

Socio-Economic and Psychological Implication of Personal Injury on Family Life.

By

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Abstract.

Personal injury to a member of the family often results in devastating effects on the victim and other members of the family unit in the form of grief, physical disability, emotional depression, dashed hopes for the dependants, penury and threat to economic and continued marital survival of the family. This paper examines in considerable details the circumstances and ways under which the family is negatively impacted by personal injury. It also discusses the inalienable rights of members of the family including children to take decisions about their persons on medical issues. The paper concludes that in a developing society such as Nigeria, it is imperative to put functional public and social policies in place to provide succour for families whose breadwinners are suddenly rendered incapacitated by personal injury.

Introduction.

The family unit is the strongest organised association of man bonded by blood affinity or ancestral ties with most members playing vital roles for the sustenance of the unit. The family is the smallest unit in the social structure of every society.¹ It is generally accepted that the family is the basis of every human community, and the family may be regarded as the nucleus of society. Sometimes, the concept of ‘family’ in African perspective could include ‘extended family’ which has been defined as:²

...a group of closely related people, known by a common name and consisting usually of a man and his wives and children, his son’s wives and children, his brothers and half-brothers and their wives and children and probably other near relations.

Personal Injury could result in devastating and negative consequences on the victim’s family life, in the form of discounted and psychological lifestyles. A substantial minority of injuries involves an important disruption of work and family life. The affected families may have little or no savings, and they may be kept barely out of poverty by too low-wage incomes in jobs with neither flexibility nor job security.

The impact of disabling workplace injuries on these families will almost certainly be much greater than on the average family. This is well established in the United States of America where the probability of a disabling work-place injury is itself unequally distributed, with low-income and minority workers concentrated in less-safe jobs. Given the growing inequality of family income in the United States, these negative impacts of work-place hazards have, in recent years, become additionally concentrated at the bottom of the income distribution³. Personal

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¹ E. I. Nwogugu, *Family Law in Nigeria*, (HEBN Publishers, 2011) xxvii.

² M. M. Green, *Land Tenure in an Ibo Village* (Lund Humphries, 1941) 2-3.

³ <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC1449455/> accessed 11/11/2017.

injuries could impact negatively on family life in many ways which could be summarized as follows⁴.

Physical Deformity

The affected member of the family could suffer physical deformity or changes in appearance which could range from minor and unnoticeable deformities to those that dramatically change the way the victim/claimant looks. There could be awkward and odd-looking scars or extreme deformities that could result to social challenges to the victim and his family members, where children may no longer be proud of their family members.

Mobility

Personal injuries like sprains and dislocations could affect a person's movement in a temporary or permanent form, depending on the severity..

Loss of Income:

Personal injuries could cause the victim to lose income. The loss could be significant if treatment procedure requires full concentration and complete abstinence from work.

Career Growth:

The extent of personal injury could hamper a person's career growth. The stage of a person's work-life could be static especially for works that require specific skill. The victim's career could be compromised or even halted.

Financial Cost and Expenses:

The medical expense of the claimant could be overwhelming. It could sometimes include orthopaedic treatment and affect the family finance and general wellbeing of the family.

Emotional and Psychological Pains/Trauma:

Personal injury could cause trauma, nightmares and general instability of the claimant which would adversely affect family stability and order.

Loss of Consortium:

This refers to the inability to have normal marital relations.⁵ Such loss arises when a spouse has been injured and cannot participate in sexual relations for a period of time or permanently due to the injury, or suffers from mental distress, due to a defendant's wrongdoing, which interferes with usual sexual activity. This topic shall be examined in the light of the impact of personal injury on the major family members namely; the father, mother and child.

The plight of family members who suffer personal injury, and by extension the entire family of the victim are resonated by the absence of public policy on compulsory insurance policies for factory and construction industry workers in cases where the victim was a breadwinner. In the family.

Where the wife is the personal injury victim

Women are usually regarded as the hub of the matrimonial home. The upkeep of the home, upbringing of the children and putting the home tidy and in good shape are some of the primary responsibilities of the woman. Other responsibilities include her matrimonial obligation to the

⁴ <http://budgetandthebees.com/7-ways-a-personal-injury-can-affect-areas-in-your-life-sponsored/> (accessed 16 August, 2017).

