



James Rowley QC



Contents

Clinical Negligence	1
Selected Cases	1
Personal Injury	2
Selected Cases	2
Recommendations	3

"The combination of his exceptional intellect with his reliability, care and attention to detail makes him one of the best barristers to work with."
(Chambers & Partners 2020)



Clinical Negligence

James Rowley has covered all the common sorts of case on liability over the years and many unusual ones. He has particular experience in the interpretation of CTG traces applying the NICE Guidelines of 2001 and 2007. An ability to find and focus on the key factors within the unique matrix of each case is what counts; but his experience includes:

- Obstetric and neo-natal mismanagement – IUGR, failure in CTG monitoring, excessive use of Syntocinon, cases of twin and home delivery, amniotic fluid embolism, premature labour, cord prolapse and shoulder dystocia. Perineal tears. HIE, hypoglycaemia and polycythaemia, persistent pulmonary hypertension, vitamin K deficiency and GBS infection in the new born, retinopathy of prematurity, achondroplasia/foramen magnum decompression.
- Delay in diagnosis – Premature precipitate labour, cancers (especially breast and colon), meningitis, subarachnoid haemorrhage, brain abscess, tetanus, diabetic foot, abdominal aortic aneurysm, cervical myelopathy leading to paralysis.
- Cardio-vascular events – Cardiac disease, stroke, mismanagement of hypertension, peripheral arterial and vascular disease, DVT.
- Generally – Minimally-invasive (keyhole) surgery, ERCP including torn oesophagus, gastro-enterological and colo-rectal disease, acute pancreatitis and hepato-biliary tract disease; gastrectomy and vagotomy; radiation enteritis; mismanagement of schizophrenia.

Selected Cases

- *Parkes v Mann* – No liability on a GP for failing to refer to hospital a woman in fact in premature labour but presenting with slow, almost silent dilation of the cervix (similar to common discomfort in pregnancy) rather than contractions. Precipitate delivery was not reasonably foreseeable: a GP could reasonably give advice to seek further assistance if there was some development.
- *Morris v Blackpool Victoria Hospital NHS Trust* – Despite a trial judge's error in rejecting the medical diagnosis of IUGR against the majority of medical evidence, his other findings were fair and securely

based on a reasonable approach to the evidence; and therefore his dismissal of a claim in negligence against the defendant hospital was upheld.

Personal Injury

James Rowley specializes in Personal Injuries litigation of maximum severity or special interest. His breadth of experience allows him to cover the entire spectrum of cases. He has a particular interest in military claims. An understanding of medical/expert evidence, numeracy and attention to detail in paperwork maximizes his client's position.

James Rowley has a detailed understanding of the law of tort as applied to personal injury cases, as well as knowledge of the relevant statutory duties and accompanying case law. He has covered cases on liability involving almost every conceivable type of personal injury claim including:

- accidents on the roads
- accidents on construction sites, in factories and involving Occupiers' Liability
- military accidents in training and disasters in Iraq and Afghanistan
- sporting injuries
- industrial diseases

On the quantification of claims, James Rowley takes an active role in choosing and leading the team; and he undertakes the preparation of detailed Statements of Case, Schedules and Counter Schedules himself in heavy actions. He has particular experience in cases of:

- amputee cases at all levels, including bilateral amputation
- brain injury including hemiplegia, blindness and dysexecutive syndrome
- spinal injury including paraplegia and tetraplegia, partial and total, and at different levels
- psychiatric Injury and especially P.T.S.D.

Selected Cases

- *Dunhill v Burgin* – In carrying out a retrospective assessment of a claimant's capacity to settle a personal injury claim, there was no reason why the court should have to consider her capacity to make decisions on issues which had never arisen. The issue of capacity had to be determined in accordance with what the person concerned actually did and not what she might have done and, on the evidence, the claimant had not rebutted the presumption in favour of her having capacity; and the resulting consent order was not void on that basis.
- *Dixie v British Polythene Industries Plc* – Abuse of process : discretion : late service : limitation periods : personal injury claims : reinstitution of proceedings : entitlement to re-issue proceedings following striking out of claim for failure to serve in time : s.33 limitation act 1980 : r.7.5 civil procedure rules 1998 : r.7.6 civil procedure rules 1998
- *Threlfall v Hull City Council* – Breach of statutory duty : personal protective equipment : protective clothing : risk assessment : statutory interpretation : suitability : waste disposal : correct approach to assessing "suitability" of personal protective equipment within meaning of Reg.4 Personal Protective Equipment at Work Regulations 1992 : relationship between Reg.4 and Reg.6 Personal Protective Equipment at Work Regulations 1992 : Reg.4 Personal Protective Equipment at Work Regulations

1992 : Reg.6 Personal Protective Equipment at Work Regulations 1992 : Reg.4(3)(d) Personal Protective Equipment at Work Regulations 1992 : Reg.4(3)(a) Personal Protective Equipment at Work Regulations 1992

- Stanley v Bryn Close t/a Armthorpe Moto Parc – Contributory negligence : duty of care : motor sports : motorcycles : vicarious liability : marshalling : training and employment regime. The court determined that a motor track operator was both vicariously and directly liable for the actions of one of its track marshals, following a collision between two motorcyclists, as it had failed to properly employ and train the marshals.
- The Kajaki Dam Disaster v MoD – Liability compromised on confidential terms between a section of 3PARA losing limbs and life in a minefield in Afghanistan in 2006. Chinook rescue helicopter attempted to land, the downwash causing further detonations. Issues on liability involving combat immunity and the duty of care; resources; practicalities; military planning and deployment of proper aircraft in Medevac.
- Samantha Roberts v MoD – Liability and quantum compromised on undisclosed terms. Sgt Roberts, the 1st British casualty of the 2nd Gulf War, was shot and killed by his own side having given up his body armour, which was in short supply and would have saved his life. Issues involving combat immunity and the duty of care; political constraints on the open purchase of equipment in the run up to the declaration of hostilities while UN Inspection Teams were still in Iraq; deficiencies in training in the firing of the coaxial machine gun of the Challenger 2 tank.
- In the PTSD Group Actions – Multiple Claimants v MOD – Ministry not generally in systemic breach in the past when the risk of chronic/delayed PTSD was thought to be low. Ministry immune under Statute prior to 1987 and with continuing Common Law combat immunity as widely defined. However, 4 of the 14 Lead Claimants established liability (subject to statutory immunity in early cases) for Bolam breaches in their care after combat. CBT and drug therapy found to be effective in the treatment of PTSD.
- Craven v John Riches et al & Knockhill Racing Circuit – High Tetraplegic. Negligence – Sport – Tort. Occupiers' Liability: motorcycles: race tracks: events: enthusiasts: speed groups: riders: excessive speeds: unexpected dangers: causation: factors causing accident: duty of care: obstructions: contributory negligence: Occupiers' Liability Act (Scotland) Act 1960.
- Jebson v MOD – "Ministry liable for injury after night out" – where an obligation of care was implied or assumed in respect of a person who was likely to be drunk, that liability could not be avoided because the person was inebriated.

Recommendations

"A 'great strategist', who has an impeccable track record in complex industrial disease and high-value accident claims."

Chambers & Partners 2012

James Rowley QC is a Band 1 Silk and "is regarded by sources as 'a fine advocate who is always fully in command of his brief and has an exceptional eye for detail'."

Chambers & Partners 2012

James Rowley QC "is a 'brilliant lawyer both academically and forensically', and is 'heartily recommended' for both complex PI and clinical negligence matters'."

Legal 500 2011