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### ORIGINAL ARTICLE

# Study of financial compensation in rulings against obstetricians and gynaecologists in Spain (1987–2013)<sup>☆</sup>



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#### Abstract

**Introduction:** Malpractice payouts occupy an important place in Obstetrics and Gynaecology. We analysed a long period (1987–2013) of court sentences focusing on compensation amount and the way compensation has changed. In Spain there are not many economic analyses on Obstetrics and Gynaecology, specifically on the main adverse events that lead to catastrophic payouts.

**Material and methods:** A retrospective analysis of a legal database on court sentences in civil and administrative litigation against obstetricians and gynaecologists during the study period was performed. The adverse event under examination, the year of the ruling, and the payouts for malpractice were the variables analysed. Statistical analysis was performed using SPSS Statistics 19.0, F-distribution and normal distribution tables as well as the Student's *t*-test to compare differences between groups.

**Results:** We recovered 431 cases, 244 of which resulted in a conviction (56.6%). Obstetrics involved the highest payouts ( $p=0.01$ ) and a 57.5% chance of being convicted. The accusations with the highest payouts involved foetal death or foetal injury, which were the most common cause of payouts exceeding €300,000. Overall, 78.7% (193) of convictions involved a payout below €300,000 and the mean, median and maximum payouts increased steadily during the study period.

**Conclusions:** Obstetric claims and foetal-related injury involve the highest payouts, with an increasing trend. Catastrophic payouts are common.

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**PALABRAS CLAVE**

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 obstetricia;  
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## Estudio de las compensaciones económicas sobre sentencias contra obstetras y ginecólogos en España (1987-2013)

**Resumen**

*Introducción:* En indemnizaciones por mala praxis, la obstetricia y la ginecología ocupa un lugar destacado. Analizamos las sentencias de un largo periodo (1987-2013) centrándonos en la cuantía de las indemnizaciones y su evolución. En España existen pocos análisis económicos de esta especialidad y específicamente que muestren aquellos eventos adversos que soportan las indemnizaciones más elevadas.

*Material y métodos:* Se trata de un análisis retrospectivo de las sentencias judiciales en las vías civil y contencioso-administrativa, contra obstetras y ginecólogos tomadas de bases de datos jurídicas en el periodo de estudio. Las variables consideradas han sido las indemnizaciones en los casos de condena, el evento adverso juzgado y el año de la sentencia. El software estadístico SPSS 19.0 permitió obtener tablas de distribución de Fisher, de normalidad y el t test para comparación de diferencias entre grupos.

*Resultados:* De 431 casos, 244 terminaron en condena (56,6%). La obstetricia soportó las indemnizaciones más elevadas (p, 0,01) y una probabilidad de ser condenado del 57.5%. Los eventos relacionados con daño o muerte foetal presentaron las indemnizaciones más elevadas y fueron la causa más común entre las indemnizaciones, superiores a 300.000 €. Globalmente, en el 78,7% (193) de los casos con condena, la cantidad fue inferior a 300.000 €. Los máximos, así como la media y la mediana de las indemnizaciones, fueron aumentando a lo largo del periodo de estudio.

*Conclusiones:* Las demandas en el entorno de la obstetricia y los daños relacionados con el feto soportan las indemnizaciones más elevadas, con tendencia a incrementarse. Las indemnizaciones extremas no son infrecuentes.

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**Introduction**

To prevent malpractice claims it is best to know the causes and to learn by analysing all the factors involved in possible errors. It is clear that in Spain and Europe, in general, there is less interest in deepening the analysis of complaints than in the Anglo-Saxon world, even though this knowledge would help to improve quality of care and patient safety. This knowledge could also lead to a decrease in costs for individuals and for the health system itself.<sup>1,2</sup>

Information on malpractice claims often comes from the media, which focus on claims with the highest compensation and most newsworthiness, and which, although caused by the most serious errors, represent a biased assessment, at times projecting insecurity about the system and thus contributing to an increase in health costs.<sup>3</sup> Moreover, we are not aware of the real significance of the term "constant increase" in relation to "medical malpractice", which can range from problems in the management of waiting lists to complaints about medical errors, often forgetting about the result of the final judgement regarding the latter.

In Spain, one of the first analyses dates back to 1993.<sup>4</sup> After assessing the health and judicial systems, taking into account the decisions of the Supreme Court of Spain, the analysis already refers to an increase in the number of claims, although other authors also using court data state that few of these claims lead to compensation.<sup>2,5</sup>

Regarding the current accident rate in our health system, a Catalan group the Legal Medicine Unit of the Official Medical Association of Barcelona is one of the most active.<sup>6</sup> Our group has also made contributions of interest using data from judicial decisions.<sup>7,8</sup> Although a biased view can be given in any case, we believe that, in the absence of other more reliable sources, the study of judicial rulings helps to prevent terminological corruption and render the analysis of the amounts of compensation to be included in the rulings themselves more reliable, with the exception of the Catalan health system.

In claims for damages arising from their activity, in Spain the fields of obstetrics and gynaecology take centre stage.<sup>7,9,10</sup> Although it is doubtful whether this can be transferred to other settings,<sup>11</sup> when the interest is focused on studying extreme (or catastrophic, as coined by some authors) amounts of compensation,<sup>9-13</sup> it is customary to find this specialty in the top spot, irrespective of the country.

There seems to be a trend towards a progressive increase in compensation in our setting, excluding economic adjustments.<sup>11</sup> In fact, Spanish legislative projects are in the works for calculating compensation for healthcare damages which refer to special cases, such as incidents involving individuals who were previously not sick. If they come into effect, they are unlikely to improve the situation in the field of obstetrics and gynaecology, which often deals with healthy people in situations, childbirth, where only a perfect result is expected.<sup>14,15</sup> This paper conducts a specific

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