⁵ <http://legal-dictionary.thefreedictionary.com/loss+of+consortium> accessed 24/9/2017.

husband who is the head of the family unit. Most times, the husband contends with making effort to put food on the table while leaving the coordination of the other home management to the wife. Where the wife becomes the victim of personal injury, a lot of things would be adversely affected at the home front either in her capacity as wife or mother. In *Nigerian Bottling Company v Constance Ngonadi*⁶, the plaintiff who operated a beer parlour in Benin City was introduced to the use of kerosene refrigerator called “Evercold” by the appellant in its capacity as the sole distributor of the product in Nigeria. In the course of use, the refrigerator exploded and caused extensive bodily injury to the plaintiff/respondent who was unsuspecting because she relied on the appellant’s skill and judgment. The injuries suffered from the explosion affected the breastfeeding of her children, the colour of her hair, breast and hands. The medical doctor one Dr Samuel Ozomokhua who testified as plaintiff’s witness said in his evidence:

I medically examined her and found as follows: Burns of the breast muscles, right side of the face extending to the right side of the ear and neck, the whole of her arm... the scar cannot get back to the original colour of the skin... therefore, the plaintiff cannot lift heavy loads with the right hand nor withstand muscular assault...she cannot properly wash clothes, grind pepper or pound yam...she will easily get tired in discharging her domestic duties...this would affect the breastfeeding of her children...

Other germane negative effects of the injuries on the plaintiff included the fact that she would be unable to use the normal female cosmetics to avoid the risk of having cancer of the skin, she could also not afford to take part in cultural dances where the breasts and arms are expose, and had to wear long sleeves to avoid exposure of the ugly scar left there after the burns and had become susceptible to quick ageing of the hand and skin. Although the plaintiff/ respondent was awarded the sum of N30, 000.00 by the Supreme Court, it certainly could not translate to restoration of her happiness and fulfilment as a family woman, since no amount can restore or adequately compensate a shattered human frame⁷. The plaintiff in the quest for sustenance or support for family found herself in the unfortunate incident that resulted in a lifelong deformity and the unpalatable reality of her ability to render her unusual domestic and motherhood obligations. On a similar note, in *United Bank of Africa Ltd v Mrs. Ngozi Achoru*⁸, the plaintiff who was a teacher by profession suffered extensive physical injuries when the appellant’s driver drove negligently and caused the plaintiff to swerve and collide with a tree. As a result of injuries sustained in the accident, the plaintiff could only walk with the support of a stick, she could no longer jump across a gutter, and was unable to partake in certain social activities that she used to derive joy in doing, such as dancing and playing games. These negativities directly affected her fulfilment and happiness as a family woman. The Court held that the overall effect of the injuries on the plaintiff resulted in loss of earning from occupation, loss of amenities of life and pain and suffering.

Evidently, the plaintiff suffered the injuries at the prime age of 28 years when life still had a lot for her in terms of enjoyment of social amenities of life and fulfilment as a happily married wife with her limbs intact. She summarized her predicament as follows;

⁶(1985) 1 NWLR (Pt. 4) 739

⁷ Hanseatic case

⁸(1990) 6 NWLR (Pt. 156) 254

I am still in pains as a result of the accident. I still need to walk with a walking stick. I was 28 years at the time of the accident. I no longer play games like tennis or even jump. I cannot take part in any physical exercise. I cannot even dance.

From the totality of the plaintiff's experience, it is obvious that it would take a passionate, loving husband to sustain the hitherto happiness in the matrimonial home. It would take even a greater degree of patience and tolerance to fill the gap that would have been created in the home in the form of the plaintiff's inability to perform her usual domestic chores, all as a result of the physical deformity that was least bargained for by the plaintiff.

Gynaecological Complications arising from Negligent Medical Procedures.

The impact of personal injury on a woman could be devastating, ranging from inability to bear a child, or take care of her children, or the home. In *Lim Poh Choo v Camden & Islington Area Health Authority*⁹, the plaintiff a 41-year-old doctor was admitted for minor gynaecological dilatation ad curettage (D & C) operation, after which she suffered a cardiac arrest which led to an irreversible brain damage. She could neither talk nor walk. The conclusion by the doctor who explained her was that she would require maximum personal assistance for the rest of her life and would not be able to function as a psychiatric doctor that she was. She was awarded a substantial sum as damages. Certainly, Dr. Lim, being a psychiatric doctor was by virtue of her status a bread winner, and prospective family woman. However, the reality of either of the foregoing was scuttled by the medical accident which resulted in her being rendered a vegetable for the rest of her life. Her happiness as a woman was taken away her dream of being an accomplished psychiatric doctor had been aborted and she now had to be dependent on the assistance of others including her mother.

