

HARKER v KEYLINE BUILDERS' MERCHANTS LTD (2008)

Total Damages: £100,000

Type of Award: Out of Court Settlement

Age at trial: 39

Age at injury: 34

The claimant, a 39-year-old woman, received £100,000 for the multiple injuries sustained when she was knocked off her bicycle and run over by a lorry in April 2004. At the date of the accident she had been pregnant but due to abdominal injuries sustained she lost the baby. It was unlikely that she would be able to conceive naturally again.

On April 5, 2004, the claimant (C) was cycling in a dedicated cycle lane. A lorry driven by an employee of the defendant (D) was travelling alongside and in the same direction as C. C approached a junction and the lorry suddenly turned left across the cycle lane into a road on the left. The lorry collided with C and then drove over her.

C sustained injury and brought an action against D alleging that it was negligent in: driving into C; failing to see C cycling in the dedicated cycle lane adjacent to C; failing to wait until C had cleared the junction before attempting to turn left; failing to apply his brakes properly, in time, or at all; failing to indicate adequately or at all; failing in all the circumstances to avoid a collision with C.

Liability admitted.

Injuries: C sustained multiple injuries to her abdomen, face, chest, neck and fingers, and also psychological injury and the loss of her baby.

Effects: C was admitted to intensive care where she remained for three days before staying in the trauma unit for seven days.

C's facial injuries included damage to the periodontal ligament and a fracture of the upper left lateral incisor. Her blunt chest injury involved nine fractured ribs and internal injuries to both lungs including bilateral pulmonary contusions and right apical pneumothorax. She also sustained an undisplaced fracture of the neck of the right scapula and fractures of the bases of the left fourth and fifth metacarpals.

C suffered a blunt abdominal injury resulting in pancreatic pseudocyst and a liver laceration. She had previously experienced sub-fertility but at the time of the accident was 17 weeks pregnant. As a result of the abdominal injuries she lost the baby. It was estimated that but for the accident there would have been a 99 per cent chance that her pregnancy would have been successfully completed. C subsequently suffered psychiatric injury in the form of post traumatic stress disorder and an adjustment reaction to the accident and the loss of the baby.

C made a good recovery from the injuries to her chest, scapula and metacarpals and a full recovery from the periodontal injury. Her left hand was scarred and she continued to experience aching and some loss of dexterity and power in it. She underwent extraction and replacement of her upper left lateral incisor. After the accident, she was unable to conceive.

C was unable to work for nine weeks. She then returned on a part-time basis for four months before returning to work full time.

Prognosis: It was unlikely that C would ever conceive naturally. At the date of settlement she continued to suffer from residual mild adjustment reaction, occasional aching and a reduction in the dexterity and strength of her affected fingers. However, she was not expected to suffer any major psychological difficulties in the long term as a result of the accident.

Out of Court Settlement: £100,000 total damages.

Background to damages: The case was settled on a global basis with no particular breakdown of damages. However, the following breakdown was estimated by the claimant's solicitors:

Breakdown of General Damages: Pain, suffering and loss of amenity: £75,000.

Breakdown of Special Damages: Past loss of earnings: £8,000; Past care costs: £2,500; Past travel expenses: £700; Past medical and dental treatment costs: £4,500; Cost of IVF treatment: £5,000; Burial costs: £150; Cost of items destroyed in accident: £750; Miscellaneous expenses: £900; Interest: £2,500.

Henmans LLP (Oxford) for the claimant. Berryman Lace Mawer (Manchester) for the defendant.

LTLPI 30/9/2008 (Unreported elsewhere)

Document No. AM0201284. Reproduced by kind permission of Lawtel (www.lawtel.com)