



St John's Buildings

BETWEEN:

LUKA RICHMOND-DIXON

Claimant

and

HANNAH WARDELL

Defendant

CASE SUMMARY

Michael Redfern KC and Henry Vanderpump

Barristers

St John's Buildings

On 5 June 2019 the Claimant Luka Richmond-Dixon, who was then 18 years of age and employed as a kitchen porter with prospects of training as a chef, was riding a motorcycle along the main road when the Defendant turned right across his path in her motorcar and in the ensuing collision the Claimant suffered polytrauma with lasting consequence.

The Claimant suffered a frontal fracture of the skull with subarachnoid haemorrhage, fracture of the cervical spine, fracture of the thoracic spine, fracture of the right femur which was treated with an intramedullary nail, acetabular fracture which was treated conservatively, posterior cruciate ligament damage treated with a Jack brace, laceration to the left knee, fracture to the right thumb which was treated with a K-wire, fracture of the body of C6 which was treated with a brace and fractures of T9 and T10 which were treated with compression and a brace.

Unsurprisingly the Claimant developed headaches, complained of neck pain, left shoulder pain, low back pain and more particularly was significantly slowed in information processing with depression, anxiety and other neuropsychological impairment.

The situation was complicated as to causation by a pre-existing inflammatory arthritic condition upon which the Defendant placed inordinate reliance.

The Claimant's brain injury was classified on the Mayo classification as moderate to severe but this does not predict outcome. The Claimant is left with some residual neurocognitive and neurobehavioral impairments caused by the body trauma, however subtle, which would be expected following injury of this severity. There was an overlap with some PTSD and adjustment reaction, residual post-concussional syndrome, anxiety and depression as the Claimant adjusted to the trauma and altered lifestyle. He could not return to work for some time and when he did return to work of a similar nature to his pre-accident employment he could only hold down part time work for a few months and each of his four attempts to sustain employment resulted in dismissal for performance reasons. He continued to try and mitigate his loss by working with his parents in their mobile catering operation.

The difficulty in this case was that the Claimant's recovery treatment was impaired by the COVID-19 pandemic and in particular a fragmented approach to physical and emotional rehabilitation and support to optimise functioning, restricted neuropsychiatric input, inadequate psychological input. The Claimant was often left to his own devices, which was a contraindication for optimal recovery.

The Defendant chose to obtain video surveillance of the Claimant over a five year period and disclosed seven hours of footage which was regarded by Dr Karen Simpson the Claimant's retained pain consultant as not misrepresenting pain and functional limitations. She did not see any inconsistencies in that which was reported to her by the Claimant as opposed to that which was demonstrated on the surveillance footage.

The point is that in this case the Claimant would have been greatly assisted by timely optimal rehabilitation and the services of a support worker. The contemporary medical treatment notes did refer to a significant recovery from a limited rehabilitation that he did undergo.

This was an extremely complex case to value, illustrated by the fact that each side retained orthopaedic, neurological, neuropsychiatric, neuropsychological, chronic pain treatment experts, rheumatologists and musculoskeletal radiologists. Only the neuropsychiatrists came anywhere near agreement in the joint meetings.

It was difficult for the Defendant to rely upon the surveillance footage with any degree of confidence as on many occasions they were following the Claimant's brother instead of the Claimant, followed the wrong car, photographed the wrong house, all of which served to vitiate some of their medical experts' conclusions. However, there was film of the Claimant attempting to play cricket again, as before the accident he had been a more than competent cricketer. He never returned to his pre-accident levels of performance. Nevertheless, that did not stop some of the Defendant's medical experts trying to seek comfort from his attempts at batting, bowling and fielding.

In the early stages of this claim, the Defendant made a once and for all offer of £325,000 which was rejected. The Claimant produced a Schedule of Loss totalling more than £1.5m on

the basis that there would be a significant lifelong continuing partial loss of earnings if he had qualified as a chef. There was little evidence on this issue. The essential question was whether the Claimant could return to kitchen work on a full time or part time basis. For the purpose of the Joint Settlement Meeting, it was decided that the Claimant would seek a modest continuing future partial loss of earnings.

Pain and suffering was something in the order of £85,000. Pre-Trial loss was in the order of £150,000. The Claimant had made a Part 36 Offer in settlement of £850,000 based on the compromises from an overall assessment of the medical evidence on both sides. At the Joint Settlement Meeting the Defendant commenced their opening offer at £250,000 and gradually worked up to £500,000, which was rejected. There were several further increased offers before the Defendant reached an offer of £700,000. Later in the day the Claimant indicated that the lowest figure he would take would be £750,000, which the Defendant agreed to pay.

This case demonstrates the difficulty in valuing polytrauma causes where there is a concurrent causation and difficulty in attribution following analysis of the subtle damage flowing from polytrauma. There was a head-on collision between the six medical specialities retained on each side and the limited possibility of meaningful agreement between the parties experts at their joint meetings.

In all the circumstances, £750,000 provided this Claimant with a future loss of around £500,000, which in the circumstances was reasonable and the overall figure of £750,000 represented a sensible compromise in a complex case where there was major disagreement on most of the medical issues.

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