



A RAY OF LIGHT ON THE CPR 45.29B FIXED RECOVERABLE COSTS REGIME?

From *Hussain & Others v Khan, (unreported)*, before His Honour Judge Rawlings at Stoke on Trent County Court, 19th January 2016.

The Issue: Should each P.I. Claimant recover their own individual set of fixed costs under the fixed costs regime or must multiple Claimants share one set of fixed costs between them?

Facts

RTA occurred on 1.8.14. Two Claimants suffer personal injury and submit individual claims via the Portal. A third Claimant has a claim for special damages only. Liability is denied and the claims exit the Portal. Part 7 proceedings are commenced with all 3 Claimants named on the claim form. The case is allocated to the Fast Track and proceeds to trial. Liability is established in favour of the Claimants and awards of damages are made.

The Defendant submits that the 2 P.I. Claimants should share one set of fixed recoverable costs pursuant to CPR 45.29A and B since there was only one claim before the Court. The Claimant submits that each P.I. Claimant should recover their own set of fixed costs.

Decision

The Circuit Judge preferred the Claimants' argument. It was accepted that the wording of the rules is opaque and there was currently no authoritative decision on the point. However, the Court was assisted by the wording in CPR 45.29B, namely, '*...if, in a claim started under the RTA Protocol...the only costs allowed are -*'. This was a reference to the individual and unique claims brought by each P.I. Claimant in the Portal and, therefore, each P.I. Claimant was entitled to their own set of fixed costs. Although the P.I. Claimants had had their own claims disposed of via one claim form at trial, they, nonetheless, remained individual claims for the purposes of the fixed costs regime

Conclusion

Until CPR 45.29 is re-written or, a higher Court provides guidance, this persuasive decision may assist practitioners in navigating one of the many areas of uncertainty that has been created by the fixed recoverable costs regime.

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