



# STILLBIRTH AND THE LOSS OF A NEWBORN BABY

**Tragically and despite medical advances, it is estimated that 13 babies are stillborn or die soon after birth every day in the UK. This loss is, understandably, devastating for the baby's parents and wider family.**

Sadly, errors in medical care mean that some of these babies should have survived. No amount of compensation can make up for the loss of a child, but the pursuit of a claim and involvement of medical experts can lead to questions being answered about what went wrong. A successful claim may also give rise to compensation, which may be used to help parents recover from the anxiety, anguish and loss they have experienced.

Confirmation can be requested from the hospital that changes have been made to policies and procedures, where appropriate, to make sure that there is as little chance as possible of the same mistakes being repeated again in the future.

## HELPING PARENTS

Claims relating to the management of pregnancy, childbirth and the early period after a baby is born (known as the 'neonatal period') can be particularly complex. Frustratingly, the financial value recovered for parents in these, most distressing circumstances can be limited where a baby does not survive, but there is a need for expensive expert evidence to investigate the claim and for some this can be a barrier to pursuing damages.

We are experienced in selecting the best experts to thoroughly investigate the care received – we know who to ask which questions and can translate the answers to parents to give a greater understanding of what caused their loss and to secure financial compensation, where appropriate.

The entitlement to compensation in a case where a baby has passed away before, during, or shortly after birth can also be complex and we have significant

experience in presenting the loss that a family has incurred. Losses can include:

- financial compensation for the trauma of going through pregnancy to be left without a living child at the end;
- financial compensation for the loss of the child, known as a 'bereavement award';
- financial compensation for the psychiatric injuries a mother sustains resulting from the loss;
- financial compensation for psychiatric injuries suffered by the father or other close family member present at the birth (in very limited circumstances as a result of strict legal tests);
- the cost of psychiatric treatment to aid recovery;
- funeral/memorial costs;
- expenditure for items the baby never used;
- the cost of private care for future pregnancies;
- the cost of private surrogacy for future pregnancies.

## SOME CAUSES OF STILLBIRTH AND NEONATAL DEATH

There are many reasons why a baby may be stillborn or pass away shortly after birth. Some of the problems that can lead to this happening are:

- problems with the placenta (the organ that provides oxygen and nutrients to the baby before it is born);
- a baby's restricted growth in the womb, often referred to as 'fetal growth restriction';
- the placenta coming away from the lining of the womb (uterine rupture and placental abruption);
- twin to twin transfusion syndrome;
- failure to identify and respond to pre-term labour (labour before the 37<sup>th</sup> week of pregnancy);
- failure to respond to a mother's waters breaking



before delivery, especially where the baby is premature (prolonged rupture of membranes or prolonged premature rupture of membranes);

- compression of the umbilical cord during delivery;
- a haemorrhage;
- high blood pressure;
- maternal diabetes;
- a lack of oxygen either before or during birth;
- poor resuscitation at the time of birth;
- an untreated infection in the period following birth (for example, Group B Strep).

### RECENT EXAMPLES OF OUR WORK

Here are some cases where we have successfully pursued claims for parents following the loss of their baby\*:

#### *Failure to diagnose placental abruption*

Our client, Jane, arrived at hospital in labour and with a severe, sharp pain in her abdomen. She had a previous caesarean section due to pre-term labour. Although she was in labour, she only had limited contractions. Jane was reviewed by a midwife who did not appreciate the significance of the abdominal pain. An ultrasound scan was eventually performed to look for the source of the pain and our client was told she was to have a caesarean section. When she was ultimately transferred to theatre, the medics involved appreciated that this was actually a medical emergency and acted swiftly to deliver baby Dylan, but tragically he was stillborn and did not respond to resuscitation.

Our investigation identified that our client was at a heightened risk of placental abruption due to her previous pre-term caesarean section, (meaning that the scar was higher up on her uterus than it would otherwise have been). On her arrival at hospital with severe abdominal pain, the midwife should have realised this was a medical emergency and immediately called the doctor to review her, with a caesarean section being performed urgently thereafter. Had this happened, Dylan would have survived.

We obtained an admission of liability and an award of damages for Jane. She and her husband both received compensation for the psychiatric injuries they had suffered, along with the other losses incurred, and

damages to compensate them for the distress and trauma associated with losing their baby.

#### *Inadequate monitoring during labour*

Our client, Clare, went into natural labour and attended hospital after her waters broke. On arrival, the midwife noticed meconium in her waters, which can be a sign that the baby is struggling. A decision was made to undertake continuous monitoring of the baby during labour by the use of a cardio tachograph machine (CTG). This CTG machine tracks the baby's heartbeat to look for patterns to show any signs that the baby is in distress. As Clare's labour progressed, the midwife in charge of her care had difficulty identifying the baby's heartbeat and struggled to read the recording of the baby's heartbeat from the CTG but she allowed the labour to progress without seeking any help. Right up until birth, the baby's heartbeat was being written down as present. Baby Emily was born critically ill; she was not breathing and it took over 30 minutes to resuscitate her. Her father witnessed this vigorous resuscitation. Sadly, Emily passed away within the next 24 hours.

Our investigation identified that the midwife should have called for a member of the obstetric team to review Emily much earlier on during the labour, due to the difficulties in recording her heartbeat and the suggestion, from the recording available, that the baby was in distress. Had this review been carried out, Emily would have been delivered as an emergency and probably would have survived.

We secured an admission of liability for Clare and her husband and they both received compensation for their psychiatric injuries suffered as a result of losing their child. In addition, we recovered the cost of private care for future pregnancies and treatment costs for the couple to recover from the psychiatric injuries they had sustained.

We also secured a detailed apology from the trust for the failures in the care resulting in Emily's death and confirmation of the process changes that had been put in place to avoid a recurrence of this tragic event.

*\*Names have been changed to protect our clients' identities.*



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## NEXT STEPS

If you wish to discuss the care you or a family member received when your baby was stillborn or passed away shortly after birth, please contact one of our experts. Our initial advice is offered free of charge and without obligation.

## FIND OUT MORE

For further information or to discuss your potential claim with an experienced solicitor, please contact:

T: 0800 328 9545

E: [clinnegspecialist@penningtonslaw.com](mailto:clinnegspecialist@penningtonslaw.com)

