



If you hear of any international decisions of interest, please forward them to

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Wrongful life decision in France

The Cassation Court, the highest court in France, has handed down a landmark ruling that compensation can be awarded for a person being born with severe handicaps instead of being aborted. In this case, the claimant was a 17-year-old boy, represented by his parents, who was born deaf, retarded and nearly blind as a result of Rubella. The doctors had failed to diagnose the Rubella and the courts found that, although the doctors had not caused the injuries, their negligent failure to diagnose the Rubella had led to the circumstances in which the child was born with these handicaps.

Fertility clinic produced too many babies

In Sheffield, England, the High Court has ruled that a fertility clinic was in breach of contract after a client gave birth to triplets instead of the one or two children she had wanted. The claimants had wanted one or two embryos implanted but the clinic implanted three to improve the chances of pregnancy. The claimants were seeking the cost of raising the third child and a ruling on damages is expected shortly.

Council liable for child's injury

In *Jolley v Sutton London Borough Council*, the House of Lords held that the council was liable for the injuries suffered by the plaintiff, when he was crushed by an abandoned boat in a derelict condition on council land. The plaintiff, then aged 14, was trying to repair the boat when it fell on him and left him with a broken back and consequent paraplegia. The council had allowed the boat to remain on its land and so was found to be liable, not only for the reasonably foreseeable situation where children played with it, but also for the present situation where children attempted to repair it in an unpredictable way.

Right to privacy of sexual preference

The right to maintain sexual orientation as personal information has been upheld in the US Court of Appeals case of *Sterling v Borough of Minersville*. The case involved a man who committed suicide after the police threatened to tell his family that he was gay. It was held that the law protects a person's

sexual orientation from forced disclosure. (Source: The National Law Journal, 11/20/2000, <http://www.nlj.com>)

Contributory Negligence for failing to report side effects

In the U.S. case of *Brown v Glaxo Inc*, a patient was found to be 30% at fault and the drug manufacturer 50% at fault for the patient's death resulting from the use of a prescription migraine drug. The patient did not report the change in intensity and type of side effects from the drug to her doctor. This delay in reporting was at least partly caused by the contradictory information provided by the manufacturer that weakened its consumer warning and created confusion over the nature and seriousness of the chest pains which were a side effect. (Source: ATLA [L@w](#) News Digest, 30 November, 2000)

Increase in damages for personal injury

The UK Court of Appeal, in considering several personal injury cases together, has decided that the damages awarded for pain, suffering and loss of amenity in certain personal injury cases should be increased if a fair, reasonable and just result were to be obtained. It decided that awards above £10,000 should be increased by a maximum of one third, but that no increases should occur for damages under £10,000. In seven of the cases considered, awards were increased whilst one appeal case was dismissed. The cases were *Heil v Rankin and another*, *Rees and another v Mabco (102) Ltd (in liquidation)*, *Schofield v Saunders & Taylor Ltd*, *Ramsay v Rivers*, *Kent v Griffiths and others*, *Warren v Northern General Hospital NHS Trust*, *Annable v Southern Derbyshire Health Authority* and *Connolly v Tasker*.

Too young for 'wrongful death'

In the U.S. the parents of an eight-week-old foetus that died unborn failed in their wrongful death claim against physicians because the child was found not to be "quick". In *Citron v Ghaffari* it was found that a wrongful death claim required the child to at least be capable of movement. (Source: ATLA [L@w](#) News Digest, 30 November, 2000) 