ACCIDENT NEUROSIS

By Dr. Henry Miller

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In Great Britain, if you injure yourself at work, there are two avenues of compensation. The first is National Insurance. Prior to the National Insurance Act of 1947, we had a Workman's Compensation Act which was very similar indeed to the Act which you have in operation at the present time. The 1947 Insurance Act made the following alterations—first, all employed persons were compulsorily insured for the results of industrial injury, and second, the machinery of dealing with this was completely removed from the Workman's Compensation Act. What happens is, if you injure yourself at work (this has no relation to failure to take care or negligence at all), say you were an orthopaedic surgeon rushing up to the theatre, and you fall over on the stairs and sprain your ankle, you have a claim against the Minister of Accident Insurance because the accident was sustained at work. Or, if you are an orthopaedic surgeon and you are violently intoxicated and are on your way to the operating theatre and you fall and sprain your ankle, it would not affect your claim. Whether or not negligence were involved, this is an industrial accident, and you can claim your compensation.

Now, for about three months, things sail along very pleasantly, you get your compensation and that is that, but after three months the Minister, on reviewing your case says you must appear before a Medical Board. You must be examined by two medical practitioners who gauge your disablement. This is the first method where it diverges from the method of other States in Australia, although I think it is managed much more logically here. It is not a case of the man not being able to go back to work; it is an assessment of the average member of the community. In other words, if you were the first violin in the symphony orchestra and you fractured your right index finger and could no longer do pizzicatto, your position is exactly the

[For the scientific details of Dr. Miller's paper, see the full text of his published lectures, reproduced as an appendix to this volume, by kind permission of the editor of the British Medical Journal.—Ed.]

same as the plumber. It concerns the mere assessment of physical evidence of injury relating to the general member of the community. So, the drunken orthopaedic surgeon who sprained his ankle gets an assessment of 10 per cent from the Medical Board. Actually, he is incensed and disgruntled, and after a reasonable passage of time, he appeals, and his appeal is referred to the Medical Appeals Tribunal. The Medical Appeals Tribunal is chaired by a member, usually of fifteen years' standing and a Silk, and the members are two consultant physicians—very often in England, it is an orthopaedic surgeon and one other chap. The Medical Appeals Tribunal reviews the case, it looks at all the documents, and it can call an opinion from anybody it likes. It then makes a decision and the decision on matters of clinical fact is final. It is possible to appeal against the Medical Appeals Tribunal but in any case it is a matter of law and there is about one appeal a year out of every two thousand cases. This appeal is finally decided medically by two very hard-headed consultants and a barrister invariably joins the Tribunal. He joins the Medical Appeals Tribunal with the firm conviction that all claimants are charming and honest people who have been "done" by brutal and sceptical employers, and after a year, the consultants are trying to hold him back from trying to get everybody to believe the reverse position.

We have an extremely comprehensive system of social security of which I am very proud.

We feel if people are allowed to take it for a ride then it will cease to exist, so we administrate pretty strictly. Forget then for a moment the matter of national insurance. Take the case of the drunken orthopaedic surgeon who staggered up stairs and fell. Subsequently he is seen by some of his colleagues who say he is worth about £7 and he receives cash and goes back to work, but if the orthopaedic surgeon is able to prove to the satisfaction of one of Her Majesty's High Court Judges that the fact that he has slipped on the steps of the operating theatre was due not to his state of intoxication but to the fact that the Secretary of the hospital permitted soft soap to be left on it, then he can sue under common law for negligence or failure to observe a statutory obligation. It is in these cases where a claim is made under common law.

I use the term "accident neurosis" to describe a well recognized disorder characterized by complaints of disabling subjective nervous systems which follow accidental injury or quite often

an accident without any injury at all. The condition has long been very familiar to neurologists and psychiatrists under the heading of traumatic neurosis, litigation neurosis or compensation neurosis. It is a disorder of industrial civilization because it usually follows accidents sustained either at work or on the road. There are more than one million people injured in Great Britain in these circumstances every year; three-quarters of a million at work and a quarter of a million on the road. Sixteen million working days are lost every year in Great Britain as a result of industrial accidents alone. These risks and these figures increase every year despite enormous efforts to keep them down. Two conditions are necessary for the development of accident neurosis. The first is the accident must be one that, potentially at any rate, will attract financial compensation. The second which is easily satisfied is that in the injured man's opinion the accident must be due to somebody else's fault. The symptoms of accident neurosis are amongst the most stereotyped in the whole of medicine. The usual complaints are of agonizing headaches, terrible backaches, depression and quite often intractable, inexplicable, and increasing pain at the site of injury. But the most invariable and consistent of all the complaints is an unshakable conviction of unfitness for work. After some months this often gives place to a reluctant admission for fitness for light work which unfortunately is not available. This perhaps is an appropriate time to remind you that I hold a Diploma in Psychological Medicine. It is interesting that no objective evidence of emotional disturbance, tremor or axillary sweating is ever encountered in these patients. On the other hand, the patient wears an atmosphere of approaching doom. He can hardly be persuaded to relax or smile by any effort on the part of the examiner. I have virtually stood on my head to obtain a smile, more often than not as the result of enormous effort it has been successful.

