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IN THE HIGH COURT OF JUSTICE IN NORTHERN IRELAND

KING'S BENCH DIVISION

Between:

GORDON COOKE

Plaintiff

and

W.D MEATS

Defendant

Mr Michael Wilson (instructed by RJW Law Solicitors) on behalf of the plaintiff.
Mr Stuart Spence (DAC Beachcroft Solicitors) on behalf of the defendant.

MASTER HARVEY

Introduction

[1] This is an interim payment application pursuant to Order 29 rule 12 of the Rules of the Court of Judicature (Northern Ireland) 1980 ("the Rules"). The cause of action arises from a workplace accident on 24 May 2021 when the plaintiff sustained a serious injury to his left hand while employed at the defendant's factory. Liability has been admitted by the defendant.

[2] The application is grounded upon an affidavit of the plaintiff's solicitor Raymond Wilson. He avers that his senior counsel values the case in excess of £2 million. While no specific amount sought is set out in the affidavit the court is invited to make an interim payment of such amount as it thinks just not exceeding a reasonable proportion of what is likely to be recovered by the plaintiff at trial. At hearing the plaintiff's counsel relied on previous correspondence between the parties and indicated the figure sought was £200,000.

Procedural history

[3] The writ of summons was issued on 28 March 2024, pleadings closed and the action was set down for hearing on 27 August 2025. It is listed for trial on 25 May 2027. A previous trial date on 2 June 2026 was adjourned as the defendant was seeking additional medical evidence. The defendant asserts this occurred as the plaintiff served a late care report a month before the hearing introducing a £1.1 million care claim along with a pain management report which it says introduced complex regional pain syndrome as an issue for the first time. The plaintiff is purportedly unable to work, and it is claimed that his personal circumstances, which it is unnecessary for me to set out here, are such that it has prompted this application. The plaintiff's solicitor wrote to their counterparts on 19 and 30 June 2026 asking for an interim payment in light of the adjourned trial but claim they received no reply.

[4] The plaintiff's application was filed with the court on 8 July 2026 and listed for review on 31 July 2026 but adjourned at the request of the parties. Replying affidavits were then filed with the court by the defendant, and it served a notice of interrogatories on the plaintiff who provided replies on 25 September 2026 together with a rejoinder affidavit from the plaintiff on the same date. The matter was then listed for hearing on 30 September 2026. It is necessary to first briefly set out a summary of the additional material lodged with the court.

The defendant's affidavits

[5] The defendant relies upon affidavit evidence from Mr Brian Lyons, the plaintiff's former factory manager, and Ms Alison Cassidy, its solicitor. Mr Lyons avers that the plaintiff returned to work shortly after the accident in August 2021 and thereafter performed his supervisory and manual duties, including overtime, without complaint or apparent restriction until December 2023. That evidence is supported by WhatsApp material exhibited to the affidavit apparently showing workplace communications involving the plaintiff during October and November 2023. The defendant states that matters changed on 1 December 2023 following a workplace issue concerning a WhatsApp message. Mr Lyons states that the plaintiff reported stress and anxiety and subsequently went on sick leave. The affidavit records a sequence of certificates referring principally to "stress at work", with some later certificates also referring to hand surgery.

[6] Ms Cassidy raises issues concerning the plaintiff's post December 2023 work activity and the evidential basis of the claimed future loss. The plaintiff had initially

denied undertaking work since leaving the defendant's employment, whereas a report from Dr Curran, following examination on 15 May 2024, records:

> "Now works part time when fit and pre-accident worked up to 50 hours a week."

[7] Ms Cassidy further identifies outstanding issues concerning the plaintiff's functional and psychiatric condition, residual earning capacity, disability and care needs, in respect of which the defendant intends to obtain further expert evidence. The defendant points to the present uncertainty surrounding a number of significant heads of future loss and, accordingly, the amount which the court can safely conclude the plaintiff is likely to recover for the purposes of the interim payment application.

[8] The plaintiff's forensic accountant, John McVeigh, advances an additional future loss based upon the plaintiff having planned to coach the Ireland cricket team, with estimated earnings of about £10,000 per annum until at least age 60. The defendant challenges the evidential foundation for that assumption, including whether there is evidence that the plaintiff had taken steps towards obtaining paid coaching work and relies upon published material concerning the plaintiff's cricket career.

The plaintiff's affidavit and replies to interrogatories

[9] The plaintiff's affidavit of 25 September 2026 responds to the defendant's assertions concerning his work capacity and activities and addresses his current financial position. He accepts that he returned to full-time employment following the accident and remained with W.D. Meats until December 2023 but says he worked despite pain and medication and explains the circumstances in which he ultimately left. He describes limited subsequent driving activity in 2024 and 2025/26 but says difficulties using a manual vehicle prevented this becoming sustained employment. He is presently unemployed and gives evidence of his limited income and approximately £9,497 in medical report expenses funded by borrowing from his family. He also avers that community mental health support ended in June 2026 and that recommended private psychotherapy, costing £200 per session, has not been affordable.