There have been occasions where the family happiness has been shattered, sometimes to the extent that loved ones are lost due to obstetrician's negligence. In *Kralj v McGrath*¹⁰, the plaintiff, a woman of 35 years, was admitted to the hospital for the expected birth of twins. In the course of delivery, the consultant obstetrician without the use of anaesthetic put his hand inside the plaintiff to turn the second twin, who was lying in a traverse position by manual manipulation of it head. This led to severe disabilities in the baby who died eight weeks after. The plaintiff also had to deliver the baby by caesarean section as the doctor's effort proved abortive. This resulted in great pains to the plaintiff, it also drastically altered the plaintiff's plan being that she had decided not to have any other baby, after the twins. In an action brought against the hospital, the Court awarded substantial sum as damages. In his evidence, Professor Huntingford, a distinguished doctor and Professor of Obstetrics and Gynaecology said:

The acceleration of the labour was undesirable in the case of Mrs. Kralj because it would make the rotation of the second twin more difficult ... what happened to Mrs. Kralj was horrific treatment, completely unacceptable, breaking all the rules made to safeguard the mother and the baby ... What Mrs. Kralj had undergone was an excruciating, painful experience, and indicated very bad practice which was totally surprising.

In this case, Mrs. Kralj was said to be at risk in any subsequent pregnancy which would have been totally avoided but for the misfortune that befell her. In *Felicia Ojo v Dr. Gharoro &*

⁹(1979) 1 QB 196

¹⁰(1986) 1 ALL ER 54

*UBTH*¹¹, the plaintiff had a surgical operation in the University of Benin Teaching Hospital for the removal of a growth in her fallopian tube, so she could get pregnant. In the course of the operation, the 1st and 3rd defendant negligently left in the plaintiff's womb a broken needle as a result of which she experienced great pains. To remove the broken needle, the plaintiff was subjected to a second surgical operation which proved unsuccessful at locating the broken needle. Instead she experienced more pains and swollen tummy. A third surgery was performed by a private medical practitioner Dr. Egharevba, who was still unable to remove the broken needle. The plaintiff was then referred to the University College Hospital, Ibadan for exploratory laparotomy¹² under fluoroscopy in order to remove the broken needle.

She did not call any of these gynaecologists as witnesses. As a result, she was said to have failed to establish a case of negligence against the defendants. Her claim was accordingly dismissed. The plaintiff in this case suffered numerous misfortunes in her quest for a fulfilled life as woman. First, her prospect of being able to bear a child (which was her primary aim of choosing to undergo ill-fated surgery was lost to the negligent surgical procedure by 1st defendant and treacherous surgical needle used. Whereas, the quest for ability for her to carry a baby in her womb was the singular reason that propelled her in the first place to undergo surgery for the removal of the growth in her womb in the defendant's hospital. The second negative effect was that the plaintiff was by reason of the broken needle left in her body subjected to excruciating pains, and three subsequent operations, this time not to enable her to bear a child, but to save her life from the complication. Thirdly, she was by reason of the defendants' negligent act subjected to financial expense in a bid to have the broken surgical needle removed from her body.

Probably or most presumably, providence would have favoured her one day and she would have been able to carry a baby in her womb without removing the growth. Her quest for a better and healthier life netted her in the irreversible quandary of complete state of hopelessness in childbearing. Who knows what would thereafter become of her fate in her matrimony without the least prospect of being able to carry a child not due to her fault but by reason of the defendant's act of negligence?