These patients also quite often complain of loss of memory, a complaint which is at striking variance to the detail in which they describe the accident after a two and a half year period. The only signs of animation are when the doctor injudiciously suggests the patient's symptoms may possibly be improving, when he will indignantly insist they are unchanged since the moment of the infliction of the blow or they have been steadily becoming worse over a period of years. There are certain physical results of injury which go on becoming worse like osteo-arthritis, but to my mind there is nothing either organic or functional in post-concussional

symptoms after a period of years following a minor injury. Another constant feature is the absence of response to treatment of any kind. In the case of working men they have to report to their doctor for periodical certificates of incapacity, but many women who have accidents of this kind never seek any kind of treatment. That is, they do not seek any treatment until finally after repeated questions from solicitors and consultants they go and consult their general practitioner after several years. In any case the doctor working in an industrial area, where claims of this kind are legion, knows that treatment will be useless and often signs the periodical certificates and leaves it at that. There is a tacit understanding between the doctor and patient, all too well supported by fact, that the condition will not improve until after settlement. They take the multi-coloured drug now available to the psychiatrist and they begin electro-convulsive therapy. None of these things work. Furthermore, I defy any neurologist or psychiatrist who sees a patient with accident neurosis to really work out how much of what the patient says is due to the accident and how much is due to the treatment. Unsophisticated psychiatrists, who are in very good supply in Great Britain, often send these patients to rehabilitation centres or convalescent homes. In my experience the patient usually enjoys his stay there and feels that in some general way it has done him good. On the other hand, his symptoms are unchanged. If I might synthesize a history from one of many thousands of these cases I have now seen in the course of an extensive and lucrative practice. An unskilled labourer, either with an uneventful previous history or who perhaps suffered earlier industrial accidents, begins further disablement processes when he stumbles over a piece of wood carelessly left on the factory floor. At home such an accident would have been greeted with an expletive but on this occasion the man goes straight to the ambulance room where dressings are applied and where the incident is carefully entered in the accident book as is demanded by law. The injury is trivial. He finishes his work that day and almost invariably puts in three or four days more work. During these days he has talks with his friends and a member of the trade union. The official encourages him to formulate a claim for compensation just in case the injury could give him trouble at a later date. Fateful words! The man stays away from work to visit his doctor who knows his job is heavy and agrees to his own suggestion of a week's rest.

During this time he suffers loss of sleep, loss of appetite, irritability and is easily upset. He cannot stand the noise of his children and banging doors annoy him like mad.

Of course, the doctor should have kept him at work, told him he would be all right in a week and to get back on the job. All too many doctors support the essential theory that absence from work is in itself a form of medical treatment. They are all responsible for this kind of nonsense. However, had the doctor said this and sent the man off to work—I don't know what the conditions of practice are here—the man would not only have removed his family from the doctor's clientele, but they would have told all the people in the street, and the doctor would be minus a good many patients. The only way to get over this is to have a full-time medical zone like we had in the War. Much time is spent, often with outside medical support, in pointless physiotherapy, where his now normal limb is heated, massaged and exposed to coloured lights. Such convalescence is spent wandering the streets, watching the television and just being "at home". During convalescence, he compares notes with a handful of fellow-sufferers, and his symptomology is subsequently enriched. Any treatment he has, whether from a psychiatrist or from a general practitioner, tablets or E.C.T., makes no difference. However, the patient knows if he gets better his financial reward will be less. If his symptoms get worse or deteriorate, the amount of money they are worth is bound, under the special damages, to increase.

Finally, the case comes to Court or settlement after two years or very much more. More than 90 per cent of these cases are settled out of Court in Great Britain, but the sense of drama in lawyers is such that this almost invariably occurs on the steps of the Court five minutes before the Judge is due to take his seat.

