

NHS liable for trauma of patients' relatives

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By Henry Bodkin

NHS hospitals face paying millions in compensation to family members whose loved ones undergo botched medical procedures after a grandmother successfully claimed for suffering PTSD following the birth of her granddaughter.

Calderdale and Huddersfield NHS Foundation Trust were ordered to make the payout after a chaotic delivery which left the new-born with permanent neurological damage. The

unnamed baby, which came out "flat and purple with a swollen head", did not start breathing for 12 minutes - her mother and grandmother believed she was dead.

Until now, family members traumatised from witnessing negligent medical care have found it extremely difficult to win damages.

While patients' groups have welcomed the ruling, it could mean health bosses, wary of large legal bills, start limiting the number of relatives present during hospital procedures. Nigel

Poole QC, head of King's Chambers and a medical negligence specialist, said: "I would not underestimate the importance of this decision.

"There are potentially a lot of people who could bring a claim like this."

The High Court found the midwives at Calderdale Birthing Unit did not properly anticipate the risk of delivering a 10lb baby.

The girl suffered an acute hypoxic ischaemic insult as a result of an unnecessary 11-minute delay in delivery in April 2011. Mr Justice Goss also

found the midwives had deliberately stopped a specialist obstetrician entering the room during a crucial stage in the emergency, and that the hospital subsequently destroyed medical records after the legal action had begun.

The mother had raised concerns about her baby's size during antenatal appointments, but "offhand" midwives had told her "big babies just slip out".

In the event, the girl's shoulder became stuck behind her mother's pelvis.

Historically, courts have been very reluctant to award damages to family

members who witness traumatic scenes in hospital on the basis that it would open the floodgates to thousands of claims, and that relatives should expect possible unpleasantness when they go to hospital.

However, Mr Justice Goss found that watching a complicated birth was "sufficiently horrifying" for both mother and grandmother to claim for PTSD.

Suzanne White, a medical negligence expert at Leigh Day, said that hospital chief executives normally try

to settle such cases behind closed doors to avoid setting a precedent.

"This ruling puts the cat among the pigeons," she said.

"The NHS don't like this kind of case because there could be a huge number of them."

Calderdale and Huddersfield NHS Foundation Trust has said it will appeal against the decision.

"The Trust recognise and regret that a number of lives have been adversely affected by the events of this case," a spokesman said.