

General Case Digest

McKenna v Stockport Metropolitan Borough Council

Citation

BLD0602090001

Hearing Date

20 November 2008

Court

Manchester County Court

Judge

Recorder Hancock QC

Representation

Marc Willems (Cobden House Chambers) and Ralli Solicitors (Manchester) for the Claimant. Nigel Poole (Kings Chambers) and Berrymans Lace Mawer (Manchester) for the Defendant

Abstract

Personal injuries - Damages in personal injury. The Claimant received £63,601.69 for the bony injury she sustained after tripping on a pavement

Catchwords

Tort - Personal injuries - Damages in personal injury - Highway accidents - Fractured limb - Nerve damage (drop foot) and depression

Summary

The claimant was a female: 35 years old at date of accident; 40 years old at date of settlement. She was with a group of friends when she tripped on a paving slab which had not been seated properly, stumbled and then fell, sustaining a fracture to her left ankle. Her lower leg was placed in plaster and she was discharged home with crutches. The Claimant attended the fracture clinic, underwent further x-rays and a full cast was applied. Two weeks later the cast was changed. The Claimant then received further treatment and her plaster cast was removed after six weeks and reapplied and taken off a further three weeks later. Upon removing the plaster the Claimant could not feel her foot and could not move her toes.

The Claimant suffered from foot drop and returned to the hospital and a foot drop splint was applied. Nerve conduction studies were carried out which showed nerve damage. The Claimant was then referred for physiotherapy and underwent a total of 20 sessions. The Claimant also received Cognitive Behavioural Therapy treatment.

As a result of the injury the Claimant required a substantial amount of care and assistance from family and friends. The Claimant alleged the accident was caused by the Defendant's breach of statutory duty under the Highways Act 1980, s 41. Liability was not admitted but the Defendant did admit breach of statutory duty but put the Claimant to strict proof.

The Claimant was diagnosed as having sustained a left Weber B and posterior malleolus fracture. This involves the lateral and posterior malleolus. The fractures eventually united with good reduction of the fracture fragment and a normal ankle joint. The Claimant's injury was been complicated by the damage to one of the nerves to the lower leg and foot which was probably caused by pressure from the plaster cast or alternately

stretching of the nerve at the time of the injury. At the time of trial the Claimant was still suffering with symptoms although had significantly improved and only used crutches if out for long periods on foot.

The injury resulted in the Claimant suffering from depression. The Claimant also had to give up her training as an Assistant Practitioner Nurse. The Claimant continues to suffer from an ongoing risk of suffering from early degenerative arthritis occurring in her left ankle.

Damages of £63,601.69 (£70,349.29 with interest) were agreed on a global basis without an admission of contributory negligence and with a breakdown of damages as follows: PSLA: £15,000; past care and assistance: £10,323.59; past loss of earnings: £37,361.60; and treatment costs: £916.50.

This quantum report was provided courtesy of Maria Penny of Railli Solicitors, solicitor for the Claimant.

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