In a small number of cases where the case reaches trial, the case may collapse because of lack of proof of negligence. The man then has had two years of psychotic neurosis for nothing. These patients have my deepest sympathy. Often, however, some minor carelessness or negligence is sustained and an award is made of a few hundred pounds. In this type of case, Counsel for the Defendant puts to the medical witness with every confidence that once the case is settled rapid improvement of the Plaintiff will occur. Counsel for the Plaintiff then leaps to his feet and says, "This is something which occurs quite frequently, and the reasonable probabilities are many of these people will be disabled for life." He is repeatedly seeking to have his present

client fall in this category. Neither Counsel nor the Judge have any idea what the reasonable probabilities are—anyway they had no idea until I published my lectures in 1963.

In summary then, the facts about accident neurosis: It is commoner in men than women, commoner industrially and after a road accident, commoner in the labouring classes than amongst skilled workers and farm workers. It rarely affects the man with the fractured skull. It bears no constant relation with the frightened state. It does not occur in children, though their parents are often anxious to persuade them. A well trained secretary is an expert at keeping parents out of the room. When you ask the child what is the matter, the child says, "I am absolutely marvellous;" the mother looks round the door and says, "Tell him about the nightmares!" I do not think children get these conditions. This condition shows no response to treatment and it nearly always gets better after the settlement of the compensation. What is it? The greatest authority on this condition says it is due to ingrained masochism or castration or both. If you can believe that you can believe anything. Personally I do not think accident neurosis is an illness at all. I think its nearest relative is the so-called war neurosis of the disgruntled non-combatant conscripted soldier. I think the illnesses are motivated and I find it quite impossible to accept the assurances of some of my psychiatric colleagues that the motivation is unconscious. Their theme is that the man is behaving like this, they know it is all bogus, nevertheless the man does not realise he is behaving bogusly because money is involved. I think not only are they aware of the money but often excessively preoccupied by it. I do not think there is such a thing. I have said enough now merely to indicate I feel this is a social disorder. I do not think prevention is up to the doctor. Accepting the person's socio-political stability I think there is only one thing which would materially reduce its tremendous impact, that is if the law would be persuaded this is in fact a result not of the accident but of the compensation issue and of the whole circumstances surrounding it. If this were really accepted in law and all this nonsense written off, I believe we would get rid of it in the same way as we got rid of "railway spine" which in the 19th century bid fair to get rid of the English railway system entirely. I believe this is as bogus as railway spine. However we may have it until we can persuade our legal colleagues about this.

Discussion

DR. G. SPRINGTHORPE: I think the outstanding virtue that Dr. Miller possesses is his courage in following up the logic of his own observations. It may be that something about the rugged Northern character enables a strange doctor to knock on the door of a house and immediately enrapture the inhabitants. In Australia I think he would stand more chance of being kicked out or of the police being called; I am not sure, for I have never tried.

There is one point, Dr. Miller, that you mentioned and perhaps you could comment on it—that is, the patient who at some stage after an injury develops a quite definite acute psychotic illness. Dr Sinclair and I and some others tend to try and put the view before the Courts that acute psychiatric illness is not caused and is not due to injury or minor injury. I recently appeared in such a case where a man was in a motor car accident and had the very mildest of concussion, if anything. He went back to work the next day, worked at the same job for over a year, then went to another job and worked for eight months. Two years afterwards he had a schizophrenic breakdown. He achieved £9,000 from the jury for his schizophrenic breakdown, the breakdown being allegedly caused by, or substantially caused by, his motor accident. I suppose this whole thing of post hoc ergo propter hoc is a legal principle, but could you say for certain if he had not been in this accident he would not have got schizophrenia in two and a half years? Of course, no one on God's earth can say that. If you are an honest witness, as most of us are, I would like to ask you, with time to answer, what your feeling is about this ethnological significance. On the other hand, I recall another Mediterranean client who had an accident and he was taken to the Royal Melbourne Hospital. He did not speak any English at all and he at once became virtually paranoid immediately. It seemed to me difficult to believe that this could be sensibly attributed to the relatively minor accident.

These cases should be dealt with earlier, because everybody in the psychiatric and medical world knows the longer you leave these neurotic cases go on the worse they get, whereas the insurance companies seem to be labouring under the comfortable illusion if you wait years they will get better. I always say in my reports—I almost implore them—to try and settle these. If you have any suggestion by which insurance companies can expedite this I would be glad to hear it.