[10] In replies to interrogatories, the plaintiff accepts that he undertook limited paid driving work after leaving the defendant's employment, comprising work for Semple Potatoes during the summer of 2024 and assisting with staircase deliveries between October 2025 and March 2026. He states, however, that he has made no attempt to obtain other employment. That is relevant as residual earning capacity is

one of the specific uncertainties upon which the defendant relies in resisting the interim payment sought.

The medical evidence

[11] The plaintiff has obtained reports from Mr Hanratty, orthopaedic surgeon, Dr Curran, consultant psychiatrist, Ms Louise Jackson, senior mental health practitioner, Ms Gallagher community psychiatric nurse, Dr Haslett the plaintiff's GP, Mrs Milligan consultant hand therapist, Dr Gordon plastic surgeon, Dr Stafford pain specialist, a nursing care report from Sandra Sherlock, accountancy report from John McVeigh & Co claiming financial loss of £1,427,512 and have exhibited reports from occupational health physicians engaged by the defendant company.

[12] The defendant has not served any medical evidence to date. The plaintiff is to be examined by two defence medical experts in October 2026 and January 2027, with psychiatric, care and forensic accountancy evidence envisaged thereafter.

[13] The plaintiff's medical reports set out the alleged physical and psychiatric injuries. The plaintiff underwent four surgeries to his injured hand and claims he wears a left wrist splint for fours a day and takes painkillers three times a day. According to Mr Hanratty in his second report which was prepared five years post-accident the plaintiff's "life is still being severely affected by this episode". Dr Curran initially diagnoses the plaintiff as suffering from depression "secondary to failure in resolution of injury to left hand and fingers and lifestyle changes and restrictions" and in his second report some six years after the accident, concludes he suffered post-traumatic stress disorder arising from the subject incident. Further treatment is recommended.

[14] The occupational health reports point to the plaintiff's mental health condition being exacerbated by "perceived stress in the workplace" (Dr Brennan). The mental health practitioner report points to workplace bullying and harassment as the reason for his mental health struggles. The primary care liaison report concludes he has low mood and notes work stress, financial stress and trauma but also references "adjustment as a result of the injury to his left hand". Mrs Milligan concludes he has functional and pain issues arising from the accident. The ulnar nerve is impaired in terms of pain and numbness, and he has stiffness in the ulnar digits. She notes the hypersensitivity and need for medication on a daily basis. Dr Gordon states there is altered sensation, pain, reduced movement weakness and hypersensitivity. The pain "interferes with most aspects of his life". Dr Stafford prepared two reports and states that in his view the plaintiff has neuropathic and complex regional pain syndrome and they will be permanent. He refers to "significant prolonged pain, psychological trauma and social disruption".

Legal principles

[15] The provision for interim payment applications is set out in Order 29 rule 12 and 13 of the Rules which, where relevant, states:

> "12 (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; …"
>
> …
>
> 13. - (1) If, on the hearing of an application under rule 12 in an action for damages, the Court is satisfied—
>
> (a) that the defendant against whom the order is sought (in this paragraph referred to as "the respondent") has admitted liability for the plaintiff's damages; or
>
> (b) that the plaintiff has obtained judgment against the respondent for damages to be assessed; or
>
> (c) that, if the action proceeded to trial, the plaintiff would obtain judgment for substantial damages against the respondent; or
>
> (d) that, in an action in which there are two or more defendants and the order is sought against any one or more of them, if the action proceeded to trial, the plaintiff would obtain judgment for substantial damages against at least one of the defendants (but the Court cannot determine which),
>
> the Court may if it thinks fit, subject to paragraphs (2) and (3), order the respondent, or any one or more of the respondents as the case may be, to make an interim payment of such amount as it thinks just, not exceeding a reasonable proportion of the damages which in the opinion of the Court are likely to be recovered by the plaintiff after taking into account any relevant contributory negligence and any set-off, cross-claim or counterclaim on which the respondent may be entitled to rely."

[16] The Rules provide for interim payment applications at any stage. While the court is satisfied in this case that liability has been admitted, satisfaction of that threshold does not determine the amount to be ordered. The Rule confers a discretion upon the court to order such payment as it thinks just, subject to the

important restriction that the amount must not exceed a reasonable proportion of the damages which, in the opinion of the court, are likely to be recovered by the plaintiff.

[17] The recent decision of O'Hara J in *Coalter v Mulligan* [2026] NIKB 31 illustrates both stages of that exercise. Having concluded that the plaintiff was likely to recover substantial damages, the court did not simply order the sum sought. O'Hara J separately considered what represented a reasonable proportion of the damages likely to be recovered and reduced the interim payment sought from £400,000 to £250,000. That contrasted with the decision of Simpson J in *Stewart v Northern Health and Social Care Trust* 2026 NIKB2 in which the learned judge determined that as the application made by the plaintiff was for an interim payment of £500,000, not simply for an interim payment, with the amount to be assessed by the court, the court had to consider the application on the basis of the actual amount sought. He concluded that he could not say with any degree of confidence whether the figure was just and did not exceed a reasonable proportion of the likely damages award and as no other sum was before the court, dismissed the plaintiff's application.

