

Recent cases

Steven Santy

A v V

I act on behalf of Mr. A who was involved in an accident whilst attending a wedding at the defendant's venue. The claimant fell over a wall down a poorly lit pathway and hit his head on the ground beneath sustaining a brain injury.

The claimant was taken to the local major trauma centre. CT scans showed bilateral cerebral contusions and right subarachnoid haemorrhage, left maxillary sinus fracture, left pterygoid plate fracture and right temporal bone fracture associated with pneumocephalus. The claimant was placed into an induced coma, intubated and admitted to the Critical Care Unit. An ICP bolt was also inserted.

At the point of instruction, the claimant was still in hospital. I approached the defendant shortly after being instructed pursuant to the Rehabilitation Code and despite liability still being investigated and not admitted at that time, we were able to agree the joint instruction of a case manager and the swift implementation of an Immediate Needs Assessment at the claimant's home within days of his discharge.

Notwithstanding that liability investigations remain outstanding, we have secured funding for the claimant to undergo private physiotherapy with neurological input, neuropsychology assessment and input, occupational therapy cognitive rehabilitation input, private speech and language therapy and referral to a pituitary expert with regard to ongoing bladder dysfunction.

The claimant's rehabilitation continues and this case is yet to be concluded. A provisional estimate of the pleaded value of the case is £1m.

M v E

The claimant suffered an injury to the upper trunk of his right brachial plexus in 1993. This rendered him vulnerable to another serious injury in the event of suffering further trauma to the shoulder. I acted for the claimant following a motor vehicle accident during which he aggravated the injury.

The claimant presented with a winging scapula and severe shoulder pain. I organised referral to a specialist orthopaedic and nerve surgeon for assessment. Following neurophysiological testing, the claimant was advised that he needed surgery on the shoulder. As an admission of liability was secured early in the case, we were able to approach the defendant's insurer for a payment under the Rehabilitation Code to cover all of the claimant's surgical costs including pre-operative and post-operative consultations, the procedure itself and post-operative specialist physiotherapy.

The procedure performed involved full decompression and neurolysis of the brachial plexus and spinal accessory nerve which was fully separated from the trapezius to which it had

been attached with scar tissue. However the claimant failed to recover as hoped. Medical experts in the case later agreed that the persistent and present problem is fluctuating pain, muscle patterning and variable restricted movement in the right shoulder. This prevented the claimant from returning to his occupation of bricklayer. Additionally, the claimant developed symptoms of a major depressive disorder due to persistent pain, loss of functional capacity and financial consequences from not working. We organised cognitive behavioural therapy to help the claimant come to terms with his situation. We also agreed joint instruction of a vocational case manager in order to interview the claimant and formulate a plan for him returning to some form of sedentary work.

The claim settled by way of joint settlement meeting on the basis that in view of the rehabilitative support provided, the claimant's pain had markedly reduced, he was improving psychologically as a result and a return to some form of work could be anticipated. Settlement was agreed at £360,000.00.

P v B

The claimant was a dietician employed by the defendant. She contracted tuberculosis whilst working at the hospital where she was based, as a result of being exposed to the condition by an infected patient. The claimant suffered very poor health as a consequence of her illness and during the course of her treatment underwent two courses of chemotherapy.

The claimant also suffered psychological injury in the form of depression. Liability was denied by the defendant throughout. Medical and liability expert evidence was required, from a respiratory surgeon and microbiologist. The matter proceeded to trial after some five years, although the only matter for the Court to decide was causation and quantum; the defendant having eventually admitted liability 48 hours before the trial commenced.

The case highlighted shortcomings on the part of the defendant in relation to the safe management of infected patients whilst within the hospital and the lack of adequate protection for staff who may foreseeably come into contact with such patients.

Judgment was secured for the claimant in the sum of £126,001.39 after a 4 day trial.

H v G

The claimant was a cyclist who suffered serious injuries as a result of the defendant opening his car door as the claimant was riding past his vehicle. The claimant suffered a Schatzker 5/6 fracture of the right proximal tibia, a soft tissue injury to the right shoulder and major depressive episode.