Religious factors

Once the negligent act of a tortfeasor results in injury to a claimant, the fact that the claimant refused to compromise her religious faith and submit to a particular medical procedure in order to ameliorate or avert an imminent danger that would ordinarily have occurred without such procedure would not be a defence to the defendant. In *Walker-Flynn v Princeton Motors Pty Ltd*,¹³ P, a young Roman Catholic woman whose pelvis was fractured in an accident caused by D's negligence, had, by the date of the trial given birth to two children by caesarean section, and evidence was led that further caesarean sections would become progressively more hazardous, but that P, because of her religious beliefs, would not minimize the danger of a future pregnancy by resorting to artificial means of *birth control*. The trial judge directed the *Jury* to decide whether the religious belief was genuinely held and reasonable, and, if it was, to award damages on that basis. The *Jury* awarded substantial damages, and the award and direction were upheld on appeal.

¹¹ (2006) 10 NWLR (Pt. 987) 173

¹² The surgical opening of the peritoneum to expose the abdominal contents.

¹³ (1960)60 S R(NSW)488

Housekeeping Ability

A housewife who becomes inactive in the home could become unable to do her usual primordial house chores, once she suffers permanent injury or severe injury. Sometimes, she is constrained to engage the services of house help. Where this turns out to be the situation, the personal injury victim can claim damages for loss of housekeeping ability in the pre-trial period. This claim is on the assumption that the plaintiff needed domestic help to compliment her domestic responsibility. She is entitled to compute the entitlement on multiplier basis. It is an item of special damage and can be claimed under a separate head. It is irrelevant that the plaintiff did not employ domestic help during the pre-trial period. The amount is calculated based on the estimated cost of employing the necessary house help.

In *Daly v General Steam Navigation Co. Ltd*¹⁴, the plaintiff, a housewife aged 34 with young children was seriously injured in an accident while driving on the defendant's passenger vessel due to the defendant's negligence and suffered permanent disability in her right arm. Her claim for damages against the defendant included a claim on her own behalf for loss of her ability to do her housework in respect of both the period between the accident and the trial (pre-trial period) and the future years. The plaintiff did not in fact employ domestic help in the pre-trial period since her husband and his (husband) sister helped her in the house. The trial judge treated the whole plaintiff's claim for loss of housekeeping as a separate head of damage and not an element of general damages for pain and suffering and loss of amenity; and measured that head of damage according to the estimated cost of employing the necessary domestic help. The claim succeeded. In his judgment, Bridge L.J of the Court of Appeal (Civil Division), referred to and replicated the trial judge's (Ormrod LJ) statement which read:

Having considered the matter, I have reached the conclusion that this disability should be treated as a separate head of damage. When a person in paid employment suffered a total or partial loss of earning by reason of disability, such loss is invariably treated as a separate head of damage, with separate assessment of past and future loss. Where the person concerned is a housewife who is disabled wholly or partially from doing housekeeping in her own home, she does not suffer an actual loss of earnings, and unless a substitute is employed, she may not suffer any pecuniary loss at all. Nevertheless, she is just as much disabled from doing her unpaid job as an employed person is disabled from doing her paid one, and I think that she is, in principle entitled to be compensated separately for her loss in a similar way.

It is irrelevant that the injured housewife did not have the resources to employ a house help. This inability does not detract from the entitlement of the award of the cost of employing someone to do the job. The learned Court of Appeal Judge referred to an excerpt of the trial Judge's comment wherein he said:

The Daly's did not have the resources to employ such assistance in the past, but I do not think that the plaintiff's loss should be assessed at a lower figure on this account. The loss occurred and the cost of employing someone else is no more than a way of measuring it.

The injured housewife is also entitled to cost of employing the services of a house help to do her housekeeping job from the date of trial, for the rest of her life. This is calculated based on estimated number of years she must live with the disability in terms of her life expectancy. This is calculated by taking a multiplier half the number of years she has to live. It is irrelevant that

¹⁴ (1980) 3 ALL ER 696

the plaintiff may never employ domestic assistance or may choose to expend the sum awarded on luxuries which she would ordinarily have been unable to afford. The rationale behind this principle is that damages awarded as cost of future employment of domestic assistance is predicated by the court's view of what she reasonably needs to compensate her for her own disabilities. In his judgment in Daly's case, Bridge LJ said:

It is really quite immaterial, in my judgment, whether having received those damages the plaintiff choose to alleviate her own housekeeping burden which is an excessively heavy one, having regard to her considerable disability to undertake the labour which has been taken as the basis of the estimate on which damages has been awarded, or whether she chooses to continue to struggle with the housekeeping on her own and to spend the damages which have been awarded to her on other luxuries which she would otherwise be unable to afford.