DR. H. MILLER: I quite agree with the matter of an earlier decision. I do not know what can be done to achieve this, but it certainly is true I think, in this issue there is a real conflict of feeling between the doctors and lawyers. The lawyers say, "We do not want to settle until medical finality." The doctor knows medical finality will not be achieved before settlement is reached. For this reason, there is a real conflict of feeling which arises from a difference of approach. With regard to psychosis, I agree with Dr. Springthorpe. My own general feeling is this, if it is a major injury it is not unreasonable to put down what happens to him afterwards to that, provided it is not too long. The cases I object to are where a man's enormous disablement is claimed to follow trivial injury. We know this is really nonsense medically. If a man injures his little finger and then develops schizophrenia we know this is legal fiction. My feeling is if a man has a major injury he deserves a lot of compensation. If it is a trivial injury then his claim for a grave disability is almost certainly bogus, and this I think is very common. I think it is quite amazing that in Australia you have these cases tried by a jury, not only on a medical issue and, commonplace to all cases, issues of negligence are extremely commonplace. I think this is an indication of a basic conviction of Australians that experts are not to be trusted or, indeed, that any kind of authority is to be trusted.

I have not got an enormously high opinion of a few English Judges, but the majority of them are men of extremely high intelligence and they are expert at weighing up medical evidence. I would not willingly abandon the present legal system in England, despite its failings, for anything else. I have thought, "Wouldn't it be nice to have a medical referee?" and I thought, "No." I think the person riding in this rat race and who knows how much weight to attach to the evidence of some bizarre psychiatrist with outlandish qualifications and very bizarre expressions, he does not carry much conviction with the Judge.

I have a new technique which I have tried with a great deal of success, saying, "I do not say this man is either hysterical or malingering, because I do not think any one can tell the difference. Malingering is simulation of disability, and hysteria is simulation of disability at an unconscious level. I cannot tell the difference; I am not clever enough." When I say this, Counsel leaps to his feet and says, "You are not saying my client is malingering, are you?" I say, "I do not know." He says, "Is he malingering?" I say, "I do not know whether he is malingering

or not." He then looks at me and says, "Doctor, you have all the qualifications and the diplomas and you say you do not know." So, I say—"I do not know whether he is making the whole thing up or not." At one time this went on for about twenty minutes and finally the Judge said, "It is no good pressing the Doctor too far, I sit here day after day, and it is my job to find out whether people are telling the truth, and I often find it quite impossible."

JUDGE NORRIS: Dr. Miller is a most disturbing person, but having said so much may I say that all the violent criticisms which Dr. Miller has directed to the law should properly be directed not to the law, but to his own profession. After all, if somebody gets a substantial award of damages for some neurotic condition because he injured his little finger, he has at least got to get to the jury by the aid of some medical witness who says that the symptoms which the patient alleges followed the injury to the little finger were in more probability than not due to the injury to the little finger. Courts and juries can only act upon evidence and the evidence in these matters of causation must be expert evidence and the expert evidence that is called is medical evidence.

Once Dr. Miller convinces his colleagues that what they have been saying for years is nonsense, the conclusions which juries and judges arrive at will be no longer nonsensical. But I feel that the discussion this evening must be substantially carried on between the doctors and I regret to find such a doughty psychiatrist as Dr. Springthorpe not striking a blow for the traditional views, if I may so call them, which are presented before us from day to day.

SIR CLIVE FITTS: The presentation that Dr. Miller has put to us tonight has been a useful corrective but I do not think that he would say to us that it represents entirely a balanced statement about a person who has an accident.

DR. H. MILLER: The term "malingering" is a very difficult one to ascertain, and I try to avoid it. I cannot tell the difference. The symptoms are entirely subjective. Signs of psychiatric illness do not show in most cases, and it is something which does not usually get better until they get their money.

Again I agree with Judge Norris in that this is an extremely difficult field. All I have tried to do is show the conclusions I drew from the findings I got. These are a small minority of patients. When taken all round most of them get better and go back to

work. I think most of the minority are people who are liars and cheats, and I dislike being taken in by them. Perhaps I have become quite paranoid about it and perhaps need treatment myself.

MR. A. L. TURNER: There was a time when the Privy Council laid down a rule there should be no recovery for nervous shock, and that rule was overturned by statute in Victoria, but as an authority it is still binding on some other jurisdictions in Australia, and if a person was at pains to distinguish a case or there was a case in which he was able to say that the rule was not binding on Australian Courts because this was a medical problem, and if the medical evidence showed nervous shock followed his physical consequences, they could establish there was nothing in the way of the Privy Council decision which could stand in the way of authority.

