can be liable.

However, the kinds of claims permitted by the Act are fewer than the kinds of claims that can be brought against a private person. For example, a citizen may be able to sue for injuries caused by a police officer's negligent driving but probably not for the police department's negligent failure to catch the thief who robbed the citizen. Also, claims

against the government may be subject to special rules and special time limits that differ from those in a normal lawsuit.

Don't despair because your injury was caused by the government. You do have rights, and we are here to help you protect them.

CASE BY CASE

When in Doubt, Recall

Toyota has received a lot of press lately for failing to act quickly to recall cars with accelerator problems. This is not the only company that needs to learn the importance of promptly recalling defective products. A recent case involving Caterpillar illustrates this point.

The case involved a tractor driver who was thrown from the seat of a Caterpillar tractor and was forced up against the machine's frame. Because of this accident, he suffered broken ribs, a punctured lung, and spinal injuries that have left him paralyzed from the waist down.

According to Caterpillar, the worker fell from the machine because he was driving in an unsafe fashion and hit a bump. This caused the machine to malfunction. However, an eyewitness testified that the driver was not driving too fast, and pictures of the site did not show a bump.

What the evidence did show is that Caterpillar knew of a mechanical flaw in the tractor that could cause it to suddenly downshift from sixth to second gear. They had been aware of the problem for years. Internal memos also showed that Caterpillar, in an effort to keep costs down, sought to delay a recall to address the problem. Then they sought to fix only certain parts instead of the whole system.

The jury was unimpressed by Caterpillar's attitude toward the safety of people using its product and found it responsible for the worker's injuries. It returned a verdict of almost \$16 million for medical expenses, lost wages, and suffering, and more than \$40 million in punitive damages.

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