[18] The exercise the court is asked to conduct is necessarily cautious. The court is not conducting an assessment of damages in advance of trial. Nor should it determine disputed issues of medical causation, earning capacity or future loss which cannot safely be resolved on the material available. It must instead consider the evidence sufficiently to identify an amount which falls comfortably within a reasonable proportion of the damages likely ultimately to be recovered. In this case, substantial heads of future loss remain dependent upon further medical, care or accountancy evidence.

Consideration

[19] There are five aspects to quantum in this case. Firstly, the general damages for the physical injury. Secondly, there is an alleged psychiatric injury. Thirdly, the plaintiff claims special damages in respect of loss of earnings. Fourthly, he claims for the loss of a chance to coach cricket internationally. Finally, there is a cost of care claim.

[20] The defendant places significance on the evidence that the plaintiff returned to his ordinary duties, including manual work and overtime, and continued working until 1 December 2023. In my judgment there is insufficient evidence at this stage to assess the plaintiff's past and future loss of earnings, particularly in light of the apparent inconsistency between the initial assertion that he has not worked since leaving the defendant's employment and the medical history recording part-time

work when fit, as well as the very recent acceptance, he has undertaken work as set out in the replies to interrogatories.

[21] It is also questionable whether the proposed loss associated with future cricket coaching is presently supported by sufficient evidence. Taking a cautious approach to this, I do not take this contentious future loss as an established component of the minimum value of the claim for the purpose of fixing an interim payment.

[22] I also make allowance for the fact that defence evidence remains incomplete. As observed at para 30 in *Stewart* the defence accountancy report was similarly outstanding:

> "In due course there will be a report from an accountant retained by the defendant. Experience of this type of case shows that when the accountancy experts meet there is likely to be a significant disparity between their calculations as to loss. Meetings of other experts are likely to reveal significant differences in approach."

It is apparent the defendant's pending medical, care and forensic accountancy evidence may significantly affect the ultimate valuation of the claim.

[22] Applying the principles established by the authorities and the test prescribed by the Rules, I am satisfied that the threshold for an interim payment has been met. The more difficult question is the amount which may properly be ordered at this stage. The defendant's evidence goes beyond a general contention that the ultimate award will be lower than that advanced by the plaintiff. It identifies specific areas in which the present assessment of damages is said to depend upon factual matters which remain disputed or insufficiently established. Given the substantial areas of quantum which remain unresolved, I am unable at this stage to be satisfied as to the minimum sum which the plaintiff will recover at trial in relation the special damages aspect of his claim.

[23] I make no determination that the plaintiff will fail under those heads of loss. Their resolution requires findings of fact and expert evidence which cannot properly be undertaken on this application, but the resulting uncertainty necessarily limits the interim payment which the court can order.

[24] The correct approach is therefore to concentrate upon those elements of the claim which can presently be assessed with sufficient confidence, rather than to proceed upon the highest valuation advanced by either party. This reflects the approach in *Coalter*.

[25] Turning to general damages. The physical injuries include three scars, four operations under general anaesthetic, continuing pain and numbness, the ongoing need for medication and the prospect of lifelong complications. There is also a significant psychiatric component, although the defendant contends that other factors may have contributed to this. Even adopting a conservative approach, I am reasonably satisfied that the award of general damages is likely to be substantial. That said, the court must guard against the risk of overpayment particularly when further medical evidence is awaited.

[26] The defendant properly acknowledges that this may ultimately prove to be a case of significant value but submits that the present uncertainties make the application premature. I do not consider those uncertainties sufficient to defeat the application altogether. They do, however, require the court to adopt a suitably cautious approach when determining the amount which can safely be ordered at this stage.

[27] The defendant values general damages up to £90,000, currently disregards any award for psychiatric injury and dismisses the loss of earnings claim, alleged loss of a chance claim and assesses the care claim at around £1,200. Unsurprisingly the plaintiff takes a different view and submits general damages could be valued up to £600,000. The loss of earnings and impact on the plaintiff's cricket career are valued at £226,000 and the care claim at £1.1 million. Those competing assessments depend upon significant factual and evidential disputes which cannot properly be resolved in this application. Despite the vintage and procedural history of the proceedings, substantial imponderables remain as to the ultimate level of damages.

The court's decision

[28] I am satisfied that an interim payment is justified, but I am not satisfied that the entirety of the sum sought can presently be regarded as falling safely within a reasonable proportion of the damages likely to be recovered at trial. I would not presently include the contested cricket coaching claim or assume the full claimed loss of earnings or care claim when arriving at a safe figure. On the evidence presently before the court, and approaching the assessment with appropriate caution, I consider that an interim payment of £75,000 is just and falls within a reasonable proportion of the damages likely ultimately to be recovered.

Conclusion

[29] I therefore order the defendant to make a payment of £75,000 to the plaintiff within 21 days of the date of this order and award costs of the application to the plaintiff taxed in default of agreement and I certify for counsel.