DR. MORRIS DAVIS: I am all for Judge Norris's comment. We, the medical profession, Mr. Chairman, are responsible, and I think it is high time that we took action and got our house in order, and I am saying this provocatively because tonight I think I have heard the most exciting paper that I have heard in many a long day. I trust that we ultimately get that message through so we can bring the law into line. That we accept the fact that humanity has its weaknesses, that when this event occurs there is perhaps an element of sociological, economic or background factor that makes the patient act this way. Do not call him psychiatric. Let us give him a certain amount and then push him along to get on with the job.

DR. H. MILLER: The answer is something which is unacceptable for compensation, in other words, if they examine you and can not find anything wrong with you, you get nothing. I favour this because I would sooner see nine out of ten people who get psychiatric disorders get nothing. I think this would do much less harm than giving an awful lot of people a great deal of encouragement to remain away from work for two to six years.

MR. JUSTICE EGGLESTON: Mr. Chairman, I have great pleasure in moving a vote of thanks to Dr. Miller. I enjoyed his discussion as everyone else obviously did, but for me it had a particular significance because in the exercise of my jurisdiction in the A.C.T. (which I share with two other Melbourne judges) we have the task not merely of directing the jury what damages they should award, but of assessing the damages ourselves, because in that

jurisdiction, civil cases are not tried with a jury unless a special order is made, and in the history of the jurisdiction I do not think there has ever been a special order made as yet. So, we are confronted with this kind of case, and I have more than once asked medical witnesses who have said, "Of course most of the cases get better after litigation is over", I have asked them, "Has anybody done any work on this?" I have occasionally had rather vague references to what I now recognise to be Dr. Miller's work, but never any detail, and perhaps that is a reflection on the medical profession in Canberra or Sydney (from which most of the experts come) that they do not present this information to the Judge. However, I have been most interested to hear about it and particularly in a recent case where a man had sustained an injury about September of one year, and whose case was fixed for trial in the following year. Between the date when the case was fixed for trial and the date of the trial, he came back home from work in tears and announced he could not go back to work. The case being called on, his legal advisers said, "We want an adjournment —this man has had a breakdown and we want him referred to a psychiatrist for treatment." It took, I think, another two years to get the case on for trial and it came before me quite recently. The coincidence of dates is psychological, the symptoms commenced about the time the writ was issued, and presumably when he had some discussion with his legal advisers as to how much he was going to claim. His inability to work was from the date of issue of the writ, and he had not worked since that time. I came to the conclusion in fact he was likely to make a fairly quick recovery. I accepted his medical evidence this was a genuine neurosis, and he was not a malingerer. The doctors in that case appeared to be able to determine this matter, and the rather odd sequel was, between the time I heard the case and the time I delivered judgment, his wife committed suicide; she was convinced when I reserved judgement the case was lost. They then applied to re-open the case on the grounds that his chances of recovery would be very much impaired by the fact that he no longer had a wife to look after him and so on, but I refused to re-open the case. I had a private feeling, having seen the wife, he would probably make a quicker recovery anyway, and it was therefore rather easier to resist the application for re-opening. However, these are only illustrations of how valuable it is to members of the legal profession and those who have to actually make the assessments, to hear someone who has really got down to earth

and investigated the subsequent history of people who have these post-traumatic neuroses, and I especially, and I am sure everyone else present, am tremendously indebted to Dr. Miller for his most stimulating, interesting and always amusing remarks tonight. I have great pleasure in moving a vote of thanks.

DR. SPRINGTHORPE: I have very great pleasure in supporting this. I think the matter is of such importance throughout the whole of Australia, such vast sums of money and enormous amounts of absenteeism from work are involved, that I feel that we should not just go away from this lecture feeling that we have at last met one man who has most of the answers, and letting things go on as they have hitherto done. I have always felt—perhaps this is an escape mechanism—that in some way it would be worthwhile or possible for the insurance companies to initiate or underwrite or arrange for some follow-up work to be done on cases, or some of them, in, say, Melbourne. We might come to different conclusions from those of Dr. Miller. The people may be somewhat different; I do not think they would be, but the fact remains it has not been done here.

There would be a very large number, one in eight or one in seven, of European persons who have come here since the war. I have no figures, but I have a very strong impression that I receive more than one in eight people for insurance company claims who are European migrants. I think the number of people who have this syndrome, whatever it is, is somewhat higher in these persons. They have had a pretty hard time before they came here and some of them are quite hard headed and I think they are quick to see that this is the promised land flowing with milk and money.