

Neutral Citation No: [2025] NICty 5	Ref: [2025] NICty 5
Judgment: approved by the court for handing down (subject to editorial corrections)*	ICOS No: 24/072203
	Delivered: 11/06/2025

**IN THE COUNTY COURT OF NORTHERN IRELAND  
SITTING AT BELFAST COUNTY COURT**

**BETWEEN:**

**SONYA GURNEY**

**Plaintiff**

**and**

**COURTAULDS TEXTILES (HOLDINGS) LIMITED**

**Defendant**

Mr John O'Connor BL (instructed by MMC Legal Solicitors)  
Mr Michael Maxwell BL (instructed by DWF Solicitors)

**DISTRICT JUDGE LOGUE**

***Background***

[1] The plaintiff in this action was born on 10 March 1969. She claims damages arising from the alleged negligence and breach of statutory duty of the defendant. The plaintiff alleges that she suffers with hearing loss and tinnitus attributable to exposure to excessive noise in the course of her employment with the defendant.

[2] The plaintiff was examined by Mr Ullah on behalf of the plaintiff on 11 June 2024 and by Mr Adair on behalf of the defendant on 7 November 2024.

[3] Mr Ullah concluded that there is low frequency and mid frequency hearing loss affecting both ears which would be due to natural causes. There is flattening in the right ear and notching in the left ear at the higher frequencies in keeping with noise exposure without adequate ear protection. Taking the standard four frequency average provided an average of 36.25db for the right ear and 35dB for the left ear. According to the revised WHO grading these thresholds represent moderate hearing loss. However, he accepted the better results from the audiogram shown in Mr Adair's report and revised his opinion, accepting that the hearing loss fell into the mild category. Mr Ullah opined that the hearing loss should be apportioned equally between noise-induced hearing loss and natural causes.

[4] It was the defendant's case that only two of the three criteria under the Coles Guidelines was met in this case. Whilst the evidence indicated fulfilment of two criteria: higher frequency hearing impairment and an identifiable notch or bulge the third criteria of potentially hazardous noise exposure was not met.

[5] The readings shown in the audiogram performed for Mr Adair indicated better readings. Taking the standard four frequency average this provided an average of 25db for the right ear and 28.75dB for the left ear. He concluded that the plaintiff had slight sensorineural hearing loss. The results from his audiogram would fall within the WHO hearing thresholds for mild hearing loss. However, in Mr Adair's opinion there was no apportionment to make for noise induced hearing loss. He relied on results set out in a noise survey dated 28 September 1983. At hearing I granted leave to admit the said noise survey into evidence under the Civil Evidence Order.

[6] Mr Adair calculated a figure of 89.77 in respect of the applicable Noise Emission Level, 'NIL.' He estimated that an individual would require noise exposure of at least 100 NIL to develop evidence of noise induced hearing loss on audiometry. He opined that the plaintiff's noise exposure in the Daintyfit factory would not have been sufficient to cause noise induced hearing loss.

[7] The experts were in agreement that noise induced tinnitus was not a feature in the case. Mr Ullah confirmed that the plaintiff reported to him that she experienced a noise sensation affecting both ears, more so on the left side. She described it as a buzzing type noise that occurs for several seconds once per week. Clinically he graded this as negligible. Mr Adair confirmed that the plaintiff reported infrequent "*wee buzzing*" occurring in the ear and that she would hear this every month or so. It lasts a short time when it is present and then clears.

[8] Both ENT consultants gave evidence at hearing.

## ***Evidence***

### ***Plaintiff***

[9] The plaintiff in evidence confirmed that she worked for the defendant in their Daintyfit factory in Limavady as a hand operator from 1985 until 1988. She stated that she worked on the factory floor right beside the machinists. She estimated that there were hundreds of machinists working in the factory. Her normal working hours were 8am until 5pm, five days per week. On occasion she may have had to work overtime and would have worked until 7.30pm.

[10] The plaintiff remembered having to shout above the noise and that in addition to the noise of the machines, music was played which she described as "*really loud*." The plaintiff thought the music may have been an attempt to drown out the noise of the machines. However, she recalls that workers could not really

communicate as they could not understand what was being said because of the noise.

[11] After the plaintiff left her employment in the Daintyfit factory she subsequently worked in a chip shop and in various primary schools in supervisory roles where she did not experience excessive noise.

[12] The plaintiff stated that she noticed a difference with her hearing after she left Daintyfit. She would need to turn the TV volume up '*really loud*' and use her phone on loudspeaker. She has trouble hearing conversation in a restaurant if it is busy and would often have to ask people to repeat what they have said.

[13] The plaintiff accepted in evidence that she experienced an odd noise in her ears, lasting several seconds perhaps once per week.

[14] The plaintiff was cross-examined on the delay in bringing proceedings. In cross examination she stated that she had been aware of hearing difficulties since shortly after she left Daintyfit and thought it may have been associated with her work there. She accepted that she sought legal advice a couple of years ago after her friend had as she put it, "*the same bother*" and told the plaintiff that it was due to the work they used to do in Daintyfit. The plaintiff then contacted her solicitor to enquire about making a claim.

### ***Mr Ullah***

[15] In evidence Mr Ullah confirmed his opinion that the plaintiff suffered noise induced hearing loss relying on the history the plaintiff provided to him of working in a noisy environment where one had to raise their voice to be heard. Commenting on the exposure times at increased decibel levels he stated that for each 3 decibel increase in noise level above 85 the exposure time should be halved. For example:

- At 85 decibels exposure time should be no more than eight hours
- At 88 decibels this decreases to four hours.
- At 91 decibels to two hours and so on.