In situations where woman in the home becomes unable to perform her usual responsibility to her family members, the home experience sadness and incompleteness. It takes a lot of patience and understanding of the husband and children to cope with the inadequacies created thereby.

Where the Husband is the Victim.

Men can experience an injury or illness as a result of a negligent procedure or inadequate care. Incorrect advice, mistaken diagnosis, lack of care or even a failure to safeguard your health can cause serious damage which may be permanent¹⁵. Injury could also result from industrial injuries and disease; road traffic accidents; crime and abuse and medical negligence and sports injuries. Where the man who is usually the bread winner of the family becomes the victim of personal injury, many things go wrong in the home.

In this case it becomes obvious that he could no longer practise his trade as he used to before the accident. It is also beyond doubt that the possibility of being employed elsewhere becomes every remote and this will obviously have adverse effect on the his ability to cater for his family.

The wife could be constrained to give up her paid job to enable her take care of the husband. The financial responsibility of the upkeep of the home which is the primary responsibility of the husband automatically falls on the shoulders of the wife. The accident could even have a more devastating effect on the husband, such as loss of consortium. The husband's unhappiness or inability to be productive as he used to be, adversely affect the mood of the home.

Occupational Illnesses.

Industrial diseases include asbestos related diseases, e.g. mesothelioma, vibration white finger, black lung; noise related hearing loss and factory accidents. These tend to affect men more than women for the simple reason that men are more likely to be employed in these types of occupations than women. Occupations such as coal mining, construction work, labouring, engineering are traditional male areas of work¹⁶. These types of jobs have usually been undertaken by men which is because they involve heavy lifting and carrying which requires a great deal of physical strength. Motorbike accidents tend to involve more men than women, and this can be attributed to the fact that more men than women ride motorbikes. Men are more likely to be the victim of a violent crime such as physical assault or mugging which results in

¹⁵ <http://www.medic8.com/healthguide/personal-injury/male-health-claims.html> accessed 13/6/2107

¹⁶ [<http://www.medic8.com/healthguide/personal-injury/male-health-claims.html>] accessed 10/5/2017

a personal injury. The 16 to 24 age group for men is most at risk although this equally applies to women in this age group. Medical accident could result in injuries to the male reproductive system and include sterility and erectile dysfunction (impotence). Football and rugby are still dominated by men although increasing numbers of women are participating in these sports. This increased participation may result in a rising number of claims by women.

Loss of Consortium

Consortium relates to the right of the spouse to all the normal relationships with his or her mate. A good definition of the elements of the marital relationship that comprise consortium is set out in *Tribble v Gregory*¹⁷ as follows:

The interest sought to be protected is personal to the wife and arises out of the marriage relation. She is entitled to society, companionship, love, affection, aid, services, support, sexual relations and the comfort of her husband as special J rights and duties growing out of the marriage covenant. To these may be added the right to live together in the same house, to eat at the same table, and to I participate together in the activities, duties and responsibilities necessary to I make a home. All of these are included in the broad term, "conjugal rights."

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This principle remains the same either in the case of road traffic accidents that result in such injuries. In *Compagnie Generale de Geophysique (Nig) Ltd v Luke Asaagbara & Anor*¹⁸, the plaintiff was a casing clerk in the employ of the defendant/ appellant's oil exploration company was injured by a sharp stich which pierced the plaintiff's overall garment, penis, scrotum and stomach leading to impotence. The defendant company was held liable to the plaintiff for the injuries sustained, it was held that if the defendants had provided the plaintiff with the appropriate safety work tools and cleared the bush paths of sharp sticks the accident would have been averted.

¹⁷ 288 SO 2d 13, 16 (Miss. 1974)

¹⁸(2001) 1 NWLR (Pt. 693) 155.

In a similar development, the plaintiff a 34 years old crane operator in *B.C.C (Nig) Ltd v Okpara Elemadu*¹⁹, suffered a severe bodily injury and burns all over his body leading to exposure of his intestines. The accident occurred because the plaintiff was given a faulty crane to operate in the course of his duty. In the process, the boom of the crane touched a high-tension cable which result in electrocution of the plaintiff. The medical doctor who treated the plaintiff in his evidence said:

In my experience where there is loss of a limb, parts of a body or (sic) leaves a scar, it can affect them to the extent of even loss of libido so if the PW1 says that since the incident he is no longer able the copulate i.e. have sexual intercourse with his wife, I will not be surprised.

