Case review - personal injury claim due to nervous shock

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Personal injury claims for nervous shock require clear proof of psychiatric injury linked to someone else's negligence. This court decision highlights how strictly the law views reasonable foreseeability and duty of care in these matters. This article explains what nervous shock claims involve, what the court looked at in this case, and key lessons for injured people seeking compensation in Queensland.

Nervous shock claims are an area of law that is governed primarily by the common law in Queensland (which is legal-speak for laws made by judges through past court cases). As a result, when there are new court decisions made in this area, they can be important for future personal injury claimants to understand, since they can shape the way future nervous shock claims are dealt with by the courts.

In June 2025, the Supreme Court of Queensland considered a nervous shock claim in the matter of *Lundbergs v Fu & Anor [2025] QSC 135*, and clarified some of the limits and requirements for these types of personal injury claims.

Background facts of the matter

The plaintiff's partner and three of her children were involved in a motor vehicle accident when the plaintiff's car rear-ended another vehicle. The traffic accident was said to be minor in nature. It was accepted that the other driver was entirely at fault and that the accident had been caused by his own negligence.

The plaintiff was not there when the accident occurred; she was at work, but was first notified of the accident soon after it occurred via a phone call from her daughter. Following the notification, the plaintiff decided to leave work to attend the scene of the accident to be with her family.

Soon after she decided to leave work, she received a second telephone call from an ambulance officer who informed her that everyone was uninjured and that attendance at the hospital was not required.

As the plaintiff was driving to the accident location, she received a third phone call from the ambulance officer, who explained that one of her daughters was hyperventilating and that they had decided to take her to the hospital as a matter of precaution.

At that stage, she diverted her journey to meet her daughters at the hospital, at which time the daughter who had been taken there as a precaution was no longer hyperventilating and did not require any further observation or treatment.

The plaintiff's family members attended their general practitioner the following day, who confirmed that they had not sustained any physical injuries, though the family members did develop psychiatric injuries.

In this matter, the plaintiff claimed that she also suffered a psychiatric injury (or an aggravation of a pre-existing psychiatric condition) as a result of the accident and the other driver's negligence. She claimed that this was caused by:

- the three phone calls she received about the accident and her attendance at the hospital; or
- a combination of those two factors, and her involvement in assisting her family after the accident by attending with them at post-accident counselling and medical appointments.

Eligibility to make a personal injury claim due to nervous shock

By way of short summary, in order to make a successful nervous shock claim in Queensland, a claimant must prove that:

- they have suffered a recognised psychiatric injury which was caused by the defendant's negligence;
- the defendant owed the plaintiff a duty of care to prevent an injury of that kind; and
- the injury was reasonably foreseeable (meaning a reasonable person could have foreseen that the event might cause psychiatric injury to someone in the claimant's position).

What was in dispute in this personal injury claim?

In this matter, with respect to liability, the court was required to consider:

- whether the negligent driver owed the plaintiff a duty of care, and if so, what was the scope of that duty of care;

whether the plaintiff’s injuries were a reasonably foreseeable result of the negligence; and

what the nature and the cause of the plaintiff’s psychiatric condition were.

Duty of care and reasonable foreseeability

While the defendants accepted that the negligent driver owed a duty of care to people *“who might foreseeably suffer recognisable psychiatric injury from [the] collision”*, they disputed that this duty of care extended to the plaintiff because, *“a reasonable person in the position of the first defendant would not have foreseen that there was a risk of the plaintiff suffering recognisable psychiatric injury… from a collision of the kind which occurred here”*.

In its decision, the court noted that the severity of the accident and its potential consequences, including psychological impacts, *“[a]re critically important to the question of reasonable foreseeability of harm to a person in the position of the plaintiff.”*

As a result, the court considered that the question of reasonable foreseeability in this case was to be framed as *“whether the first defendant ought to have reasonably foreseen that his negligent driving might cause the plaintiff to suffer a recognisable psychiatric injury as a result of her being told that members of her family had been involved in a minor traffic accident, in which none of them sustained physical injuries.”*

In answering that question, the court decided that this was not reasonably foreseeable and that the negligent driver did not owe the plaintiff a duty of care of the kind which the plaintiff had claimed.

Nature and cause of the plaintiff’s psychiatric condition

Through evidence at the trial, the court accepted that there were other stressors in the plaintiff’s life before and after the accident. While the court accepted that she had sustained a recognised psychiatric injury, it concluded that this was not caused by the events relating to the accident in particular, but rather an accumulation of life’s stressors.

Court decision – defendant not liable

As a result of the findings by the court outlined above, the defendant was found *“not liable in negligence for damages as claimed by the plaintiff”,*and judgment was made for the defendants.

What this means for nervous shock personal injury claims

While the plaintiff was unsuccessful in her claim here, this decision provides helpful guidance to other future claimants about the court’s position in relation to claims of this kind and the scope of duty of care in nervous shock cases.

It is now, as ever, important to engage an experienced personal injury lawyer at an early stage of your compensation claim so that they can help you to fully understand updates like these and provide personalised advice about the impact of this update and others on personal injury claim prospects.

Your experienced personal injury lawyer can also then assist you to understand these finely balanced points within the law throughout your claim.

This article is of a general nature and should not be relied upon as legal advice. If you require further information, advice or assistance for your specific circumstances, please contact us.