The claimant had four procedures as a result of the injury to the leg; internal fixation, removal of metalwork, total knee replacement and revision of total knee replacement. The claimant was supported throughout his recovery with occupational therapy, extensive physiotherapy and psychotherapy.

Liability was admitted by the defendant's insurers early in the case but the matter proceeded to a trial over causation of injuries and quantum of damages. The key to the case from our perspective was in establishing the true extent of the injuries suffered and the significant impact of those injuries on the claimant's life, such as to ensure that he was suitably compensated.

The defendant's final offer to settle was £30,000. Judgment was secured for the claimant in the sum of £54,460 after a three day trial.

C v B

The claimant was an 18 year old girl at the time of her accident. She was a passenger in a vehicle that lost control and careered down an embankment. The claimant was taken to the local major trauma centre by air ambulance.

The claimant suffered poly-trauma including left humerus comminuted fracture, loss of consciousness, headaches, skin graft from left thigh to left arm, fractured orbital floor (left eye socket) with a bleed from the left ear, cracked teeth, soft tissue injury to the neck and left side lower back, severe psychological symptoms.

We approached the defendant's insurer early in the case but whilst the case on liability was strong, they declined to proceed under a joint instruction for rehabilitation. Accordingly, we proceeded to instruct a trusted case management company unilaterally in order to ensure that the claimant's rehabilitation needs were properly catered for.

We supported the claimant with case management over a period of 2.5 years with regard to the implementation of extensive physiotherapy, psychotherapy and private consultations with neurology, dermatology and orthodontistry. The claimant was unable to work or attend college and we organised regular interim payments to ensure that financially, she was able to manage.

The case is now approaching three years post-accident and we have been proactive in terms of gathering the claimant's medical evidence. Reports have been obtained from a range of experts including A&E consultant, neurologist, neuro-psychologist, ophthalmologist, ENT surgeon, psychiatrist, upper limb surgeon and plastic surgeon. The case continues but is expected to be pleaded in the region of £250,000-£300,000.

D v S

The claimant was driving a vehicle that was struck head-on by an HGV due to the driver losing consciousness. Whilst the defendant's Insurer reserved their position in relation to liability pending further investigations into a possible automatism defence, we pushed for the joint instruction of a case management company in light of the severity of the claimant's injuries and the likelihood that he would require a great deal of support upon discharge from hospital.

The claimant, a 28 year old male, was taken to Royal London Hospital by air ambulance which was the nearest Major Trauma Centre to the location of the accident. His injuries were as follows:

- subarachnoid haemorrhage requiring surgery to input an intracranial pressure bolt (icp)
- right closed femur fracture
- left open femur fracture
- left open ulna fracture
- left open tibia / fibula fracture
- right open tibia / fibula fracture
- right open metatarsal fractures
- multiple left rib fractures
- bilateral pneumothorax

We visited the claimant in hospital in London shortly before his transfer to Queen Elizabeth Hospital initially and then Worcestershire Royal Infirmary. Once the Case manager was

involved, he was able to push for transfer to a community hospital for specialised rehabilitation. The claimant lived alone in rented, two-storey accommodation which, in view of his lower limb injuries in both legs, it was necessary to source a more suitable property very quickly. This was a priority for the claimant.

the case manager liaised with the local council housing office / social services to see what was available regarding accommodation and it was clear that the claimant was at a disadvantage in terms of sourcing a property that was suitable for him with his additional needs, rather than merely the type of property that he may have chosen as suitable prior to the accident. with this in mind, we invited the insurer to fund a short term rental of appropriate, furnished accommodation. This was agreed and an interim payment was released such that we were able to arrange a smooth transition into a new, single storey home for the claimant with appropriate access to downstairs toilet and wet-room.

The claimant received a full range of rehabilitative support over the following 18 months including occupational therapy, neurology referral, physiotherapy, psychotherapy, hydrotherapy and recently orthotics assessment. The road to recovery is a slow one however and it is unlikely that the claimant will return to his previous occupation of mechanical installations engineer. A vocational case manager has been appointed to assist the claimant to consider alternative occupations.

This is an ongoing claim but we estimate the pleaded value will be in the region of £750,000.00.