The above medical evidence sufficiently established a case of continuing permanent disability. On a similar note, in *Paul Ebe v Albert Nnamani*²⁰, the plaintiff was riding his Yamaha motorcycle when suddenly the 1st defendant drove the 2nd defendant's trailer and veered onto the road and knocked down the plaintiff, spilling his testicles on the road. The medical doctor who treated the plaintiff confirmed that he (plaintiff) had lost 100 percent of his reproductive function. The plaintiff became unable to sexually satisfy his wife. This led to his being deserted by the wife. The medical doctor recommended a remedial alternative that the plaintiff could be flown to the United States of America for transplant of testes, which was also no guarantee that the plaintiff could make a woman pregnant. The defendants were held liable for the permanent disability of the plaintiff and cost of testes transplant.

A dispassionate appraisal and careful perusal of the foregoing cases under this sub-head reveal a harrowing tale of how sexually active men were rendered involuntarily impotent and castrated by accidents attributable to the negligence of others. With the hope of regaining the hitherto ability to reflect sexual fulfilment and satisfaction, the victims were reduced to a situation of life where they could only stare at their wives and imagine rather than experience the pleasure of sex as matrimonial obligation. In other situations, as in *Ebe v Nnamami*²¹, the plaintiff was not even lucky enough to have a wife to stare at after the accident and ensuring impotence, having been deserted by his young wife. This is one of the many devastating effects of personal injury on family life.

Children as Victims of Personal Injury

Children are prone to injuries and illnesses but usually recover without any ill effects. But, unfortunately there are some children who sustain an injury which is so severe that it causes a permanent disability or even death²². Children are naturally boisterous and enjoy exploring their environment without any fear or awareness of the potential dangers. Children are likely to become injured in the following places: school, at home, on the roads, parks and playgrounds, school trips and many other public places. There is no limit to the number of places where a child can become injured; this means that it is always virtually impossible to protect them from danger.

There are rules and guidelines in place to ensure that children are kept safe and free from harm but if any of these fails then the aftereffects can be devastating. A nightmare situation for any parent is seeing their child become injured and as a result of negligence or a lack of duty of care. This causes untold distress for both the child and their family. The law assumes that

¹⁹ (2005) 7 NWLR (Pt. 923) 28

²⁰(1997) 7 NWLR (Pt. 513) 479

²¹(1997) 7 NWLR (Pt. 513) 479

²² <http://www.medic8.com/healthguide/personal-injury/children-s-accident-claims.html> accessed 2/05/2017

children do not have the same well-formed judgment as adults do and has fashioned special rules for compensation and liability in accidents involving children. In general a child has a right to compensation for pain and suffering, permanent injury, or disability in the same manner and for the same amounts as an adult. Also, a parent has a separate right to be compensated for medical bills paid on behalf of a child²³. Most personal injury claims pertaining to children involve the legal theory of negligence. This requires showing that the defendant owed a duty to the child victim and breached this duty, resulting in injury to the child. The duty that is owed is based on the circumstances of the case. It may involve the requirement for the defendant to act with the ordinary care that a reasonably prudent person would act in the same situation. For example, if the accident involved an automotive accident, the duty of care is to drive with the same care and skill that other reasonable motorists would exhibit under the same conditions. If the case involves medical malpractice, the question is usually whether the healthcare provider acted with the same care and skill that another doctor with the same specialty and experience would have acted in a similar geographic region. It is normal to assume that every child would grow up to become a responsible and fulfilled adult in the society.

