

Recent cases

David Erwin

Client B

Aged 30, he was a passenger in a car that hit a telegraph pole at 90- 100 mph sustaining catastrophic brain injury with subdural haematoma, hearing and vision problems, loss of sense of smell and taste, right lower lobe contusions, small haemopericardium, laceration of the liver, fracture of the left sacrum, laceration to the spleen requiring splenectomy and persistent iliofemoral deep venous thrombosis leading to pulmonary embolism which required anti-coagulation and an IVC filter.

Liability was not straightforward in that there were two potential Defendants and so funding for rehabilitation was not initially agreed. After holding a conference with leading Counsel to consider litigation, we were able to convince the main Defendant's insurers to enter into negotiations and agree funding.

Medical reports were obtained from a leading Neurologist, Neuropsychologist, General and Orthopaedic Surgeons and a specialist Brain Injury Case Manager was appointed to lead rehabilitation. The outcome was that the client was able to resume work in a supervised manner with a view to going into business with his father renovating local houses. As he lacked capacity until very late in the case, we arranged for specialist advisers to set up a Personal Injury Trust and ultimately to provide ongoing investment advice after securing a settlement at a Joint Settlement Meeting involving Leading Counsel which was approved by the High Court in the best interests of all involved.

Value: £1.55 million

Client I

A young boy aged seven at the time of his accident, when, whilst playing in the street near his home, he ran out from between parked cars into the path of a car travelling at 15 to 20 mph. He suffered a life changing severe brain injury –cerebral contusion in the left temporal parietal region, resulting in processing difficulties of verbal comprehension, perceptual reasoning, auditory working memory and visuospatial functioning; multiple skull fractures with subdural haematoma. He walked with a slight right circumduction gait and sometimes needed to use a wheelchair.

Liability was a difficult issue and ultimately Leading Counsel advised that the claim, if issued, was likely to fail entirely at Trial. However, we were successful in persuading the Insurers to agree to rehabilitation, including the involvement of a Consultant in Neuro-Rehabilitation with input from physiotherapists, Occupational Therapists and Speech and Language Therapists. Although it is uncertain whether he will ever be able to hold gainful employment and we had to gently explain the long term outlook to the family, he was able to resume attendance at a normal school with the help of a classroom attendant at his side. On the day of settlement he was even able to claim that he had beaten Counsel at a PlayStation game!

Value: £500,000 agreed settlement, reflecting the position with liability, with High Court approval.

Client S

Aged in his early 20s and employed in the installation of fire sprinklers when suffering severe fractures to right femur and left tibia and fibula as a passenger in a works van accident. The left leg fractures failed to heal properly despite prolonged treatment and the client proceeded on the advice of his Consultants to an elective lower limb amputation. Liability was not disputed though proceedings had to be raised in order to protect the client with regard to limitation and to enable pressure to be brought on the Defendants at a time when a change of handler resulted in a less co-operative approach to rehabilitation. A case manager was appointed and organised extensive physiotherapy and psychological and vocational support as well as a continuing programme of specialist private prosthetics provision.

Expert reports were obtained from Orthopaedic, Rehabilitative Medicine, Psychiatric, Prosthetic, Physiotherapy, Care and Occupational Therapy experts as well as an accommodation expert given that the client resided with his young family in unsuitable rented accommodation. The claim settled at a Joint Settlement Meeting in February 2019.

Value: £ 2.4 million

Client G

A very difficult case on liability in which the client, a shop worker in his 20s, was walking several miles home in the early hours of the morning in South Wales having consumed alcohol and illicit drugs. Ignoring signs to say that pedestrians were not allowed, he continued walking along a grass verge to an unlit main road when he was hit by a car causing the loss of his lower right leg. There was a long delay in establishing insurance details for the vehicle and an application for pre-action disclosure against the Police Traffic office had to be drafted to force the issue. In the meantime the MIB obtained Orthopaedic, Psychiatric and prosthetic reports which were adopted by the eventual insurer and an Initial Needs Assessment was done. The insurers invited us to a meeting where they spent considerable time demonstrating their view that no liability would attach to their client but after maintaining our position that, whatever our client's undoubted contribution to the circumstances was, he was simply there to be seen, an offer was made which was then accepted by the client after receiving detailed advice.

Value: £500,000

Clients W and F

Representing the wife and daughter of a part time college lecturer who was tragically killed as a passenger in a minibus returning from a skiing trip when the driver fell asleep at the wheel; the daughter was also a passenger receiving head, orthopaedic and psychiatric injuries requiring extensive treatment and rehabilitation through a case manager. She recovered to the extent that she was able to resume her studies with compensation reflecting the fact that the start of her career had been delayed by two to three years.

The fatal accident claim included appropriate compensation for the deceased's contribution to the household finances through his part time work and also the considerable services he was providing in terms of renovating an investment property.

Overall value circa: £250,000

Client F

A delivery worker sustaining severe lower leg fractures and a minor head injury with psychological symptoms following an accident as a passenger in a works van which collided head on with another vehicle, sadly killing the elderly occupants. Liability was agreed subject to seatbelt arguments and a case manager appointed to arrange physiotherapy and psychological treatment aimed at getting the client in a position where he could return to work. In the end the main barrier to this appeared to be psychological and we had to give him some encouragement to do so.

A joint settlement meeting took place at which a settlement was agreed to reflect the severity of the injuries, loss of earnings for some three years or so post-accident and the possibility of reduced earnings in the future.

Value: £230,000