[16] He was asked to comment on the figures set out at Appendix 1.1 in the noise survey and observed that for Unit 3 readings of 87, 90 and 85 were recorded. For 90 decibels the exposure time would be reduced to around two hours. Unit 4 one recorded reading was 85 and the exposure time would be around one hour, similarly for Juki in Uni5 where a reading of 96 was recorded. At Appendix 1.2, Unit 17 one reading was 103 which he opined would have the potential to cause damage in minutes.

[17] Mr Ullah was not persuaded that the calculation for NIL set out in Mr Adair's report was one normally used or performed by an ENT surgeon and considered this within the ambit of a sound engineer instead. In the cross-examination Mr Ullah rejected the contention that he had failed to address the third criteria in his report stating that he based his opinion on the account provided by the plaintiff as regards her experiences of working in a noisy environment, in close proximity to noisy machinery set against background music.

### ***Mr Adair***

[18] In evidence Mr Adair stated that the relevant results shown in the Appendices to the noise survey report were not the maximum decibel readings but rather the Leq levels which represented the calculated daily dosage to the operator over a working day. Referring to the calculation for NIL this represented the exposure throughout the period of employment. He assumed the plaintiff was exposed to noise at the higher level of 85 decibels which accumulated over three years is calculated at 89.77 which fell short of the 100 NIL to develop noise induced hearing loss. According to Mr Adair this was in his words, "*a fundamental medical expert calculation and not one for a sound engineer.*" It was Mr Adair's evidence that one would have to work 10-15 years at the level of 85 decibels to meet the required exposure levels for noise induced hearing loss.

[19] In cross examination, Mr Adair accepted that his conclusions were based on a report from 1983, and he did not have sight of reports covering the years when the plaintiff worked in Daintyfit, those being 1985 to 1988. He was asked about the source of the report and how it came to be in his possession. He replied that he could not remember exactly but thought he had been provided to him by a solicitor in a different case but could not remember either the name of the case or the solicitor who provided the report to him.

[20] Mr Adair agreed with Mr Ullah as regards the rate of reduction in exposure times as decibel levels increase. He accepted that he could not definitively say what levels of noise the plaintiff would have been subjected to during the course of her working day and in the absence of reports for the relevant years of employment could not give evidence as to the cumulative background levels, taking account of background music also, for the plaintiff's years of employment. When asked specifically, did he accept that his report relies on an unverified survey, he said yes but maintained his opinion that the NIL was insufficient in this case to support a finding of noise induced hearing loss.

### ***Decision***

[21] The defendant raised a limitation defence. However, I am satisfied that it is appropriate to exercise my discretion under the Limitation (Northern Ireland) Order 1989 to permit the action to proceed. I accept that the plaintiff's date of knowledge

was upon receipt of Mr Ullah's report dated 11 June 2024 and following discussions with her solicitor.

[22] Having considered all of the evidence in this case I find as follows:

- (i) I found the plaintiff to be a credible witness and accept her evidence that she worked in close proximity to machinists in the factory and experienced a noisy work environment. Such was the level of noise between machinery and background music that she had to shout above the noise to be heard and had difficulty hearing and communicating with her fellow workers.
- (ii) Whilst I permitted the noise survey report to be admitted into evidence I attach little weight to same. The origin of the survey is unknown, and the credentials of the author are unknown. Whilst the equipment used to conduct the survey is detailed and some description provided as regards readings the precise methodology is unclear and there are notable omissions eg there is no indication of when readings were taken, numbers of surveys conducted and over what period. However, fundamentally the noise survey does not cover the years during which the plaintiff was employed.
- (iii) I find the conclusions reached in the report from Mr Adair to be of little assistance to the court. I find it of significance that he based his calculations around the said noise survey report and calculated the value of the NIL on an assumed value of 85 decibels.
- (iv) I prefer the evidence of Mr Ullah and accept that the plaintiff suffers with noise induced hearing loss caused by exposure to excessive noise in her work environment and find the defendant company liable for same.

### *Award*

[23] Both experts agree that noise induced tinnitus is not a feature in this case. The buzzing the plaintiff complains of was considered negligible. I do not find it to be a compensatable feature.

[24] I accept the plaintiff experiences the functional consequences for communication set out in the WHO grading system and that whilst she does not have problems hearing conversational speech in a quiet environment, she may have difficulty hearing conversational speech in a noisy environment. Taking the best four frequency average, using the audiogram results shown in Mr Adairs report, her hearing thresholds are 25db for the right ear and 28.75dB for the left ear. The WHO grading for mild hearing loss is 20 to less than 35dB and so these readings fall around the midpoint of the range for mild hearing loss.

[25] I accept Mr Ullah's final conclusion that the plaintiff's hearing loss is a combination of noise-induced hearing loss and age-related hearing loss in equal

proportions. According to Mr Ullah, the plaintiff would be helped by hearing aids to both ears and her need for hearing aids would have been accelerated by her noise induced hearing loss.

[26] In assessing damages in the case, I have considered the Sixth Edition of the said Guidelines. The categories of hearing loss therein are set at mild, moderate and severe. For mild hearing loss the Guidelines suggest awards of up to £20,000. Ultimately, of course, the appropriate level of damages requires a degree of judgment by the court.

[27] The plaintiff is now around 56 years and three months old. The plaintiff suffers with mild hearing loss. She has suffered with this over a lengthy period. Her hearing loss is permanent.

[28] Having considered all of the evidence, I consider the full extent of the plaintiff's hearing loss would attract an award of £15,000 to include the spot figure of £1,500 for the need for hearing aid(s) earlier than might otherwise be the case as I accept Mr Ullah's findings in that regard. Adjusting to reflect that 50% of the plaintiff's hearing loss is attributable to noise-induced hearing loss, the final amount therefore decreed in respect of general damages in this case is £8,250.00. Having succeeded in her claim the plaintiff is also awarded full-scale costs to include counsel.