Other factors that are taken into consideration under such pathetic circumstances include marriage prospects for the deformed child, shortened life expectancy, loss of self-esteem and psychological inferiority complex. All of these add up to the award of substantial damages to the victim. In *Wise v Kaye and Another*²⁴, by reason of the negligent driving of the defendants, the plaintiff, a girl aged twenty, was rendered unconscious and received serious injuries to her brain, which lessened her expectation of life. She was still unconscious three and a half years after the accident and was not expected ever to recover consciousness. At the time of the accident she was in employment, and she was engaged to be married. The trial judge awarded £879. 8s. 11d. special damages, being loss of earnings to the date of trial, £2,000 general damages for loss of probable future earnings, which was based on probable earnings during the period the plaintiff might have been expected to live but for the accident, £400 damages for loss of expectation of life, and £15,000 general damages for her physical injuries and the resultant loss of the amenities of life. It was unlikely that she would be able personally to enjoy the damages awarded or that they would be "used to maintain her. Before the accident the plaintiff, at that time aged twenty was a normal, attractive-looking girl, engaged to be married although the date of the marriage had not been fixed, earning about £7 a week as a typist which would have increased to about £10 a week at the date of the trial. The trial judge described the plaintiff as follows:

She was attractive looking, as her photographs show, full of life as a young person of that age ought to be, living in a happy home, interested in outdoor games, especially in hockey, enjoying all the amenities of life as a young person of good health and understanding and a happy background is entitled to enjoy them, engaged to be married, in a good position with prospects of further advancement. Thou in a moment all this was altered and put in a sentence or so, literally everything which makes life in any shape worth living was taken from her.

Infants have full rights to life and limb. They are entitled to have their consent obtained by medical practitioners before any part of their body can be tampered with. In *Ekeogu v Aliri*²⁵,

²³ <http://www.alllaw.com/articles/nolo/personal-injury/cases-involving-children-minors.html> accessed 10/4/2017.

²⁴(1962) I ALL ER 257

²⁵ (1991) 3 NWLR (pt.179) 258, (S.C).

the appellant who was the 1st defendant was a primary school teacher under the employment of the Imo State Government flogged the respondent (a female pupil of the primary school) across the face and blinded the respondent's left eye. Similarly, in *Omigie v Omoregie*²⁶, the defendant's vehicle over-ran the plaintiff who was a teenager from behind and caused her severe bodily injuries, disability, excruciating pains and disability. This led the victim's parents to huge financial expenses in seeking medical attention from one hospital to another. In *Okuneye v Lagos City Council*²⁷, awarding damages for loss of amenities to a 13 year old boy who lost his arm in an accident, Akibo Savage J of the Lagos State High Court said:

The plaintiff (claimant) is a young schoolboy aged about 13 years now. He has lost an arm in very tragic circumstances. The evidence of the Doctor is to the effect that due to the shortness of the arm stump, it is most unlikely that the plaintiff (claimant) can be fitted with the usual available designs of artificial limb. The loss of his arm will remain a constant source of sorrow and social embarrassment to him. He can no longer continue his education because he feels embarrassed in the company of his colleagues at school. His father had to find him another school in another town; he can no longer participate in sports and other games as he used to do; as a young boy, having regard to the average span of a man's life, he has many more years of existence before him, but they are years of a handicapped life.

Medical Consent.

Where an amputation is to be done on an infant, his consent must be obtained. The guardian's consent is no consent. A medical practitioner who fails to obtain the consent of the infant before amputating him would be liable to the infant. In *Okekearu v. Tanko*²⁸, the plaintiff had an injury following the crushing of the middle finger. The bone was broken, and only a strip of skin held the finger to the hand. He was taken to defendant's clinic. The defendant alleged that he obtained plaintiff's consent from plaintiff's aunt, who gave him a go-ahead to carry on with whatsoever treatment was necessary. No effort was made by the defendant to procure directly the consent of the plaintiff before amputating the injured finger. The court held that the defendant trimmed off plaintiff's finger intentionally, without the consent of either the respondent and/or his guardian. The defendant/appellant was held liable for the tort of battery.

Accidents Caused by Children

Legal liability for accidents caused by minors is based on the same notion of care and carelessness as accidents caused by adults. However, the standard of care that is expected of an adult cannot be applied to minors. Carefulness implies understanding risks. Minors particularly young children do not understand risks the way adults do.

Older children are generally held liable for their negligent conduct if they did not behave - carefully as measured by what other children of the same age would understand to be reasonable. Once children become middle teenagers, they are held to the same standard as adults. When driving a car, a minor is held to the same standards as adults. Children do not normally have much money of their own, but if a minor can be held legally responsible, there are several ways for a person injured by the minor to collect compensation. First, the actions

²⁶ (1990)2 NWLR (Pt.130) 29.

