

Neutral Citation No: [2025] NIMaster 21	Typing Ref: [2025] NIMaster 21
<i>Judgment: approved by the Court for handing down (subject to editorial corrections)</i>	ICOS No: 2024/109266 Delivered: 19/12/2025

IN THE HIGH COURT OF JUSTICE IN NORTHERN IRELAND

KING'S BENCH DIVISION

Between:

MATTHEW COALTER

Plaintiff

and

STEWART MULLIGAN

Defendant

**Mr Rory Donaghy (instructed by PR Hanna Solicitors) on behalf of the plaintiff
Mr Christopher Ringland (instructed by Murphy O'Rawe Solicitors) on behalf of
the defendant.**

MASTER HARVEY

Introduction

[1] This is an application pursuant to Order 29 rule 12 of the Rules of the Court of Judicature (Northern Ireland) 1980 ("the Rules") in which the plaintiff seeks an interim payment of £400,000 in respect of the cost of care, housing adaptations and other rehabilitation needs. This arises from a road traffic accident on 14 April 2024 when the plaintiff was riding a motorcycle which was in a collision with the defendant's car as a result of which the plaintiff allegedly suffered catastrophic injuries. In the grounding affidavit to the application, it is asserted the accident was caused by the defendant pulling out into the plaintiff's path without warning.

[2] The summons is dated 26 November 2025. The court listed it at the request of the parties on an urgent basis. It was initially adjourned from 8 December 2025 as the Master assigned to the case was not available. I then listed it for hearing on 17

December 2025 and heard from both counsel. I am grateful for their focused oral submissions.

[3] On the evening before the hearing, the plaintiff's counsel submitted a series of authorities for the court to consider.

[4] I have now read these authorities and have carefully viewed the CCTV footage lasting five seconds, which was taken from a house on a hill overlooking the scene of the accident and which shows the collision.

[5] I have also considered the various papers including two affidavits from the plaintiff's solicitor.

Legal principles

[6] I note the provision for such applications is set out in Order 29 rule (3) of the Rules which, where relevant, states:

“...(3) An application under this rule shall be supported by an affidavit which shall-

- (a) verify the amount of the damages, debt or other sum to which the application relates and the grounds of the application;
- (b) exhibit any documentary evidence relied on by the plaintiff in support of the application; ...”

[7] The Rules provide for interim payment applications at any stage. Liability in this case is in dispute, and a denial defence has been served setting out the basis of the defendant's case.

Discussion

[8] There is an acceptance in this action that if the plaintiff succeeds on full liability, the damages would be substantial given the severity of the injuries set out in the limited number of medical reports currently available.

[9] There are allegations, however, the plaintiff was speeding, and the defendant raises liability issues as well as contributory negligence which will have to be determined at trial and obviously the greater the level of contributory negligence, the less compensation that will be awarded to the plaintiff if he succeeds. The defendant asserts there should not be an interim payment as it is too early in the proceedings to determine who was at fault for the collision. The defendant further contends it is impossible at this stage to determine what would constitute a reasonable proportion of the likely amount of any final judgment and therefore,

whether this case will involve substantial damages, given the potential reduction for contributory negligence which they argue could be significant.

[10] There was a suggestion by defence counsel that a witness has sought to place the blame for the accident entirely on the plaintiff. I attach no weight to this as there is no material before the court to support such an assertion.

[11] The burden of proof in this application is on the plaintiff and the Rules as stated above require the plaintiff to "exhibit any documentary evidence relied on by the plaintiff in support of the application".

[12] I observed at hearing there is no police report available as yet, no statements or affidavits are before the court from the parties nor are there any witness statements. There are no engineering reports or other liability reports from experts such as accident reconstruction specialists.

[13] Other than the CCTV footage, at its height the documentary evidence in support of the application is an averment from the plaintiff's solicitor that the defendant has been referred to the PPS for careless driving causing grievous bodily harm and that he admitted to the police at the scene that he saw the plaintiff before he commenced the right hand turn leading to the accident. No documentary evidence is adduced to support this and there is no evidence of a criminal prosecution.

[14] I am persuaded by the defendant's submission this is a premature application and that if an interim payment of £400,000 was granted or such other sum at the court's discretion, the money will be expended and if the trial should go in the defendant's favour the prospect of securing recoupment is low.

[15] The authorities provided by the plaintiff do not alter the legal principles which were set out by this court recently in successive applications; *McLaughlin v Caffe Nero & Ors* [2024] NIMaster 12 & [2025] NIMaster 11 as well as the appeal judgment in the same case of *McLaughlin J* [2025] NIKB62. The court must be satisfied on the balance of probabilities that the plaintiff would obtain judgment for substantial damages against the respondent.

[16] The plaintiff asserts the CCTV footage is the best evidence there could be. While there may be some force in such an assertion, I consider there is a lack of other documentary evidence or material available. Given the sums of money involved it would not be appropriate to determine the plaintiff would obtain damages against the defendant solely based on my assessment of a five second video clip taken a distance away from the accident and the other limited material currently available. It is a relevant factor that there is both a liability dispute and allegations of

contributory negligence meaning I cannot on the balance of probabilities make a proper assessment in relation to the plaintiff's prospects of succeeding in this case. I cannot, therefore, be satisfied at this stage that if the action proceeded to trial, the plaintiff would obtain substantial damages.

[17] I note the severity of the plaintiff's injuries and there were no contrary submissions as to the real, immediate and reasonably necessary need for an interim payment, however, the liability dispute and lack of supporting material at this stage means the court cannot be satisfied to the requisite standard to grant this application. Having regard to the overriding objective and the interests of justice, I observe that the provisions of Order 29 rule (5) are such that should further documentary evidence become available which would provide greater assistance to the court, the plaintiff will not suffer a procedural disadvantage through a refusal of this application as "notwithstanding the making or refusal of an order for an interim payment, a second or subsequent application may be made upon cause shown".

Conclusion

[18] For the reasons set out above, I refuse the application. I reserve the issue of costs to be determined by the trial judge and certify for both counsel.