²⁷ (1973)2 CCHCJ 38+

²⁸ [2002] 15 NWLR (pt.791) 657

of minors are very often covered by insurance. If a minor is driving a car, either the minor's own automobile insurance or the insurance of the car owner (parent or employer) should cover the accident.

Family Member giving up paid Employment to Assist Claimant.

A member of the claimant's family who as third party gives up his or her paid employment in order to give adequate attention to the victim is entitled to loss of earnings that would equal the maximum cost the victim would have used to secure such services from an outsider. If the cost of employing an attendant to cater for the victim's needs in going to use the convenience, getting dressed up, being taken in a wheel chair around the premises would be N30, 000 per month, the member of the victim's household who has given up her paid employment to provide these services to the victim would be entitled to N30,000 per month as loss of earnings. In *Housecroft v Burnett*²⁹, the plaintiff suffered severe injuries in a car accident, caused by the defendant's negligence. The plaintiff's mother gave up her paid employment in order to provide substantial care for her daughter. The issue was how damages for the care provided should be calculated. The court held that the victim's mother was entitled to the value of the loss of earnings to a maximum of the value of the commercial rate for providing the services. In his judgment, O'Connor LJ said:

... in cases where the relative has given up gainful employment to look after the plaintiff, I would regard it as natural that the plaintiff would not wish the relative to be the loser if the court would award enough to enable the plaintiff to achieve that result. The ceiling would be the commercial rate...

It must be noted that the household members would in due course not be home for the victim forever. In the case of a female victim for instance, life exigencies such as marriage, job and the quest for change of environment would certainly occasion them to exit the home at one time or another. In the ordinary run of things, the mother will age and die. The sisters will have lives of their own to lead, and you may think that a time will come in this girl's life when she will be required to find someone or some person or persons to look after her.

In *Warren v King*³⁰, in December 1959, the infant plaintiff, then aged nearly seventeen, was run over by a wheel of a lorry in circumstances in which the defendant company was liable for negligence of the driver. As a result of the accident the infant plaintiff's spinal cord was completely severed, causing permanent paralysis in both her legs and arms. The medical report showed that she would be confined to a wheelchair for the rest of her life and would need a constant attendant at home; in due course she would develop more trick movements to help her in her daily activities, but these would always remain limited and it was unlikely that she would be employable. The court observed that the victim would constantly require help which may be provided by her mother and sisters in the short term, but that in the coming years, they may not be there for her. The services of a nurse may become imperative. In all of these, she would be entitled to the rate at which such nurse or housekeeper would have been paid. In summing up the court's findings, Sellers L.J said;

She is entitled to be compensated for the fact that at some time in the future she may be called upon to find money to provide her with the attendance and nursing (11) which she must have. You see, at the present time she has a devoted mother; she comes, you may think, on the evidence you heard, from a (devoted family and

²⁹ (1986) 1 ALL ER 332

³⁰ (1963) 3 ALL ER 521

the girls in the family have adapted their way of life to helping out the mother and to help with their sister, and there is one married sister now living at home. That seems to provide this assistance, she can help out with the mother and when the husband is there he can help with the lifting of his sister-in-law. But, of course, members of the jury, you may think that will not last forever.

Other negative factors that may befall a deformed child may include shortened life expectancy, loss of self-esteem and psychological inferiority complex. All of these add up to the award of substantial damages to the victim.

Concluding Remarks

In this paper, we presented an overview of the concept of family unit and discussed the various ways family existence could be threatened by personal injury. It was observed that most families are unable to retain the hitherto standard of living after the injury, especially when the victim was the breadwinner. It was further observed that there is virtually no legal framework or public policy on social welfare arrangement for such eventualities in Nigeria. The cases referred to in this work made adequate exposition of the socio-legal, economic and psychological effects of personal injury on family life. As a way of ameliorating the plight of victim family members, it is suggested that public policy makers should put a reliable social insurance structure in place to provide a fall-back financial succour to such families. It is suggested also that a sustainable legal framework should be established to make compulsory insurance policy for employees in the manufacturing and construction industries. It is hoped that an implementation of the suggestions would engender a regime of sustainable social policy framework that could substantially ameliorate the plight of affected families.